

EPA Form 4700-4 Pre-Award Compliance Review Report

Separate Attachment to Answer Questions X and XI

For the Alabama Community College System (ACCS) Application for an EPA Climate Pollution Reduction Grant

Entity or Community College Name	Coordinator for Compliance with 40 CFR Parts 5 and 7		Policies and Grievance Procedures for Resolution of Complaints Alleging Violation of CFR Parts 5 and/or 7		
	Title IX	Civil Rights and/or Other Protected Characteristics	Title IX	Civil Rights and/or Other Protected Characteristics	Non-Discrimination
Alabama Community College System (ACCS System Office)	Nikita Payne Director of Human Resources P.O. Box 302130 Montgomery, AL 36130-2130 E: Nikita.Payne@accs.edu F: 334-293-4526 O: 334-293-4603	Nikita Payne Director of Human Resources P.O. Box 302130 Montgomery, AL 36130-2130 E: Nikita.Payne@accs.edu F: 334-293-4526 O: 334-293-4603	Link to General Policy Statement: Employment - Alabama Community College System (accs.edu) See ACCS section of this attachment for copies of relevant policies and procedures.	Link to General Policy Statement: Employment - Alabama Community College System (accs.edu) See ACCS section of this attachment for copies of relevant policies and procedures.	Link to General Policy Statement: Employment - Alabama Community College System (accs.edu) See ACCS section of this attachment for copies of relevant policies and procedures.
Alabama Technology Network (ATN)	Becky Estes Business/HR Manager 135 S. Union Street, Suite 441 Montgomery, AL 36104 bestes@atn.org F: 334-293-4526 O: 334 293-4674	Becky Estes Business/HR Manager bestes@atn.org F: 334-293-4526 O: 334 293-4674 135 S. Union Street, Suite 441 Montgomery, AL 36104	See Alabama Technology Network (ATN) section of this attachment for copies of relevant policies and procedures.	See Alabama Technology Network (ATN) section of this attachment for copies of relevant policies and procedures.	See Alabama Technology Network (ATN) section of this attachment for copies of relevant policies and procedures.

Bevill State CC	Mary Kinard Director of Human Resources E: mary.kinard@bscc.edu O:205-387-0511, ext. 5896, O:205-387-5159	Mary Kinard Director of Human Resources E: mary.kinard@bscc.edu O:205-387-0511, ext. 5896 O:205-387-5159	See Bevill State CC section of this attachment for copies of relevant policies and procedures.	See Bevill State CC section of this attachment for copies of relevant policies and procedures.	See Bevill State CC section of this attachment for copies of relevant policies and procedures.
Bishop State CC	Claude Bumpers Director of Institutional Research/Title IX Coordinator 351 N. Broad St. Mobile, AL 36603 E: cbumpers@bishop.edu O:251-665-4139	Claude Bumpers Director of Institutional Research/Title IX Coordinator 351 N. Broad St. Mobile, AL 36603 E: cbumpers@bishop.edu O:251-665-4139	See Bishop State CC ACCS section of this attachment for copies of relevant policies and procedures.	See Bishop State CC section of this attachment for copies of relevant policies and procedures.	See Bishop State CC section of this attachment for copies of relevant policies and procedures.
Calhoun CC	Kim Gaines Director of Human Resources & Payroll E: kim.gaines@calhoun.edu O: 256-306-2592 Dr. Brandon Brown, Director of Disability Services/ADA E: brandon.brown2@calhoun.edu O:256-306-2635	Kim Gaines Director of Human Resources & Payroll E: kim.gaines@calhoun.edu O: 256-306-2592	Link to General Policy Statement: https://calhoun.edu/wp-content/uploads/2023/11/Title-IX-Procedures-2023.pdf	Link to General Policy Statement: https://catalog.calhoun.edu/student-complaint-process	Link to General Policy Statement: https://calhoun.edu/overview/web-site-disclaimer-and-privacy/ada-affirmative-action-equal-opportunity-educational-institution/

Central Alabama CC	Tina Shaw Executive HR Director E:tshaw5@cacc.edu O:256-378-2010	Tina Shaw Executive HR Director tshaw5@cacc.edu O:256-378-2010			
Chattahoochee Valley CC	Vickie Williams Associate Dean of Student Development and Success Title IX Coordinator (Students) 2602 College Drive Phenix City, Alabama 36869 O:334-214-4803 E:Vickie.williams@cv.edu Fax: 334-214-4839 Robin Jones (Director of Human Resources) Title IX Coordinator (Employees) 2602 College Drive Phenix City, AL 36869 O:334-291-4927 E:Robin.jones@cv.edu	Vickie Williams Associate Dean of Student Development and Success Title IX Coordinator (Students) 2602 College Drive Phenix City, Alabama 36869 O:334-214-4803 E:Vickie.williams@cv.edu Fax: 334-214-4839 Robin Jones (Director of Human Resources) Title IX Coordinator (Employees) 2602 College Drive Phenix City, AL 36869 O:334-291-4927 E:Robin.jones@cv.edu	Link to General Policy Statement: Policy 620.03	Link to General Policy Statement: https://www.cv.edu/student-resources/student-complaints-grievances/	Link to General Policy Statement: (ACCS Board of Trustees Policy 601.02)
Coastal Alabama CC	Jalisa Rawlinson Coordinator of Student Conduct/ Title IX Coordinator 1900 Highway 31 S Bay Minette, AL 36507 O:251-580-2259	Michelle Bugos Executive Director – Human Resources 1900 Highway 31 S Bay Minette, AL 36507 O:251-580-2108	Link to General Policy Statement: https://www.coastalalabama.edu/about/title-ix-and-student-complaints/title-ix-procedures	Link to General Policy Statement: https://www.coastalalabama.edu/uploads/10.04EmployeeComplaintsandGrievances.pdf	Link to General Policy Statement: https://www.coastalalabama.edu/uploads/02.17Nondiscrimination.pdf

	<p>E:Jalisa.Rawlinson@coastalalabama.edu</p> <p>Michelle Bugos Executive Director – Human Resources 1900 Highway 31 S Bay Minette, AL 36507 O:251-580-2108 E:michelle.bugos@coastalalabama.edu</p>	<p>E:michelle.bugos@coastalalabama.edu</p> <p>Michelle Bugos Executive Director – Human Resources 1900 Highway 31 S Bay Minette, AL 36507 O:251-580-2108 E:michelle.bugos@coastalalabama.edu</p>			
Drake State T&CC	<p>Title IX Coordinator (Employees) Melonie Gurley, Human Resources Coordinator Drake State Community & Technical College 3421 Meridian Street, N Huntsville, AL 35811 E:Melonie.gurley@drakestate.edu O: 256-551-5214 Fax: 256-539-6439</p> <p>Title IX Coordinator (Students) Adrienne Matthews, Student Success Specialist Drake State Community & Technical College</p>	<p>Melonie Gurley, Human Resources Coordinator Drake State Community & Technical College 3421 Meridian Street, N Huntsville, AL 35811 E:Melonie.gurley@drakestate.edu O: 256-551-5214 Fax: 256-539-6439</p>	See Drake State T&CC section of this attachment for copies of relevant policies and procedures.	See Drake State T&CC section of this attachment for copies of relevant policies and procedures.	See Drake State T&CC section of this attachment for copies of relevant policies and procedures.

	3421 Meridian Street, N Huntsville, AL 35811 E:Adrienne.matthews@drakestate.edu O: 256-551-7264 Fax: 256-539-6439				
Enterprise State CC	<p>Employees: JESSICA SOLOMON Title IX Coordinator /Age Act Coordinator Director of Human Resources Enterprise State Community College 600 Plaza Drive Enterprise, AL 36330 O:L334-347-2623 ext. 2222 E:jsolomon@escc.edu</p> <p>Students: DAVA FOSTER Title IX Coordinator/Age Act Coordinator Director of Student Success Enterprise State Community College 600 Plaza Drive Enterprise, AL 36330</p>	<p>Students: DAVA FOSTER Title IX Coordinator/Age Act Coordinator Director of Student Success Enterprise State Community College 600 Plaza Drive Enterprise, AL 36330 O:334-347-2623 ext. 2293 E:dfoster@escc.edu</p> <p>Students/Employees: KASSIE MATHIS Title IX Coordinator/Age Act Coordinator Dean of Students Enterprise State Community College 600 Plaza Drive Enterprise, AL 36330 O:334-347-2623 ext. 2235 E:kmathis@escc.edu</p>	<p>Link to General Policy Statement: https://escc.edu/discrimination/title-ix/</p> <p>https://escc.edu/wp-content/uploads/2023/07/Enterprise-Title-IX-Policy-and-Procedure-whole.pdf</p> <p>https://esccf.formstack.com/forms/title_ix_complaint</p> <p>https://esccf.formstack.com/forms/title_ix_complaint_employee</p>	<p>Link to General Policy Statement: https://escc.edu/discrimination/age/</p> <p>https://esccf.formstack.com/forms/title_ix_complaint</p>	<p>Link to General Policy Statement: https://escc.edu/discrimination/</p>

	<p>O:334-347-2623 ext. 2293 E:dfoster@escc.edu</p> <p>Students/Employees: KASSIE MATHIS Title IX Coordinator/Age Act Coordinator Dean of Students Enterprise State Community College 600 Plaza Drive Enterprise, AL 36330 O:334-347-2623 ext. 2235 E:kmathis@escc.edu</p>				
Gadsden State CC	<p>Dr. Tera Simmons, Executive Vice President, 405 East Cardinal Drive, Gadsden, AL 35903, O:256-549-8230 E:tsimmons@gadsdenstate.edu</p>	<p>Dr. Tera Simmons, Title IX Coordinator, 405 East Cardinal Drive, Gadsden, AL 35903, O:256-549-8230 E:tsimmons@gadsdenstate.edu</p> <p>Dr. Kathy Murphy, President, 405 East Cardinal Drive, Gadsden, AL 35903, O:256- 549-8221 E:kmurphy@gadsdenstate.edu</p> <p>Mr. Kevin Willoughby, Director of Human</p>	See Gadsden State CC section of this attachment for copies of relevant policies and procedures.	See Gadsden State CC section of this attachment for copies of relevant policies and procedures.	See Gadsden State CC section of this attachment for copies of relevant policies and procedures.

		Resources, 405 East Cardinal Drive, Gadsden, AL 35903 O:256-549-8236 E: kwilloughby@gadsdenstate.edu			
Ingram State CC	Andrea Richardson 5375 Ingram Rd. Deatsville, AL 36022 Human Resources Coordinator E: andrea.richardson@istc.edu O:334-290-3251 F:334-285-9983	Andrea Richardson 5375 Ingram Rd. Deatsville, AL 36022 Human Resources Coordinator E: andrea.richardson@istc.edu O:334-290-3251 F:334-285-9983	See Ingram State CC section of this attachment for copies of relevant policies and procedures.	See Ingram State CC section of this attachment for copies of relevant policies and procedures.	See Ingram State CC section of this attachment for copies of relevant policies and procedures.
Jefferson State CC	Debbie Boone Title IX Coordinator (Employees) Director of Human Resources George Wallace Hall, Room 111 2601 Carson Road Birmingham, AL 35215 E: debbie.boone@jeffersonstate.edu O:205-856-8598 Amanda D. Harbison Title IX Coordinator (Students) Vice President of Student Affairs and Enrollment Management	Debbie Boone Title IX Coordinator (Employees) Director of Human Resources George Wallace Hall, Room 111 2601 Carson Road Birmingham, AL 35215 E: debbie.boone@jeffersonstate.edu O:205-856-8598	See Jefferson State CC section of this attachment for copies of relevant policies and procedures.	See Jefferson State CC section of this attachment for copies of relevant policies and procedures.	See Jefferson State CC section of this attachment for copies of relevant policies and procedures.

	James B. Allen Library, Room 207 2601 Carson Road Birmingham, AL 35215 E:amanda.harbison@j effersonstate.edu O:205-856-7991				
Lawson State CC	Dr. Cyrus Vance Dean of Student Services 3060 Wilson Road SW, Birmingham, AL 35221 E:cvance@lawsonstat e.edu O:(205) 929-6361 Elma Bell 3060 Wilson Road SW, Birmingham, AL 35221 Director of Human Resources E:ebell@lawsonstate. edu O:(205) 929-6313	Dr. Cyrus Vance Dean of Student Services 3060 Wilson Road SW, Birmingham, AL 35221 Email: cvance@lawsonstate.edu O:(205) 929-6361 Elma Bell 3060 Wilson Road SW, Birmingham, AL 35221 Director of Human Resources E:ebell@lawsonstate.edu O:(205) 929-6313	Link to General Policy Statement: https://www.lawsonstate.edu/cam pus_life/student_safety/title_ix.as px	Link to General Policy Statement: https://www.lawsonstate.edu/current_s tudents/concerns_complaints.aspx	See Lawson State CC section of this attachment for copies of relevant policies and procedures.
Lurleen B. Wallace CC	Lisa Carnley Chief Financial Officer PO Drawer 1418 Andalusia, AL 36420 E:lcarnley@lbwcc.edu O:334-881-2216	Lisa Carnley Chief Financial Officer PO Drawer 1418 Andalusia, AL 36420 E:lcarnley@lbwcc.edu O:334-881-2216 Jason Jessie Dean of Student Affairs PO Drawer 1418	See Lurleen B. Wallace CC section of this attachment for copies of relevant policies and procedures.	See Lurleen B. Wallace CC section of this attachment for copies of relevant policies and procedures.	See Lurleen B. Wallace CC section of this attachment for copies of relevant policies and procedures.

		Andalusia, AL 36420 E: jjessie@lbwcc.edu 334-881-2245			
Marion Military Acad.	Carmon Fields, JD Title IX Coordinator 1101 Washington Street Marion, AL 36756 O:334-683-2368 E: cfields@marionmilitary.edu	Carmon Fields, JD Director of Human Resources & Compliance 1101 Washington Street Marion, AL 36756 O:334-683-2368 E: cfields@marionmilitary.edu	See Marion Military Acad. section of this attachment for copies of relevant policies and procedures.	See Marion Military Acad. section of this attachment for copies of relevant policies and procedures.	See Marion Military Acad. section of this attachment for copies of relevant policies and procedures.
Northeast Alabama CC	Lynde Wheeler, Human Resources Director E: wheelerl@nacc.edu O:256.228.6001/256.638.4418, ext. 2230	Lynde Wheeler Human Resources Director E: wheelerl@nacc.edu O:256.228.6001/256.638.4418, ext. 2230 Jeff Hawes Dean of Student Services E: hawesj@nacc.edu O:256.228.6001/256.638.4418, ext. 2278 Riley Holland Admissions Office Assistant E: hollandr@nacc.edu O:256.228.6001/256.638.4418, ext. 2222	See Northeast Alabama CC section of this attachment for copies of relevant policies and procedures.	See Northeast Alabama CC section of this attachment for copies of relevant policies and procedures.	See Northeast Alabama CC section of this attachment for copies of relevant policies and procedures.
Northwest-Shoals CC	Dr. Crystal Reed Dean of Students P.O. Box 2454, Muscle Shoals, AL 35662 Phone: 256-331-5291	Dr. Crystal Reed Dean of Students P.O. Box 2454, Muscle Shoals, AL 35662 O: 256-331-5291 E: crystal.reed@nwscc.edu	See Northwest-Shoals CC section of this attachment for copies of relevant policies and procedures.	See Northwest-Shoals CC section of this attachment for copies of relevant policies and procedures.	See Northwest-Shoals CC section of this attachment for copies of relevant policies and procedures.

	<p>E:crystal.reed@nwsc.c.edu</p> <p>Mrs. Brittany Jones (Students) Executive Director of Student Success P.O. Box 2454, Muscle Shoals, AL 35662 O: 256-331-5319 E:bjones@nwsc.c.edu</p> <p>Mrs. Tia Heathcoat (Employees) Director of Human Resources and Payroll P.O. Box 2454, Muscle Shoals, AL 35662 O:256-331-5279 E:tstone@nwsc.c.edu</p>	<p>Mr. John McIntosh (Employees) Dean of Workforce Development, Institutional Effectiveness, and Advancement P.O. Box 2454, Muscle Shoals, AL 35662 O: 256-331-5323 E:jmcintosh@nwsc.c.edu</p> <p>Mrs. Tia Heathcoat (Employees) Director of Human Resources and Payroll P.O. Box 2454, Muscle Shoals, AL 3 5662 O:256-331-5279 E:tstone@nwsc.c.edu</p>			
Reid State TC	<p>Dr. Kevin Ammons Edith A. Gray Library PO Box 588 Evergreen, AL 36401 O:251-578-1313 ext 231</p> <p>Brenda Jackson Administration Building PO Box 588 Evergreen, AL 36401 O:251-578-1313 ext 147</p>	<p>Dr. Kevin Ammons Edith A. Gray Library PO Box 588 Evergreen, AL 36401 O:251-578-1313 ext 231</p> <p>Brenda Jackson Administration Building PO Box 588 Evergreen, AL 36401 O:251-578-1313 ext 147</p>	See Reid State TC section of this attachment for copies of relevant policies and procedures.	See Reid State TC section of this attachment for copies of relevant policies and procedures.	See Reid State TC section of this attachment for copies of relevant policies and procedures.

Shelton State CC	<p>Wyetta Ryan Barnes, Ph.D. Student Resource Coordinator 9500 Old Greensboro Road Tuscaloosa, Alabama 35405 O:205.391.2481 E:wryan@sheltonstate.edu</p> <p>Title IX Coordinator for Employees Shywanda Moore Associate Dean of Academic Services 9500 Old Greensboro Road Tuscaloosa, Alabama 35405 O:205.391.2481 E:srmoore@sheltonstate.edu</p>	<p>Wyetta Ryan Barnes, Ph.D. Student Resource Coordinator 9500 Old Greensboro Road Tuscaloosa, Alabama 35405 O:205.391.2481 E:wryan@sheltonstate.edu</p> <p>Title IX Coordinator for Employees Shywanda Moore Associate Dean of Academic Services 9500 Old Greensboro Road Tuscaloosa, Alabama 35405 O:205.391.2481 E:srmoore@sheltonstate.edu</p> <p>Anika Lodree, Ph.D. Dean of the C.A. Fredd Campus 3401 Martin Luther King, Jr. Blvd. Tuscaloosa, Alabama 35401 O:205.391.2380 E:alodree@sheltonstate.edu</p> <p>R. Kevin Davis, J.D. Dean of Human Resources 9500 Old Greensboro Road Tuscaloosa, Alabama 35405 O:205.391.2290</p>	https://www.sheltonstate.edu/about-us/title-ix/	https://www.sheltonstate.edu/wp-content/uploads/2024/02/ACCS-Procedures-for-Title-IX-Sexual-Harassment-Complaints-February-2024.pdf	https://www.sheltonstate.edu/about-us/nondiscrimination-policy/
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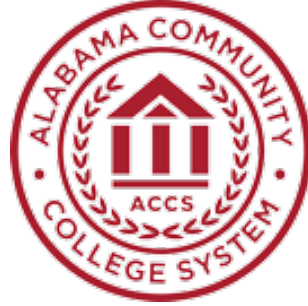
		<p>F:205.391.5817 (fax) E:kdavis@sheltonstate.edu</p> <p>Jonathan Koh, Ph.D., MPA President 9500 Old Greensboro Road Tuscaloosa, Alabama 35405 O:205.391.2251 E:jkoh@sheltonstate.edu</p>			
Snead State CC	<p>Ms. Brittany Goble Director of Student Support and Engagement/ Title IX Coordinator P.O. Box 734, Boaz, Alabama 35957 O:(256) 840-4208 E:brittany.goble@snead.edu</p> <p>Dr. Joe Whitmore President P.O. Box 734, Boaz, Alabama 35957 O:(256) 840-4100 E:joe.whitmore@snead.edu</p> <p>Amanda Gunnels Director of Human Resources P.O. Box 734, Boaz, Alabama 35957 O:(256) 840-4113</p>	<p>Ms. Brittany Goble Director of Student Support and Engagement/ Title IX Coordinator P.O. Box 734, Boaz, Alabama 35957 O:(256) 840-4208 E:brittany.goble@snead.edu</p>	See Snead State CC section of this attachment for copies of relevant policies and procedures.	See Snead State CC section of this attachment for copies of relevant policies and procedures.	See Snead State CC section of this attachment for copies of relevant policies and procedures.

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Southern Union State CC	<p>Derika Hodge Associate Dean of Student Affairs, 750 Roberts Street, Wadley, AL 36276 E:dhodge@suscc.edu O:256 395-2211</p> <p>Sandra Hughley Executive Director of Human Resources/SPO 750 Roberts Street, Wadley, AL 36276 E:shughley@suscc.edu O:256 395-2211</p>	<p>Sandra Hughley Executive Director of Human Resources/SPO 750 Roberts Street, Wadley, AL 36276 E:shughley@suscc.edu O:256 395-2211</p>	See Southern Union State CC section of this attachment for copies of relevant policies and procedures.	See Southern Union State CC section of this attachment for copies of relevant policies and procedures.	See Southern Union State CC section of this attachment for copies of relevant policies and procedures.
Trenholm State CC	<p>Pam Rollins Director of Human Resources/SPO 1225 Airbase Blvd Montgomery, AL 360108 E:prollins@trenholmstate.edu O:334-420-4253, 334-4200 (Title IX Coordinator for Employees)</p> <p>Theresa Mays Vice President of Student Affairs & Information Services</p>	<p>Pam Rollins Director of Human Resources/SPO 1225 Airbase Blvd Montgomery, AL 360108 E:prollins@trenholmstate.edu O:334-420-4253, 334-4200</p>	See Trenholm State CC section of this attachment for copies of relevant policies and procedures.	Link to General Policy Statement: https://www.trenholmstate.edu/wp-content/uploads/2023/11/Title_IX_Procedures_Revised_10_5_2021.pdf	See Trenholm State CC section of this attachment for copies of relevant policies and procedures.

	1225 Airbase Blvd Montgomery, AL 36108 E:tmays@trenholmstate.edu O:334-420-4296, F:334-420-4341 (Title IX Coordinator for Students)				
Wallace CC - Dothan	<p>Ms. Keyashia Sheppard Testing Officer/Professional Development Coordinator Wallace Community College 1141 Wallace Drive Dothan, AL 36303 O: 334-556-2557 E:ksheppard@wallace.edu</p> <p>Ms. Shaletha Barnes-Blackmon Student Success Advisor Wallace Community College 1141 Wallace Drive Dothan, AL 36303 O: 334-556-2511 E:sblackmon@wallace.edu</p>	<p>Ms. Kecia Forehand Workforce Development Coordinator E:kforehand@wallace.edu O:334-555-2219 F:334-984-2132</p> <p>Ms. Jertavia Lyman Coordinator of Service, SSs E:jlyman@wallace.edu O:334-555-2620 F:334-983-6202</p> <p>Ms. Barbar Stegar Direct Adult Education E:bstegar@wallace.edu O:334-556-2374 F:334-984-2131</p> <p>Ms. Jennifer Matheny Dual Enrollment Coordinator E:jmatheny@wallace.edu O:334-556-2224 F:334-556-2521</p> <p>Mr. Keith Boozer</p>	See Wallace CC - Dothan section of this attachment for copies of relevant policies and procedures.	See Wallace CC - Dothan section of this attachment for copies of relevant policies and procedures.	See Wallace CC - Dothan section of this attachment for copies of relevant policies and procedures.

		<p>Instructor, Philosophy E:jboozer@wallace.edu O":334-556-2252 F:334-556-2521</p> <p>Mr. Allen Wilhoit Event Coordinator E:dwilhoit@wallace.edu O:334-556-2210 F:334-556-2539</p> <p>Ms. Amber Dunlap Workkeys Program Specialist E:adunlap@wallace.edu O:334-556-2412 F:334-984-2132 1143 Wallace Drive Dothan, AL 36303</p> <p>Mr. Torrance Lanet Criminal Justice Instructor E:tlaney@wallace.edu O:334-687-3545 ext 4224 F:334-556-2521</p> <p>Ms. Terri Ricks Coordinator of Students E:tricks@wallace.edu O:334-619-1507 F:334-983-6066 3232 South Eufaula Avenur Eufaula, AL 36027</p>			
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Wallace State CC - Selma	Letti Hasberry IET & Student Success Coach C2C Coordinator P.O. Box 2530 Selma Alabama 36702 O:334-876-9329 F:334 876-9334	Dr. Donitha Griffin Dean of Students P.O. Box 2530 Selma, 36702 O:334 8769-302 F:334 876-9334	See Wallace State CC - Selma section of this attachment for copies of relevant policies and procedures.	See Wallace State CC - Selma section of this attachment for copies of relevant policies and procedures.	See Wallace State CC - Selma section of this attachment for copies of relevant policies and procedures.
Wallace State CC - Hanceville	Lisa Smith Director of Student Resource Center 801 Main Street NW Hanceville, AL 35077 (JBC 804) E:lisa.smith@wallace state.edu O:256-352-8052 F:256-352-8055	Kristen Holmes Vice President for Students/Chief Marketing Officer, 801 Main Street NW Hanceville, AL 35077 (JBC 302) E:Kristen.holmes@wallace state.edu O:256-352-8233 F:256-352-8228	See Wallace State CC - Hanceville section of this attachment for copies of relevant policies and procedures.	See Wallace State CC - Hanceville section of this attachment for copies of relevant policies and procedures.	See Wallace State CC - Hanceville section of this attachment for copies of relevant policies and procedures.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

Employment

It takes a community to build a community. Alabama Community College System member institutions provide training to thousands of individuals each year. It is now more important than ever to have a passionate and dedicated staff to help our communities thrive. We are always looking for employees that value integrity, excellence, accessibility, accountability, and diversity.

The Alabama Community College System is an equal opportunity employer. It is the policy of the Alabama Community College System, including all postsecondary community and technical colleges under the control of the Alabama Community College System Board of Trustees, that no employee or applicant for employment or promotion, on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age, or any other protected class as defined by federal and state law, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, activity, or employment.

The Alabama Community College participates in E-Verify.

For any questions, please contact:

Nikita Payne

Director of Human Resources

(334)293-4603

nikita.payne@accs.edu

Charlene Finkelstein

Human Resources Generalist

(334)293-4628

charlene.finkelstein@accs.edu

If you have problems with accessing the job positions or application, please review the Application Guide and the Applicant FAQs. Also, if you need technical assistance after reviewing the application guide, please contact:

NEOGOV Customer Service:

Monday-Friday

8:00 am-5:00 pm PST

(855) 524-5627

Employment

It takes a community to build a community. Alabama Community College System member institutions provide training to thousands of individuals each year. It is now more important than ever to have a passionate and dedicated staff to help our communities thrive. We are always looking for employees that value integrity, excellence, accessibility, accountability, and diversity.

The Alabama Community College System is an equal opportunity employer. It is the policy of the Alabama Community College System, including all postsecondary community and technical colleges under the control of the Alabama Community College System Board of Trustees, that no employee or applicant for employment or promotion, on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age, or any other protected class as defined by federal and state law, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, activity, or employment.

The Alabama Community College participates in E-Verify.

For any questions, please contact:

Nikita Payne

Director of Human Resources

(334)293-4603

nikita.payne@accs.edu

Charlene Finkelstein

Human Resources Generalist

(334)293-4628

charlene.finkelstein@accs.edu

If you have problems with accessing the job positions or application, please review the Application Guide and the Applicant FAQs. Also, if you need technical assistance after reviewing the application guide, please contact:

NEOGOV Customer Service:

Monday-Friday

8:00 am-5:00 pm PST

(855) 524-5627



**Policies and
Procedures for
Compliance with
40 CFR Parts 5 and 7**

EMPLOYEE COMPLAINTS

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with ATN. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 620.01. This policy does not apply and cannot be used against the Executive Director.

Any employee who believes he/she has been subject to or observed discrimination based on race, color, national origin, religion, marital status, disability, sex, age, or any other protected class as defined by federal and state law, sexual harassment, harassment in forms other than sexual, hostile work environment, ethical violations or similar concerns, criminal acts, ACCS, ATN, or Chancellor policy or procedure violations, or other legal-related issues by any person associated within the ATN entity (other than the Executive Director), shall report the action immediately, and in **no event less than ten (10) calendar days** following the event, to the Business Manager or Executive Director. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

ATN shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the Executive Director. This review and investigation shall be conducted promptly and within forty-five (45) calendar days if practical, but not later than sixty (60) days, unless this period is extended by agreement of the complaining and responding parties. The Executive Director or his/her designee shall issue a written response to the reporting employee within fifteen (15) calendar days if practical, but not later than thirty (30) days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

Employee Complaint Forms may be found in NetSuite, OneDrive, and the Business Office.



EMPLOYEE COMPLAINT FORM

This form should be completed by the complainant and delivered to the Human Resources Director or Executive Director.

Name of Complainant: _____

Center/Department: _____

Address to send correspondence: _____

Telephone number: _____ Email address: _____

Name of the accused: _____

Center/Department: _____

Relationship of the Accused to the Complainant (administrator, supervisor, co-worker, etc.):

Date of Incident: _____

(If more than one event, please report each event on a separate form)

Provide the specific details of the complaint. *(Attach additional sheet(s) if necessary)*

How did you react to the complained of conduct? Have you taken any action in response to the complained of conduct?

Describe any harm you claim to have suffered as a result of the complained of conduct.

Were there any witnesses to this specific event? (if yes, please provide their names.)

Is there any physical, digital or documentary evidence that supports your complaint? If so, please describe or attach copy of evidence.

What is your desired outcome resolution of your complaint?

Print Name

Signature

Date

This section should be completed by the ATN official who receives the form.

Signature of ATN Official Receiving Form

Date Form Received

Instructions to employee filing the report: Any employee who has a complaint (or who is reporting an observed action) must report the action immediately, and in no event less than ten (10) calendar days following the event, to the Human Resources Director or Executive Director. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

Instructions to ATN official receiving the report: The appropriate person shall review and investigate the matter and may engage legal counsel for this purpose, as determined by the Executive Director. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but no later than 60 days, unless the period is extended by agreement of the complaining and responding parties. The Executive Director or his/her designee shall issue a written response to reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

NOTE: An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

EMPLOYEE GRIEVANCE

This policy is intended to cover grievances between and amongst employees of ATN about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against the ATN Executive Director. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under Policy 620.02.

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within **ten (10) calendar days** from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify Human Resources and/or the Executive Director as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 45 calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within 60 calendar days of receipt of the grievance. The report must be given to the Executive Director, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has 5 calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the Executive Director, which will be considered by the Executive Director or his/her designee before issuing a final decision. This decision shall be final.

An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined.

NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

Employee Grievance forms may be found in OneDrive, NetSuite and the Business Office.



EMPLOYEE GRIEVANCE FORM

This form should be completed by the aggrieved employee and delivered to the appropriate supervisor in the employee's chain of command.

Name of person making grievance: _____

Address to send correspondence: _____

Telephone number: _____ Email address: _____

Name of person your grievance is against? _____

What date/s did the actions occur? _____

What do you allege occurred? (Please be specific, provide details, and use the reverse of this sheet if needed)

Is there a specific law or ATN/ACCS policy/guideline that you believe has been violated? _____

If so, which one/s? _____

In your opinion, what could be done to reasonably resolve this grievance? _____

Print Name

Signature

Date

This section should be completed by the college official who receives the form.

Signature of ATN Official Receiving Form

Date Form Received

Instructions for your policy manual:

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within a reasonable time from the date of the alleged incident.

Any employee must file the written statement with his/her direct supervisor, unless the direct supervisor is the alleged offender. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify the Title IX Coordinator, HR personnel, and/or President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 30 days or as otherwise agreed. The supervisor must then make a written report of findings/decision and provide to the employee within 45 days of receipt grievance. The employee must, within 10 calendar days of the written report, provide specific written objections to the report of findings/decision to the supervisor, which will be considered a request for appeal. Failure to timely provide the specific written objections is a waiver of the employee's right to appeal the supervisor's findings/decision.

All appeals will be sent to the President or his/her designee, and the President or his/her designee will convene a three person grievance committee to hear the appeal within 30 calendar days. The President or his/her designee will appoint one person to sit on the grievance committee, and the President will allow both the aggrieved and accused to select an employee of the College to sit on the grievance committee (excluding the President and his/her designee). Should the aggrieved or accused fail to select a member of the grievance committee in the time period required by the President or his/her designee or the selected employee does not agree to participate as a member of the grievance committee in the time required by the President or his/her designee, then the President or his/her designee will select the grievance committee member.

The grievance committee will hold a hearing and allow the aggrieved employee to present the grievance and the accused will have an opportunity to respond within 45 days of the appeal. The grievance committee will also have access to the original grievance, report of the supervisor, and appeal notice by the employee. The grievance committee will provide its findings and decision following the hearing in a timely manner. Either party will have 10 calendar days from receipt to file a written appeal to the grievance committee decision. If timely appealed, the President will issue a final decision based on the original grievance, report of the supervisor, appeal notice by the employee, and grievance committee decision.

NOTE: If the last day for filing notice of appeal falls on either Saturday, Sunday, or a legal holiday, aggrieved will have until 5:00 p.m. the first working day following the 10th calendar day to file.

Instructions to employee filing the report: Complete and deliver this report to your direct supervisor, unless your direct supervisor is the alleged offender. If this is the case, deliver the form to the next supervisor in your chain of command who is not an alleged offender. Once you receive a report of findings/decision, you must within 10 calendar days provide specific written objections, if any, to the President, in order to appeal the matter and receive a grievance committee panel. Failure to timely provide the specific written objections is a waiver of the employee's right to appeal the supervisor's findings/decision.

Instructions to college official receiving the report: (1) Notify any appropriate personnel of the grievance (such as Center Director, HR, or Executive Director as applicable); (2) Review the written statement and conduct an investigation of the claims within 30 calendar days or as otherwise agreed; (3) Prepare a written report of findings/decision and provide to the employee within 45 calendar days of receipt grievance; (4) Advise the employee of the 10 calendar day deadline to appeal your report to the President.

Instructions to the Executive Director if a timely appeal is submitted: The Executive Director or his/her designee will convene a three-person grievance committee to hear the appeal within 30 calendar days from receipt of the grievance appeal from the employee. The Executive Director or his/her designee will appoint one person to sit on the grievance committee, and the Executive Director will allow both the aggrieved and accused to select an employee of ATN to sit on the grievance committee (excluding the Executive Director and his/her designee). Should the aggrieved or accused fail to select a member of the grievance committee in the time

period required by the Executive Director or his/her designee or the selected employee does not agree to participate as a member of the grievance committee in the time required by the Executive Director or his/her designee, then the Executive Director or his/her designee will select the grievance committee member. The grievance committee will hold a hearing and allow the aggrieved employee to present the grievance and the accused will have an opportunity to respond within 45 calendar days of the appeal. The grievance committee will also have access to the original grievance, report of the supervisor, and appeal notice by the employee. The grievance committee will provide its findings and decision following the hearing in a timely manner. Either party will have 10 calendar days from receipt to file a written appeal to the grievance committee decision. If timely appealed, the Executive Director will issue a final decision based on the original grievance, report of the supervisor, appeal notice by the employee, and grievance committee decision.



HARASSMENT AND DISCRIMINATION POLICY

The Alabama Technology Network **does not authorize and will not tolerate any form of discrimination or harassment of or by any employee or non-employee based on race, sex, religion, color, national origin, age, disability, or any other factor protected by law.** An employee's race, sex, religion, color, national origin, age, disability, or any other factor protected by law may not be considered as a basis for making any employment decisions regarding the employee, including, but not limited to, any decisions relating to hiring, promotion, training, job assignments, compensation, discipline, discharge, and other terms and conditions of employment.

The term "harassment" includes, but is not limited to, offensive language, jokes, or other verbal, graphic or physical conduct; or intimidating, threatening or offensive behavior relating to an employee's race, sex, religion, color, national origin, age, disability, or other factors protected by ATN policy and law which would make the reasonable person experiencing such harassment uncomfortable in the work environment or which could interfere with the person's job performance.

This policy applies to each and every employee of the ATN. It is the ATN's policy that all employees have a right to work in an environment free of discrimination, which encompasses freedom from any form of harassment. This includes the behavior of peers, superiors, subordinates, and visitors to the premises. Such conduct by an employee may result in disciplinary action up to and including dismissal.

SEXUAL HARASSMENT

Although it is not the only type prohibited, the most common form of harassment relates to sexual harassment. Specifically, no supervisor may threaten or insinuate, either explicitly or implicitly, that an employee's submission to or rejection of sexual advances will in any way influence any personnel decision regarding that employee's employment, evaluation, wages, advancement, assigned duties, work hours, or any other condition of employment or career development. Sexual harassment may be overt or subtle. Some behavior which is appropriate in a social setting may not be appropriate in the work place. Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is unwelcome, offensive, and affects an individual's employment or work conditions.

Some examples of conduct that may constitute sexual harassment include (a) making unwelcome sexual flirtations, advances, requests for sexual favors, or other verbal, visual or physical conduct of a sexual nature a condition of employment; or (b) creating an intimidating, hostile, or offensive working environment by such conduct as the following:

1. Physical assault or unwanted touching.
2. Direct or implied threats that submission to or rejection or requests for sexual favors will affect a term, condition, or privilege of employment.
3. Direct propositions of a sexual activity.
4. Subtle pressure for sexual activity.
5. Repeated conduct intended to cause discomfort or humiliation, or both, that includes one or more of the following:
(i) comments of a sexual nature or (ii) sexually explicit statements, questions, jokes, or anecdotes.
6. Repeated conduct that would cause discomfort and/or humiliate a reasonable person at whom the conduct was directed, including one or more of the following: (i) touching, patting, pinching, hugging, or brushing against another's body; (ii) commentary of a sexual nature about an individual's body or clothing; or (iii) remarks about sexual activity or speculations about previous sexual experiences.

7. Intimidating or demeaning comments to persons of a particular sex, whether sexual or not.
8. Displaying objects or pictures which are sexual in nature and that would create a hostile or offensive employment or educational environment and serve no educational purpose related to the subject matter being addressed.

No employee, supervisor, manager, or other person, whether employed by ATN or not, shall threaten or suggest that an employee's refusal to submit to sexual harassment will adversely affect that person's employment, work status, evaluation, wages, advancement, assigned duties, hours of work, or any other terms or conditions of employment. Similarly, no employee, regardless of job title, shall promise, imply or grant any preferential treatment in return for another employee's acceptance of conduct, which is sexually harassing.

OTHER HARASSMENT AND DISCRIMINATION

Statements, behavior, or the display or use of words, objects, or pictures that others could interpret as being insulting, derogatory, or slurs towards persons based upon their race, color, national origin, religion, sex, age, disability, or any other factor protected by law are also prohibited by this policy. Also prohibited are statements or actions that are threatening, intimidating, vulgar, or hostile. Such conduct may make a reasonable person uncomfortable in the work environment or could interfere with an employee's ability to perform his or her job, regardless of whether the actions are from a fellow employee, supervisor, or visitor.

Comments or actions of this type, even if intended as a joking matter among friends, are always inappropriate in the workplace and will not be tolerated. The conduct forbidden by this policy specifically includes, but is not limited to (a) epithets, slurs, negative stereotyping, kidding, teasing, joking, or intimidating acts that are based on a person's protected status, and (b) written or graphic material circulated within the workplace that shows hostility toward a person or group because of a person's protected status or characteristic(s).

No employee should participate in such behavior and every supervisor must take immediate action to stop those who are known to be or suspected of being involved in such conduct. The supervisor must also contact and report the information to the ATN Executive Director and HR Representative.

HOW TO REPORT INSTANCES OF ALLEGED DISCRIMINATION OR HARASSMENT

An employee who has a complaint or concern relating to any form of discrimination or harassment, or abusive, taunting, or demeaning behavior, including concerns about such conduct from non-employees, should report the conduct to any one of the following: ATN Business Manager, or the ATN Executive Director at 334-293-4671. An employee should report any such behavior or concerns even if the behavior complained of is not directed toward the employee who reports it. It would be a violation of this policy for an employee to make a complaint in bad faith. Procedures for filing an Employee Complaint are as follows:

HOW ATN WILL INVESTIGATE COMPLAINTS OR INSTANCES OF ALLEGED DISCRIMINATION OR HARASSMENT

Any employee who believes he/she has been subject to or observed discrimination based on race, color, national origin, religion, marital status, disability, sex, age, or any other protected class as defined by law; sexual harassment; harassment in forms other than sexual; hostile work environment; ethical violations or similar concerns; criminal acts, ACCS, ATN, or Chancellor policy or procedure violations; or other legal-related issues by any person associated within the ATN entity (other than the Executive Director), shall report the action as promptly as possible and in **no event less than ten calendar days** after the alleged sexual harassment or discrimination occurs. The complainant should submit an Employee Complaint form to the Business/HR Manager or Executive Director. In conjunction with the Employee Complaint form, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

ATN shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the Executive Director. It is the intention of this policy to resolve complaints of sexual harassment

and illegal discrimination as promptly as possible after the complaint and/or report is made. All complaints and/or reports will be investigated and resolved within sixty (60) days of receipt; except in extraordinary cases that require more time for completion of the investigation. Both the complainant and the alleged offender shall be given periodical updates as to the status of the investigation. Once the review and investigation has been completed, this written response shall be final.

Employee Complaint Forms can be found in NetSuite, OneDrive, and from the Business Office.

CONFIDENTIALITY and ASSURANCE AGAINST Retaliation

Every effort possible shall be made to ensure confidentiality of information received as part of an investigation. Complaints will be handled on a "need to know" basis with a view toward protecting the interests of all parties involved. ATN will do everything consistent with enforcement of this policy and with the law to protect the privacy of all parties involved and to ensure that all involved are treated fairly.

It is a violation of this policy for anyone to retaliate, threaten, or seek any type of reprisal against an individual acting in good faith who reports discrimination or harassment or who participates or cooperates in an investigation regarding discrimination or harassment. If an employee believes that reprisal, intimidation, or retaliation has occurred, it should immediately be reported to the Human Resources Department. Anyone who feels that the ATN has not met its obligations under this policy should contact the ATN Executive Director.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

Title IX Sexual Harassment Procedures

Title IX Sexual Harassment Complaint Procedures

INTRODUCTION

Bevill State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the College and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on College premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the College conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the College community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Bevill State Community College does not tolerate or condone retaliation. Individuals wishing to report sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Mary Kinard
Director of Human Resources
1411 Indiana Avenue Jasper, AL 35501
Phone: 205 387 0511 Ext. 5784
Email: mary.kinard@bscc.edu

and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCT@ed.gov (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at www.bscc.edu under the Title IX webpage.

POLICY

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture

toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.

Definitions of Sexually Based Offenses

Sexual abuse in the first degree:

(a) A person commits the crime of sexual abuse in the first degree if:

- (1) They subject another person to sexual contact by forcible compulsion; or
- (2) They subject another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.

(b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

(a) A person commits the crime of sexual abuse in the second degree if:

- (1) They subject another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
- (2) They, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

(b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

(a) A person commits the crime of rape in the first degree if:

- (1) They engage in sexual intercourse with a member of the opposite sex by forcible compulsion; or
- (2) They engage in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (3) They, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.

(b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

(a) A person commits the crime of rape in the second degree if:

(1) Being 16 years old or older, a person engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.

(2) They engage in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.

(b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

(a) A person commits the crime of sodomy in the first degree if:

(1) They engage in deviate sexual intercourse with another person by forcible compulsion; or

(2) They engage in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) They, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

(a) A person commits the crime of sodomy in the second degree if:

(1) They, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.

(2) They engage in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
2. Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - The length of the relationship,
 - The type of relationship,
 - The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10)).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Crisis Services of North Alabama or any other victim service agency of their choosing.

Formal Complaint Process

INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

REPORTING A COMPLAINT

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

STANDARD OF EVIDENCE FOR DETERMINING RESPONSIBILITY

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

DISMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

Neither party may dismiss a College appointed advisor.

INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to

conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor

- Witnesses of Respondent testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or declines cross-examination, the decision makers must not rely on any statement of that witness in reaching a determination regarding responsibility; provided, however, that the decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;

- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Bevell State Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to

participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- obtains the parties' voluntary, written consent to the informal resolution process; and
- does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

RETALIATION PROHIBITED

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Range of Possible Sanctions – On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

- Reprimand (verbal or written)
- Probation
- Loss of Privileges
- Suspension
- Expulsion
- No Contact Order
- Other penalties which may be set forth by the College

For Employees:

- Written Reprimand
- Probation
- Education and/or Remediation
- No Contact Order
- No Trespass Order
- Suspension
- Dismissal / Termination

For individuals other than employees or students:

- Verbal or Written Warning
- No Contact Order
- No Trespass Order
- Restitution
- Termination of Contractual Agreements

At any time in the grievance process the College may impose a temporary delay or limited extension of timeframes for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at www.bscc.edu.

Nondiscrimination Policy Compliance Assurance

It is the policy of the Alabama Community College System, its Board of Trustees, and Bevill State Community College, a postsecondary institution under its control, that no person shall be discriminated against on the basis of any impermissible criterion or characteristic, including, but not limited to, race, color, disability, sex, religion, creed, national origin, or age, or any other protected class as defined by state and federal law.

No employee or applicant for employment or promotion, including applicants for presidential, full-time faculty, and other administrative and supervisory positions, shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, sex, age or any other protected class.

This policy is enforced by Federal law under Title IX of the Education Amendment of 1972, Title VI and Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990. Inquiries regarding compliance with these statutes may be directed to the Title IX Senior Coordinator, at 1411 Indiana Avenue, Jasper, Alabama, 35501.

Bevill State Community College complies with federal regulations that guarantee the right of privacy and access to student records/information as established by the Family Educational Rights and Privacy Act (FERPA) of 1974 and its amendment.

Conscious effort is made to assure that all College regulations are within the scope of the lawful mission of public higher education. It is recognized that it is not a lawful mission of the College to prohibit the exercise of a right guaranteed by the Constitution or a law of the United States. However, the Administration will take direct and appropriate action in any case involving the integrity of the College and the well-being of the students.

Equal Opportunity in Education and Employment

The Board of Trustees and the entities under its direction and control are equal opportunity employers. It is their policy to provide equal opportunity for employment and advancement to all applicants and employees as required by appropriate federal and state law. This policy is enforced by Federal law under Civil Rights Act of 1964, as amended in 1972 and 1991; Title VI; Title VII; Executive Order 11246, 1965, amended by Executive Order 11375; Equal Opportunity Act of 1972; Title VII Education Amendments of 1972; Title IX (P.L. 92-318) 45 CFR, Parts 81, 86 (Federal Register, June 4, 1975, August 11, 1975); Section 504 of the Rehabilitation Act of 1973 (Federal Register, May 4, 1997); Pregnancy Discrimination Act of 1978; Americans With Disabilities Act of 1990. (GAAA). Inquiries regarding compliance with these statutes may be directed to the Title IX Senior Coordinator or the Title IX Coordinator, at 1411 Indiana Avenue, Jasper, Alabama, 35501, or to OCR.

Conscious effort is made to assure that all College regulations are within the scope of the lawful mission of public higher education. It is recognized that it is not a lawful mission of the College to prohibit the exercise of a right guaranteed by the Constitution or a law of the United States. However, the Administration will take direct and appropriate action in any case involving the integrity of the College and well-being of the employee.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

POLICY NAME:	620.01: Employee Grievance
EFFECTIVE:	April 10, 2019
SUPERSEDES:	
SOURCE:	<i>Code of Alabama 16-60-111.4</i>
CROSS REFERENCE:	

This policy is intended to cover grievances between and amongst employees of an ACCS entity about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against a President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under Policy 620.02.

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within 10 calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify HR personnel and/or the President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 45 calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within 60 calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has 5 calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final.

An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined.

The President's decision will be final.

NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

POLICY NAME:	620.02: Employee Complaints
EFFECTIVE:	November 10, 2020
SUPERSEDES:	Policy 620.02, issued April 10, 2019
SOURCE:	<u>Code of Alabama 16-60-111.4</u>
CROSS REFERENCE:	

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with an ACCS entity. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 620.01 or complaints of sexual harassment which are covered in Policy 620.03. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

602: Nondiscrimination

Source: BOT 601.02

No employee or applicant for employment or promotion, shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7



- Crisis Service Helpline (256) 716-1000
- Bradford Health Services (888) 577-0012
- AltaPointe Health (256) 245-2201
- AltaPointe Counseling Services (256) 245-1340
- Prattville
 - Crisis Service Helpline (256) 716-1000
 - Bradford Health Services (888) 577-0012
 - AltaPointe Health (256) 245-2201
- Talladega
 - Crisis Service Helpline (256) 716-1000
 - Bradford Health Services (888) 577-0012
 - AltaPointe Health (256) 362-8600

Medical Facilities

- Russell Medical Center, Alexander City (256)329-7100
- Coosa Valley Medical Center, Sylacauga (256) 401-4000
- Citizens Baptist Medical Center, Talladega (256) 362-8111
- Prattville Baptist Hospital, Prattville (334) 365-0651

For more information, refer to Student Handbook located on the College website.

EQUAL OPPORTUNITY IN EDUCATION AND EMPLOYMENT

Equal Opportunity Statement

It is the official policy of the Alabama Community College System and Central Alabama Community College that no person on the basis of race, color, disability, sex, religion, creed, national origin, age, or other classification protected by law be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program, activity, or employment. Furthermore, no qualified individual with a disability shall, on the basis of disability, be subject to discrimination in employment or in connection with any service, program, or activity conducted by the College.

Central Alabama Community College complies with the non-discriminatory regulations under Title VI and Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act, Title IX Education Amendments of 1972; and Section 504 of the Rehabilitation Act of 1973 (as amended), the Vietnam Era Veterans Readjustment Assistance Act, the Americans with Disabilities Act of 1990 (as amended), the Equal Pay Act, and the Pregnancy Discrimination Act.

Student inquiries concerning reasonable accommodations may be directed to the ADA Coordinator in the Student Services Office. Complaint and grievance procedure forms are available in the



Student Services Office. Students who wish to make a complaint regarding discriminatory conduct or retaliation should contact Jerri Carroll, Title IX Coordinator, for student issues.

Employee inquiries concerning reasonable accommodations may be directed to Tina Shaw, Executive Human Resources Director, in the Human Resources Office. Complaint and grievance procedure forms are available in the Human Resources Office. Employees who wish to make a complaint regarding discriminatory conduct or retaliation should contact Tina Shaw, Title IX Coordinator, for employee issues.

Central Alabama Community College is an equal employment/equal educational opportunity institution.

The College prohibits retaliation against any person because they have engaged in a protected activity opposing the College or because they have made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing alleging discrimination on a basis of any protected classification specified above or retaliation.

Inquiries concerning the application of the above laws and their implementing regulations may be referred to the Compliance Officers listed below or to the Office for Civil Rights.

The Compliance Officers for Central Alabama Community College are:

Student Contact

Dean of Students
Title IX Coordinator
Central Alabama Community College
1675 Cherokee Road
Alexander City, AL 35010
256-215-4273

Employee Contact

Executive Human Resources Director
Title IX Coordinator
Central Alabama Community College
34091 US Highway 280
Childersburg, AL 35044
256-378-2010

Region Four Office of Civil Rights



U.S. Department of Health and Human Services
Sam Nunn Atlanta Federal Center Suite
16770 61 Forsyth, St. S. W.
Atlanta, Georgia 30303-8909
800-368-1019 PHONE
404-562-7881 FAX
800-537-7697 TDD

FAIR LABOR STANDARDS ACT (FLSA)

The College is covered by the Federal Fair Labor Standards Act which includes the U.S. Department of Labor (DOL) standards for overtime compensation. At the College, it is an institutional policy that no employee on State Salary Schedule B, C or D shall be eligible for overtime compensation based strictly on hours worked per week. As a general rule, administrators, faculty and other professionals employed at the College shall not receive additional compensation nor compensatory time off merely for hours worked beyond their normal workweek. [Board Policy 614.01](#)

Note: Instructors and Adjuncts are exempt, regardless of salary. FLSA Sec 29 CFR 541.600(c).

For all full-time employees on Salary Schedule E, H and Local salary scale, a test/evaluation will be applied to determine whether or not his/her position is classified as “exempt or non-exempt”. A worker is automatically non-exempt and entitled to compensatory time off, unless the worker meets the exempt test.

There are two exemption tests that determine a job’s FLSA designation:

A.) **“Minimum Salary Level”** – Employees who earn \$35,568 per year or less (the Minimum Salary Level threshold) have their positions designated as nonexempt, and must keep accurate records of hours worked and be paid overtime premium (one and one-half times their hourly rate of pay) for all hours worked in excess of 40 in the designated workweek.

B.) **“Duties Test”** – Employees who earn more than the Minimum Salary Level threshold may have their positions designated exempt only if their primary job duty(ies) passes one or more of the following tests, as specified by the [Department of Labor, Fact Sheet #17A](#):

- **Executive Exemption:** Primary duty is the management of the enterprise or a department; regularly directs the work of two or more employees; authority to hire or fire other employees, or their recommendations regarding employment status or advancement of other employees are given particular weight.

EMPLOYEE COMPLAINTS

This policy is intended to cover grievances between and among employees of an ACCS entity about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against a President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under [Policy 620.02](#). Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within ten (10) calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify HR personnel and/or the President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within forty-five (45) calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within sixty (60) calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has five (5) calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final. An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined. The President's decision will be final. NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

ACADEMIC FREEDOM

The College adheres to Alabama Community College System Policy for Academic Freedom, which states, "The Alabama Community College System supports the concept of academic freedom. In the development of knowledge, research endeavors, and creative activities, faculty and students must be free to cultivate a spirit of inquiry and scholarly criticism. Faculty members are entitled to freedom in the classroom in discussing discipline related subjects. Faculty and students must be able to examine ideas in an atmosphere of freedom and confidence. At no time shall the principle of academic freedom prevent the institution from taking proper efforts to assure the best possible instruction for all students in accordance with the mission and objectives of the institution." The College further expounds on the ACCS System Policy of academic freedom with policies as set forth by the American Association of University Professors concerning academic freedom. These policies are as follows:

Student Services and Academic Policies

- Student Services Division
- Academic Policies
 - Academic Advising
 - Academic Appeals
 - Academic Bankruptcy
 - Academic Honors
 - Academic Integrity
 - Academic Integrity Adjudication
 - Class Attendance
 - Classification of Students
 - Course Auditing
 - Course Forgiveness
 - Course Load Requirements
 - Credit Hour Definition
 - Examinations and Grading
 - Grading System.
 - Grades of Incomplete
 - Independent Studies
 - Orientation Course
 - Prerequisites
 - President's List and Dean's List
 - Withdrawal
- Dual Enrollment

Instructional Divisions

- Academic
- Health Sciences
- Technical
- Workforce

Course Descriptions

STUDENT FIELD TRIPS/STUDENT ORGANIZATION TRAVEL REGISTRATION

Faculty members desiring to make field trips should submit to the appropriate Dean the field trip request form which is available through Dean of Students Office. The student/student organization travel registration process and required forms are available in the Dean of Students Office. Travel form(s) must be completed and approved prior to travel. For more information regarding this process, faculty/staff member should contact the Business Office for guidance.

EMPLOYEE CONCERN RESOLUTION

It is the policy of Central Alabama Community College to provide an effective and timely informal resolution method for faculty and staff to bring for the workplace issues and concerns. These

issues and concerns may include working conditions, performance, policy, procedures, or problems with co-workers or supervisors. This policy does not apply to concerns about employment actions based on internal and external department and/or CACC reorganization, financial necessity or budget determinations and termination of employment.

This policy is intended to provide fair and prompt consideration to all faculty and staff concerns. Central Alabama Community College encourages all faculty and staff to seek resolution without fear of prejudice or retaliation within the limits of the preview process and with the assurance that his/her confidences will be respected.

Definition of Concern: An issue brought forth by a faculty or staff member (regular full-time or part-time employee) concerning the workplace which may include, but is not limited to, working conditions, performance, policies, procedures, or problems with co-workers or supervisors.

Note: Some concerns or complaints may apply to Board Policy 601.04, 620.02, 620.30, or when applicable, not this one. Seek assistance from Human Resources.

Informal Concern Procedure

Employees who have work-related concerns are encouraged to discuss them with their supervisor as soon as possible after the event(s) that cause the concern. The supervisor should address the issue as soon as possible and within five (5) working days.

If the concern is not resolved with the employee's supervisor, the employee may bring the issue to Human Resources. Human Resources will assist and facilitate to seek a solution satisfactory to all parties.

If the parties cannot reach satisfactory conclusion, the employee may choose to file a formal concern with Human Resources.

Formal Concern Procedure

Step 1 - Written Concern

Employee must submit formal concern in writing by completing an *Employee Concern Form*. **(Appendix H)** The document should describe the incident or concern and the evidence upon which it is based. The document should describe the issue with specific facts, including: personnel involved, events, dates and other information relating to the complaint. The document submission should be marked "personal and confidential" and addressed to the Executive Human Resources Director. The document should be filed as soon as possible and within five (5) working days after the incident or problem first occurred.

Human Resources records all written concerns and sends the employee written acknowledgement that the concern was received and is under review.

Step 2 – Plan of Resolution

Human Resources investigates the concern, meeting separately with the employee and others who either are named in the concern or who may have knowledge of the facts set forth in the concern. The investigation is completed within fourteen (14) working days from the date Human Resources receives the written concern.

Within fourteen (14) working days after conclusion of the investigation, Human Resources will prepare a written report of the investigation and findings; written notification to the individual making the concern and the individual or supervisor against whom the concern is made, that the investigation with recommended plan of resolution is complete.

Other Issues Relating to Concern

Other Forums – If at any time before or during this procedure the employee files a concern in another forum, CACC reserves the right to discontinue the concern resolution proceedings if, in its judgment, it determines that continuation will not conclude the matter with finality or will be unnecessarily duplicative.

Filing A Grievance

If any employee concern is not, or cannot be, resolved at the first level of supervision, as described above, the employee may then file such an unresolved concern as a “grievance.” Refer to [Board Policy 620.01](#). Employee must complete an *Employee Grievance Form* (**Appendix I**). **Refer to instructions noted in next topic.**

EMPLOYEE GRIEVANCE

This policy is intended to cover grievances between and amongst employees of an ACCS entity about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against a President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under [Board Policy 620.01](#). Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within 10 calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee’s direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line.

The supervisor (or other person receiving a written grievance) will notify HR personnel and/or the President as appropriate. The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within forty-five (45) calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within sixty (60) calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has five (5) calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final. An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined. The President's decision will be final. NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

Instructions to employee filing the report: Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within ten (10) calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. Complete and deliver this report to your direct supervisor, unless your direct supervisor is the alleged offender. If this is the case, deliver the form to the next supervisor in your chain of command whom the grievance is lodged. The supervisor (or person receiving a written grievance) will notify HR personnel and/or the President as appropriate.

Instructions to college official receiving the report: The supervisor, or other person appointed (such as Title IX Coordinator, HR, SPO, President as applicable) to assist with or address the grievance, must review the written statement and conduct an investigation of the claims within forty-five (45) calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within sixty (60) calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has five (5) calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final.

NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.



Employee Contact

Tina Shaw
Title IX Coordinator
Central Alabama Community College
34091 US Highway 280
Childersburg, AL 35044
256-378-2010 PHONE
256-827-1963 CELL
tshaw5@cacc.edu

and/or

Assistant Secretary
U.S. Department of Education Office for Civil Rights
Lyndon Bains Johnson
Department of Education Building 400
Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov (mailto: OCR@ed.gov)

Information regarding Title IX is provided to all faculty, staff, students, applicants for admissions, and applicants for employment by means of Employee Handbook and Student Handbook. This information is accessible on the College website, <https://www.cacc.edu/about/title-ix/>

POLICY – TITLE IX

The U.S. Department of Education’s [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some



common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures of behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing,



annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, domestic violence or sexual assault

Definitions of Sexually Based Offenses

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship will be determined based on a consideration of the following factors:



- The length of the relationship,
- The type of relationship,
- The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

(NOTE: Additional definitions of sex-based offenses under Alabama law may be included in this section.)

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from a victim service agency of their choosing.



Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report a sexual harassment incident to the Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures mean non-disciplinary, non-punitive individualized services offered as



appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of the College's Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not. (**NOTE:** In the alternative the College may adopt the clear and convincing evidence standard.)

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that, under the circumstances, a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint.

The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,



- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DISMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, the reason for dismissal within five (5) business days of the decision to dismiss the complaint and the Complainant's right to Appeal, if applicable.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.



H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence.



Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response.

J. LIVE HEARING PROCEDURE

Upon completion of the final investigative report, the Hearing Decision Maker(s) will schedule a live hearing. The Hearing Decision Maker(s) will have completed Decision Maker training



during the current academic year. If there are multiple Hearing Decision Maker(s), one shall be designated as the Primary Decision Maker. The Hearing Decision Maker(s) will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, and witnesses named in the final report of the live hearing date. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence. (NOTE: A Hearing Officer may be utilized in addition to the Hearing Decision Maker(s).)

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Maker(s), are able to see and hear the party or witness answering questions in real-time.

The Hearing Decision Maker(s), Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Hearing Decision Maker(s), parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney. Neither party may dismiss a College appointed advisor.

The hearing process will consist of:

- Opening statement by Hearing Decision Maker (or Primary Decision Maker)
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Decision Maker (or Primary Decision Maker)
- Review of potential hearing outcomes and sanctions by Hearing Decision Maker (or Primary Decision Maker)
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies



- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Decision Maker (or Primary Decision Maker)
- Closing statement by Hearing Decision Maker (or Primary Decision Maker)
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Decision Maker (or Primary Decision Maker) shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Decision Maker (or Primary Decision Maker) concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Maker(s) may question the Complainant after the cross- examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Maker(s) may question the Respondent after the cross- examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Hearing Decision Maker(s). The Hearing Decision Maker (or Primary Decision Maker) will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Hearing Decision Maker (or Primary Decision Maker) determines that the question is not relevant, the Hearing Decision Maker(s) (or Primary Decision Maker) will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.



Decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Decision Maker (or Primary Decision Maker) shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Hearing Decision Maker(s) will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- A. identification of the allegations potentially constituting sexual harassment;
- B. a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- C. findings of fact supporting the determination;
- D. conclusions regarding the application of the College's code of conduct to the facts;
- E. a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- F. the College's procedures and permissible bases for the complainant and respondent to appeal.

The Hearing Decision Maker (or Primary Decision Maker) will submit the hearing report to the Title IX Coordinator within ten (10) business days of the live hearing.

The Title IX Coordinator will submit the hearing report simultaneously to the Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.



The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Central Alabama Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Hearing Decision Maker(s). The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Hearing Decision Maker(s), but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President (or his/her designee) review the decision of the Hearing Decision Maker(s). The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 106.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.



A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstances or as may be otherwise agreed by the parties.

If the Complainant is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- obtains the parties' voluntary, written consent to the informal resolution process; and
- does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

(NOTE: Adopting an Informal Resolution Process is optional.)

L. RETALIATION PROHIBITED

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted under this policy. Complaints



alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Range of Possible Sanctions – On final determination of responsibility sanctions may be imposed against a respondent.

For Students:

- Reprimand. A reprimand is a written notice that continuation or repetition of improper conduct may be cause for further disciplinary action.
- Restitution. Restitution is compensation for damages to property owned by the College, limited to actual cost of repair or replacement.
- Probation. This sanction is for a designated period of time, which may include exclusion from privileges, such as extracurricular activities and/or on-campus driving privileges. Furthermore, if the student is determined by any of the disciplinary procedures herein to be in subsequent violation of the Code of Student Conduct during the probationary period, the student may be either suspended or expelled. Provisions of the probationary period shall be determined and expressed by the Title IX Coordinator.
- No Contact Orders. Written notice to cease all contact with an alleged victim of sexual misconduct are no contact orders.
- Cease and Desist Orders. The alleged perpetrator will be directed by written notice to cease and desist any activity noted by the alleged victim as offensive or threatening and that may be a violation of the Policy.
- Voluntary Withdrawal. A student may be given the option to voluntarily withdraw from a class or from the College in lieu of disciplinary action. The Title IX Coordinator in some circumstances, may specify a period of time before the student may apply for readmission or reenroll in a class or classes. To qualify for readmission, the student must receive approval from the Instructional Dean and meet the academic standards for readmission. Students will not be eligible for any refund from the College. (If a student withdraws before disciplinary procedures are carried out, the student will be subject to discipline as may be imposed by the designated college official at the time of reentry into the College).
- Suspension. Separation from the College for a definite period of time. A student may be suspended for a specific period of time not to exceed two (2) years. To qualify for



readmission after suspension, a student must receive approval from the Instructional Dean and meet all reasonable requirements and academic standards for readmission. Students will not be eligible for any refund from the College.

- **Expulsion.** An indefinite termination of student status from the College for a period of not less than two (2) years. To qualify for readmission after expulsion, a student must receive approval from the Instructional Dean and meet all reasonable requirements and academic standards for readmission. Students will not be eligible for a refund from the College. Under certain conditions, expulsion could mean permanent severance from the College.

For violations of this policy by faculty or staff members, disciplinary penalties may include some of the sanctions listed above as appropriate, in addition to other penalties (in accordance with the employment laws, regulations, and policies governing the employee in question) including but not limited to:

- Counseling or training;
- Written warning;
- Reprimand
- Suspension
- Termination.

For individuals other than employees or student:

1. A no trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
2. A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and



CALHOUN
COMMUNITY COLLEGE

Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

XVI. Employee Complaint Policy

Calhoun Community College is committed to providing both employment and educational environments free of discrimination, harassment in any form, a hostile work environment, ethical concerns, or other legal-related matters. Employees shall adhere to the highest ethical standards and professionalism. Both employees and students shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is respected. In this spirit, the College offers the following complaint procedure as the appropriate course of action for employees with complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with the College. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by the Employee Grievance policy. This policy does not apply and cannot be used against a President. Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- sexual harassment,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,


by any person associated within the College (other than a President), shall report the action immediately by completing an Employee Complaint Form (Appendix III - D), and in no event less than ten (10) calendar days following the event, to the Director of Human Resources & Payroll, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation. The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final. An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.



COASTAL ALABAMA

COMMUNITY COLLEGE

Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

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Policies and Procedures Manual				
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Insert:	02.17	Date:	04/01/2022	
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Reviewed:		Date:	06/01/2023	
Remove:		Date:		

POLICY / PURPOSE:

It is the policy of Coastal Alabama Community College to ensure compliance with all federal and state discrimination laws as well as the Alabama Community College System (ACCS) [Board Policy 601.02](#).

“No student shall be discriminated against on the basis of any impermissible criterion or characteristic including, but not limited to, race, color, national origin, religion, marital status, disability, gender, age or any other protected class as defined by federal and state law.”

Further, no employee or applicant for employment or promotion, shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law.

SCOPE:


This policy applies to all Coastal Alabama Community College students and employees during any activity involving the College, including the workday. In addition, visitors, vendors, contractors, and all other non-employees may be expected to recognize and comply with College policies.

DEFINITIONS:

Harassment: Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, genetic information, or other protected class. Harassment as to employees becomes unlawful where (1) enduring the offensive conduct becomes a condition of continued employment, or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Harassment as to students becomes unlawful where it interferes with the access or participation in the educational process and programs at the College. Harassment, whether verbal, physical or visual, that is based on any of the above characteristics, is a form of discrimination. This includes harassing conduct affecting tangible educational benefits, interfering unreasonably with an individual's academic performance, or creating what a reasonable person would perceive is an intimidating, hostile or offensive environment.

Examples of harassment may include, but are not limited to:


- making a grading decision because of the person's protected status;
- jokes or epithets about another person's protected status;
- teasing or practical jokes directed at a person based on their protected status;
- the display or circulation of written materials or pictures that degrade a person or group based upon a protected characteristic; and
- verbal abuse or insults about, directed at, or made in the presence of an individual or group of individuals in a protected group.

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Hostile Environment: A hostile environment may be created by oral, written, graphic, or physical conduct that is sufficiently severe, persistent or pervasive so as to interfere with, limit or deny the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities. Merely offensive speech of a generic nature and not on the basis of a protected status does not rise to the level of unlawful harassment. Harassment can include verbal or non-verbal behavior that demeans or stereotypes individuals in a harmful way. While the College is committed to the principles of free inquiry and free expression, discrimination and harassment identified in this Policy are neither legally protected expression nor the proper exercise of academic freedom.

DETAILS:

1. **Violation of this Policy:** Any student, employee, guest, or visitor who acts to deny, deprive or limit the educational, employment, and/or social access, benefits and/or opportunities of any student or employee on the basis of their actual or perceived membership in the protected classes listed above is in violation of the College's policy on nondiscrimination.
2. **Disability Discrimination:** The College is committed to full compliance with the Americans With Disabilities Act (ADA) and Section 504 of the Rehabilitation Act, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Refer to the [Americans with Disabilities Act \(ADA\) Policy](#) for additional information.
3. **Sexual Harassment:** Refer to the [Sex Harassment, Sexual Misconduct, and Interpersonal Violence \(Title IX\) Policy](#) for additional information.
4. **Reporting Discrimination:** The College encourages any individual who believes that he or she has been subjected to discrimination or harassment based on their race, color, national origin, religion, marital status, disability, sex, age, or any other protected class to report the discrimination or harassment to the appropriate College official and submit a written complaint. Refer to the Reporting Discrimination Incidents procedures below.
5. **Confidentiality:** All reports will be handled with discretion, care and sensitivity and the College will make every effort to respect requests for confidentiality, but the College's ability to investigate and take appropriate action may be limited if individuals do not provide identifying information or request confidentiality. In addition, there may be circumstances when the College determines that it must investigate a particular matter to help protect the learning and working environment at the College despite a request for confidentiality.
6. **Retaliation:** It is a violation of College Policy to retaliate in any way against a person or persons because they have opposed any practices forbidden under these policies or have filed a report, assisted, or participated in any manner in an investigation or proceeding under these policies. This includes action taken against a bystander who intervened to stop or attempt to stop a bias related incident. Retaliation may take many forms, and may

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include intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this Policy. The College will take immediate and responsive action upon receiving any report of retaliation and may pursue disciplinary action as appropriate.

7. **Records Maintenance:** The College will maintain documentation and records regarding alleged reported incidents and their resolution in a manner that protects the confidentiality of the parties involved, complies with the Family Educational Rights and Privacy Act (FERPA), and to the extent possible excludes personally identifiable information about victims of bias incidents. If a student, instructor, or staff member has been found responsible for a discrimination incident, this finding remains a part of that student's or employee's conduct record.

PROCEDURE(S):


1. Reporting Discrimination Incidents:

- a. **Students or Members of the College Community Reporting Discrimination:** Students or other members of the college community who feel they have witnessed or been subjected to a discrimination incident are highly encouraged to report the incident as soon as possible.
- b. **Employee Duty to Report Information on Discrimination:** In order to enable the College to respond effectively and to address violations of its Policy all College employees must, within 24 hours of receiving the information, report information they have about alleged or possible discrimination and harassment, including sex discrimination, sexual harassment, sexual misconduct, interpersonal violence or stalking, to the appropriate College official. Based on the alleged Policy violation, the College official reference in the table above will evaluate the information received and determine what further actions should be taken.

College officials receiving reports alleging acts of discrimination or harassment based will refer those reports to the appropriate individual listed in the table above. Any questions or comments concerning the Policy addressing discrimination or harassment on the basis of other categories listed above should be directed to the appropriate College official listed above.

When reporting the incident:

- Please provide a detailed account of the incident including date, time, and location.
- Do not remove or tamper with physical evidence. Contact the College Police Department to document and collect physical evidence.

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- If the incident involves a verbal act, write down exactly what was said to the best of your recollection.
- Identify the accused if known or provide a detailed description of the individual(s) involved.
- List all witnesses including their names and contact information.
- Include other pertinent information that may assist the College in responding to the incident.
- If the incident was in the form of graffiti, vandalism, or public postings, office of the College Police Department will document it for evidence.
- If the incident was in the form of email, text, message, or communication through a social network site, do not delete the message. If at all possible, print the message so it may be used in the investigation.
- If the incident was in the form of a telephone call, then record the time and date of the call and keep a record of the telephone number if you have caller ID. It is recommended that a report be completed as soon as possible after the incident and that the reporting party keep a written record of the above details.


c. **Reporting Disability Discrimination Complaints:** Refer to the [Americans with Disabilities Act \(ADA\) Policy](#) for additional information.

d. **Reporting Incidents of For reports or complaints alleging acts of Sexual Harassment, Sexual Misconduct, Sexual Assault, Interpersonal Violence and Stalking:** Refer to the [Sex Harassment, Sexual Misconduct, and Interpersonal Violence \(Title IX\) Policy](#) for additional information.

2. **Investigation and Response:** Depending on the nature of the alleged Policy violation and whether the parties involved are instructors, staff, students, contractors, visitors, or guests, the individuals who will be responsible for addressing and resolving discrimination incidents may vary. In all cases, the Procedures include the basic elements outlined below for resolution of allegations of discrimination.

- Initial assessment by the appropriate College official.
- Interim measures and remedies where appropriate.
- Consideration of voluntary resolution, where appropriate.
- Investigation and resolution if voluntary resolution is not appropriate.
- Sanctioning by the appropriate College official.
- Recourse to the appropriate appeal process.
- Protection from retaliation.


3. **Disciplinary Actions or Sanctions:** Employee discipline and/or student sanctions may be recommended as appropriate. Student sanctions may be referred to the Dean of Student Services for determination and action. Employee discipline may be referred to the Human Resources Office for determination and action. Complaints against an employee may result in disciplinary action. Refer to the [Working Conditions Policy](#) (Employee Discipline Section) for additional information. Complaints against students may result in

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sanctions up to and including expulsion in accordance with the Coastal Alabama Community College [Student Code of Conduct Policy](#). In the event of policy violations, a number of factors will be considered in determining appropriate discipline or remedial action, including the nature of the violation, the severity and pervasiveness of the conduct. Nothing in this procedure limits or delays the College's right to take appropriate disciplinary actions, up to and including termination, when an employee's behavior warrants the action.

ADDITIONAL PROVISIONS/INFORMATION:

Refer to the [Age Act Discrimination Policy](#).
Refer to the [Americans with Disabilities Act \(ADA\) Policy](#).
Refer to the [Equal Educational and Employment Opportunities Policy](#).
Refer to the [Working Conditions Policy](#) (Employee Discipline Section).
Refer to the [Family Educational Rights and Privacy \(FERPA\) – Buckley Amendment Policy](#).
Refer to the [Harassment Policy](#).
Refer to the [Rehabilitation Act Policy](#).
Refer to the [Sex Harassment, Sexual Misconduct, and Interpersonal Violence \(Title IX\) Policy](#).
Refer to the [Student Code of Conduct Policy](#).
Refer to the [Students First Act Policy](#).

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POLICY / PURPOSE:

It is the policy of Coastal Alabama Community College ensure compliance with Alabama Community College System (ACCS) [Board Policy 620.02](#) and [Board Policy 620.01](#).

SCOPE:

This policy applies to all Coastal Alabama employees except the College President.

DEFINITIONS:


There are no definitions applicable to this policy.

DETAILS:

1. **Employee Complaints:** This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with an ACCS entity. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by [Board Policy 620.01](#) or complaints of sexual harassment, which are covered in [Board Policy 620.03](#) and [Chancellor's Procedures 620.03](#). This policy does not apply and cannot be used against a President. Any employee who believes they have been subjected to or observed:
 - discrimination based on race, color, national origin, religion, marital status, disability, sex, age, or any other protected class as defined by federal and state law,
 - harassment in forms other than sexual,
 - hostile work environment,
 - ethical violations or similar concerns,
 - criminal acts,
 - ACCS, College, or Chancellor policy or procedure violations,
 - or other legal-related issues,


by any person associated within the ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Senior Personnel Officer, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

- a. **Review and Investigation of Complaint:** The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or their designee shall issue a written response to the reporting

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employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

- b. **Good Faith Complaint:** An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.
2. **Employee Grievances:** This policy is intended to cover grievances between and amongst employees of an ACCS entity about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against a President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under [Board Policy 620.02](#). Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within 10 calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line.
 - a. **Notification of Grievance:** The supervisor (or other person receiving a written grievance) will notify Human Resources personnel and/or the President as appropriate.
 - b. **Grievance Investigation / Report of Findings and Recommendations:** The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 45 calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within 60 calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged.
 - c. **Findings Objections:** The complaining employee or the person about whom the grievance is lodged has 5 calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or their designee before issuing a final decision. This decision shall be final.
 - d. **Good Faith Grievance:** An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined. The President's decision will be final.

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- e. **Employee Grievance Time Frames:** Adequate time is provided to complete activities prescribed within each step of the Grievance Procedure, and consideration should be given to completing each step as expeditiously as possible.
- 1) If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.
 - 2) If a Grievance is not filed within the time limits, the dispute in question shall be regarded as forfeited and shall not be processed further.

PROCEDURE(S):

Employee Complaint Procedures


1. An employee may file a formal complaint by completing an [Employee Complaint and Grievance Form](#) for an allegation based upon any of the following within 10 calendar days of the event:
 - Discrimination based on race, color, national origin, religion, marital status, disability, sex, age, or any other protected class as defined by federal and state law,
 - Harassment in forms other than sexual,
 - Hostile work environment,
 - Ethical violations or similar concerns,
 - Criminal acts,
 - ACCS, College, or Chancellor policy or procedure violations,
 - Other legal-related issues

NOTE: The employee may attach any evidence to the [Employee Complaint and Grievance Form](#).

2. The [Employee Complaint and Grievance Form](#) will be reviewed by the Human Resources Office and the President.
3. Human Resources and/or the President will designate an appropriate person to investigate the matter. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties.

NOTE: The College may engage legal counsel or a qualified third-party investigator, as determined by the President.

4. The person designated to investigate the matter will provide a written letter of findings and recommendation to the President.
5. Upon review and approval by the President, the person designated to investigate the matter will issue a written letter of findings and recommendation to the reporting and responding parties within 15 calendar days, if practical, but not later than 30 calendar days

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unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

Employee Grievance Procedures

1. The employee may file a formal Employee Grievance by completing the [Employee Complaint and Grievance Form](#) within 10 calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy.

NOTE: Oral grievances are not accepted.

2. The [Employee Complaint and Grievance Form](#) will be reviewed by the Human Resources Office.
3. Human Resources will contact the Complaining Party to discuss the information in the [Employee Complaint and Grievance Form](#) and determine the applicable supervisor to address the grievance.
4. Human Resources will distribute the [Employee Complaint and Grievance Form](#) to the employee's direct supervisor (unless the direct supervisor is the person about whom the grievance is lodged.) In such cases, Human Resources will distribute the [Employee Complaint and Grievance Form](#) to the next supervisor in line. Human Resources will notify the President as appropriate.
5. The supervisor, or other person appointed to address the grievance, must review the written statement, and conduct an investigation of the claims within 45 calendar days (or as otherwise agreed).
6. Upon the completion of the investigation (referenced in #4 above), the supervisor, or other person appointed to address the grievance will create a written report of findings with recommendations within 60 calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged.
7. The complaining employee or the person about whom the grievance is lodged has 5 calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision.
8. The President's decision shall be final.

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ADDITIONAL PROVISIONS/INFORMATION:

[Working Conditions Policy](#) (Employee Discipline Section).



Title IX Sexual Harassment Complaint Procedures

INTRODUCTION

TITLE IX CONTACTS

POLICY

DEFINITIONS RELATING TO SEXUAL HARASSMENT

VICTIMS OPTION TO REPORT

FILING A TITLE IX COMPLAINT-INITIAL STEPS

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INTRODUCTION

Coastal Alabama Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence.



TITLE IX CONTACTS

Coastal Alabama Community College does not tolerate or condone retaliation. Individuals wishing to report reporting sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Student Complaints:

Dr. Celeste Robertson

Student Conduct Administrator

1900 Highway 31 S

Bay Minette, AL 36507

251-580-2152

Celeste.robertson@coastalalabama.edu

Dean Vinson Bradley

Dean of Student Services

1900 Highway 31 S

Bay Minette, AL 36507

251-580-2103

Vinson.bradley@coastalalabama.edu

Employee Complaints:

Human Resources

1900 Highway 31 S

Bay Minette, AL 36507

251-580-4898

Hr@coastalalabama.edu

and/or

Assistant Secretary

U.S. Department of Education

Office for Civil Rights

Lyndon Baines Johnson Department of Education Building

400 Maryland Avenue, SW

Washington, DC 20202-1100

Telephone: 800-421-3481

Fax: 202-453-6012; TDD: 800-877-8339

Email: OCT@ed.gov (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at www.coastalalabama.edu under the Title IX webpage.



POLICY

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance.

Title IX states that:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”



DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:



A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo).

Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or

Stalking, dating violence, or domestic violence.

Definitions of Sexually Based Offenses

Sexual abuse in the first degree:

(a) A person commits the crime of sexual abuse in the first degree if:

(1) He subjects another person to sexual contact by forcible compulsion; or

(2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.

(b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

(a) A person commits the crime of sexual abuse in the second degree if:

(1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or

(2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

(b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

(a) A person commits the crime of rape in the first degree if:

(1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or

(2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.

(b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

(a) A person commits the crime of rape in the second degree if:



(1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.

(2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.

(b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

(a) A person commits the crime of sodomy in the first degree if:

(1) He engages in deviate sexual intercourse with another person by forcible compulsion; or

(2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

(a) A person commits the crime of sodomy in the second degree if:

(1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.

(2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –



(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship will be determined based on a consideration of the following factors:

The length of the relationship,

The type of relationship,

The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).



VICTIMS OPTION TO REPORT

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from any victim service agency of their choosing.



FILING A TITLE IX COMPLAINT-INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

REPORTING A COMPLAINT

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

SUPPORTIVE MEASURES

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability



of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

STANDARD OF EVIDENCE FOR DETERMINING RESPONSIBILITY

For the purposes of College Title IX procedures, the College will use a “preponderance of evidence” standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. If under the circumstances a formal complaint should be pursued notwithstanding a Complainant’s desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

DISMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.



If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or another personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

Neither party may dismiss a College appointed advisor.



INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.



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The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

After the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.



LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by another electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision-Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations



At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. After Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. After Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or declines cross-examination, the decision makers must not rely on any statement of that witness in reaching a determination regarding responsibility; provided, however, that the decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment.
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held.
- findings of fact supporting the determination.



- conclusions regarding the application of the College's code of conduct to the facts.
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.



APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Coastal Alabama Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties.
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii).
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an



informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- obtains the parties' voluntary, written consent to the informal resolution process; and
- does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.



RETALIATION PROHIBITED

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.



RANGE OF POSSIBLE SANCTIONS

On final determination of responsibility, the following sanctions may be imposed against a respondent:

Student Respondent:

1. Sanctions for Category 1 Violations:

One or any combination of sanctions, as appropriate:

Administrative Letter of Reprimand-A written letter from the Student Conduct Administrator. The letter may include a sanction or a warning to a student that conduct was inappropriate, and that further misconduct will result in more severe disciplinary action.

Probation- A status between good standing and suspension from the College. It is ordinarily imposed for a period of not less than one semester. It may also include such restrictions as a denial of the opportunity to represent the College as officer or member of a student organization. Future violations may result in additional sanctions

Restitution- Repayment for theft or damage

Fines-Monetary payments for violations

Discretionary Sanctions-Seminars or mentoring, research project or service to the College

Building/Facility Suspension-Suspension from a building or space on campus

2. Sanctions for Category 2 Violations:

Any combination of sanctions for Category 1 Violations, including:

Class Suspension- class suspension is defined as a temporary separation from the college, for one or more semesters. Once suspended, a student is withdrawn from course rolls. The student will not receive credit for those courses and will not be allowed to attend any College-sponsored event or activity.

A student who completes all required sanctions will be welcomed back to the College after the suspension period. Though, sometimes the student's return comes with one or more of the following stipulations:

- Not permitted to live on campus
- Can no longer participate in (*certain activity*)
- Subject to random drug screenings
- Restricted from certain campus areas or buildings

Dismissal- A permanent separation from the College. When dismissed, a student is withdrawn from course rolls and is no longer allowed on ANY campus. Students who are dismissed from campus have a hold place on their account and cannot later enroll.

3. Determining Sanctions: Each student situation will be evaluated individually when considering the following mitigating and aggravating impacts:

- The nature of the violation
- A student's level of involvement in the violation
- Actual harm caused by the behavior



- The potential risk of harm
- The student's intent
- The impact on the campus community
- The severity and pervasiveness of the behavior
- The student's demonstrated understanding and sincere remorse
- The student's level of cooperation and compliance
- The level of success of prior intervention

For Employees:

Human Resources

For Individuals other than employees or student:

Sanctions will be determined by federal, state, local law



TIMELINE AND TRAINING

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at www.coastalalabama.edu



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7



Chattahoochee Valley Community College

Title IX Sexual Harassment Policy Manual

Updated: August 2023

CHATTAHOOCHEE VALLEY COMMUNITY COLLEGE

TITLE IX SEXUAL HARASSMENT POLICY

INTRODUCTION

Chattahoochee Valley Community College (CVCC) is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the College and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the paramount concern of the college is for the safety and well-being of those impacted. The College will support individuals by referring students and employees to community and local resources.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. CVCC does not tolerate or condone retaliation. Individuals wishing to report reporting sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Ms. Robin Jones (Employees)
Title IX Coordinator
Chattahoochee Valley Community College
2602 College Drive
Phenix City, Alabama 36809
334-291-4927
robin.jones@cv.edu

Ms. Vickie Williams (Students)
Title IX Coordinator
Chattahoochee Valley Community College
2602 College Drive
Phenix City, Alabama 36809
334-214-4803
vickie.williams@cv.edu

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: [OCT@ed.gov](mailto:OCR@ed.gov) (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinators and their roles will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available at www.cv.edu.

POLICY

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual Knowledge

The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant

Complainant is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure, a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the education programs and activities of the college.

Respondent

Respondent is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint

A formal complaint is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent

“Consent” must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation

An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct

Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment

The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual Harassment

Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.

DEFINITIONS OF SEXUALLY BASED OFFENSES

Sexual abuse in the first degree

(a) A person commits the crime of sexual abuse in the first degree if:

- (1) He subjects another person to sexual contact by forcible compulsion; or
- (2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.

(b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree

(a)) A person commits the crime of sexual abuse in the second degree if:

- (1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
- (2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

(b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree

(a) A person commits the crime of rape in the first degree if:

- (1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or
- (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.

(b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree

(a) A person commits the crime of rape in the second degree if:

- (1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.
- (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.

(b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree

(a) A person commits the crime of sodomy in the first degree if:

- (1) He engages in deviate sexual intercourse with another person by forcible compulsion; or
- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree

(a) A person commits the crime of sodomy in the second degree if:

- (1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.
- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence

Means violence committed by a person –

- (a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (b) Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - The length of the relationship,
 - The type of relationship,
 - The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault

Sexual assault means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

VICTIMS OPTION TO REPORT

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Crisis Services of North Alabama or any other victim service agency of their choosing.

FORMAL COMPLAINT PROCESS

Initial Steps

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

Reporting A Complaint

Any individual may report a sexual harassment incident to the Title IX Coordinator in person, by email, by telephone, or in writing. Complaints may also be submitted online at www.cv.edu. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

Supportive Measures

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the

respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the education programs or activities of the college without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security, and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole show that the fact sought to be proved is more probable than not.

FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that, under the circumstances, a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

DISMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX Investigator of the pending investigation and provide a copy of the formal complaint.

ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties that they may each obtain one designated personal advisor, who may be selected by the party or, in the alternative, appointed by the College:

Party-Designated Advisor: Both parties shall have the right to designate one personal advisor. The party-designated advisor can be legal counsel or other type of personal representative (i.e. pastor, family member, AEA Representative, friend) and shall be retained at the respective party's own cost. Other persons may be selected by the party as additional advisors to attend meetings and hearings, but additional advisors are not permitted to speak or otherwise participate.

College-Designated Advisor: In the event that either party does not or cannot designate their own advisor, that party shall have the right to request one advisor to be provided by the College by making a request in writing to the Title IX Coordinator and declaring that the party has not selected another advisor. An advisor will be appointed for the party at the discretion of the College. Once requested, a party may not dismiss a College-designated advisor unless that party elects to retain legal counsel. A College-designated advisor will be released by the College if a party subsequently designates legal counsel as its advisor.

Either the party or the party's designated advisor (not both) may conduct cross-examination during the live hearing.

A party is never required to obtain an advisor.

At no time may any party have more than one designated advisor. A designated advisor may speak on the party's behalf when appropriate.

INVESTIGATION PROCEDURE

The Title IX Investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX Investigator will have received Title IX Investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not on the parties.

The Title IX Investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX Investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the Investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the Investigator.

The Title IX Investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX Investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX Investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

LIVE HEARING PROCEDURE

Upon completion of the final investigative report, the Hearing Decision Maker(s) will schedule a live hearing. The Hearing Decision Maker(s) will have completed Decision Maker training during the current academic year. If there are multiple Hearing Decision Maker(s), one shall be designated as the Primary Decision Maker. The Hearing Decision Maker(s) will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, and witnesses named in the final report of the live hearing date. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10)

business days to review the final investigative report and all supporting evidence. (NOTE: A Hearing Officer may be utilized in addition to the Hearing Decision Maker(s)).

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on campus video conferencing provided that all parties, including the Decision Maker(s), are able to see and hear the party or witness answering questions in real-time. The Hearing Decision Maker(s), Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX Investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Hearing Decision Maker(s), parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney. Neither party may dismiss a College appointed advisor.

The hearing process will consist of:

- Opening statement by Hearing Decision Maker (or Primary Decision Maker)
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer (or Primary Decision Maker)
- Review of potential hearing outcomes and sanctions by Hearing Decision Maker (or Primary Decision Maker)
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Decision Maker (or Primary Decision Maker)
- Closing statement by Hearing Decision Maker (or Primary Decision Maker)
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Decision Maker (or Primary Decision Maker) shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Decision Maker (or Primary Decision Maker) concludes opening statements, the Complainant shall have the opportunity to present such

oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent's advisor may conduct cross-examination. The Decision Maker(s) may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant's advisor may conduct cross-examination. The Decision Maker(s) may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness. During cross-examination, the advisor will pose each question orally to the Hearing Decision Maker(s). The Hearing Decision Maker (or Primary Decision Maker) will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Hearing Decision Maker (or Primary Decision Maker) determines that the question is not relevant, the Hearing Decision Maker(s) (or Primary Decision Maker) will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or otherwise refuses to attend the hearing or attends but declines cross-examination, the statements of that witness or party, whether given during the investigation or the hearing, may be considered by the Hearing Decision Maker(s) in reaching a determination regarding responsibility. The Hearing Decision maker(s) shall not draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Decision Maker (or Primary Decision Maker) shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Hearing Decision Maker(s) will deliberate to determine if the Respondent is deemed

responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Hearing Decision Maker (or Primary Decision Maker) will submit the hearing report to the Title IX Coordinator within ten business days of the live hearing. The Title IX Coordinator will submit the hearing report simultaneously to the Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Chattahoochee Valley Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Hearing Decision Maker(s). The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Hearing Decision Maker(s), but shall take it (them) into

consideration in rendering his/her decision.

Either party may file a written request with the President requesting that the President (or his/her designee) review the decision of the Hearing Decision Maker(s). The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstances or as may be otherwise agreed by the parties.

If the Complainant is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution

The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes

the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

- obtains the parties' voluntary, written consent to the informal resolution process; and
- does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

RETALIATION PROHIBITED

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Range of Possible Sanctions – On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

- **Reprimand.** A reprimand is a written notice that continuation or repetition of improper conduct may be cause for further disciplinary action.
- **Restitution.** Restitution is compensation for damages to property owned by the College, limited to actual cost of repair or replacement.
- **Probation.** This sanction is for a designated period of time, which may include exclusion from privileges, such as extracurricular activities and/or on-campus driving privileges. Furthermore, if the student is determined by any of the disciplinary procedures herein to be in subsequent violation of the Code of Student Conduct during the probationary period, the student may be either suspended or expelled. Provisions of the probationary period shall be determined and expressed by the Title IX Coordinator.
- **No Contact Orders.** Written notice to cease all contact with an alleged victim of sexual misconduct are no contact orders.
- **Cease and Desist Orders.** The alleged perpetrator will be directed by written notice to cease and desist any activity noted by the alleged victim as offensive or threatening and

that may be a violation of the Sexual Misconduct Policy.

- **Voluntary Withdrawal.** A student may be given the option to voluntarily withdraw from a class or from the College in lieu of disciplinary action. The Title IX Coordinator in some circumstances, may specify a period of time before the student may apply for readmission or reenroll in a class or classes. To qualify for readmission, the student must receive approval from the Dean of Academic Programs and meet the academic standards for readmission. Students will not be eligible for any refund from the College. (If a student withdraws before disciplinary procedures are carried out, the student will be subject to discipline as may be imposed by the designated college official at the time of reentry into the College).
- Other requests of the victim as deemed appropriate.

For Employees:

For violations of this policy by faculty or staff members, disciplinary penalties may include some of the sanctions listed above as appropriate, in addition to other penalties (in accordance with the employment laws, regulations, and policies governing the employee in question):

- Counseling or training.
- Written warning.
- Reprimand.

For Individuals other than employees or students:

- A no-trespass order may be issued for individuals who have been accused of and/or found in violation of the sexual harassment policy.
- A no-contact order may be issued for individuals who have been accused of and/or found in violation of the sexual harassment policy

At any time in the grievance process, the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at www.cv.edu.

COLLEGE AND COMMUNITY RESOURCES

College Resources

CVCC Police Department
Danny Williams, Chief of Police
204 Brassell Hall
(334) 291-4919

Campus Security
Keith Manual, Chief of Security
Security Kiosk
(334) 291-4950
keith.manual@cv.edu

Office of Dean of Students and Campus Services
Dr. Sherri Taylor, Dean of Students and Campus Services
203 Wallace Hall
(334) 291-4928
sherri.taylor@cv.edu

Office of Student Development and Success
Ms. Vickie Williams, Associate Dean of Student Development and Success & ADA Coordinator
100 Wilson Hall
(334) 214-4803
vickie.williams@cv.edu

Office of Human Resources
Ms. Robin Jones, Director of Human Resources & ADA Coordinator
201 Wallace Hall
(334) 291-4927
robin.jones@cv.edu

Admissions and Records Office
Ms. Sanquita Alexander, Admissions Director/Registrar
200 Wallace Hall
(334) 291-4996
sanquita.alexander@cv.edu

Community Resources

- Phenix City Police Department (334) 448-2817
- Russell County Sheriff Department (334) 298-6535
- Alabama Coalition Against Domestic Violence (334) 832-4842
- Alabama Statewide Domestic Violence Hotline (800) 650-6522

- National Domestic Violence Hotline (800) 799-7233

Medical Facilities

- Piedmont Columbus Regional (Midtown) (706) 571-1000
- St. Francis Hospital (706) 320-2739

Counseling and Mental Health Resources

- East Alabama Mental Health (Russell County) (334) 298-2405
- New Horizons (706) 596-5500
- Pastoral Institute (706) 649-6500

Records

The Title IX Coordinator will retain records of all reports and complaints, regardless of the nature of the resolution. Complaints resolved during the informal complaint process may become part of an offending or respondent student's conduct file, depending on the nature of the offense but will not be included as a part of the academic record or of an employee's personnel file.

Affirmative findings of responsibility in matters resolved through the grievance or formal resolution process will become part of an offending or respondent student's conduct record and an employee's personnel record. Such records shall be used in reviewing any further conduct, or developing sanctions, and shall remain a part of a student's conduct record or an employee's personnel file. Additionally, the College will comply with all requirements under the Jeanne Clery Act as amended and will report crimes associated with the College as required.

Prevention and Education

CVCC is committed to preserving the safety and security of the College environment and will implement activities designed to prevent incidents of sexual misconduct, inform members of prohibited conduct; identify prevention measures, and provide information regarding reporting protocols. The College prevention and education program will include but will not be limited to:

- Annual training and awareness programs for current employees and students;
- Orientation for new employees and students that will educate them about college policy and prevention measures that may be utilized;
- Information regarding the Sexual Harassment Policies and Procedures on the College website;

Training

Chattahoochee Valley Community College will ensure that all college employees, including those officials involved in redressing incidents of sexual misconduct, are trained on an annual basis through the College Professional Development process and through external resources when appropriate.

HELPFUL INFORMATION

Bystander Intervention Tips

- Remember intervention doesn't have to be confrontational; say something or do something to call attention to the situation.
- Remain calm, speak up, and challenge inappropriate behavior.
- Tell someone if you believe he/she is acting inappropriately. Challenge inappropriate jokes or conversations.
- Attempt to calmly reason with the perpetrator ors distract him or her.
- Ask others in the area for assistance with group intervention.
- Assist the victim by walking him/her to his/her car or to a safe area until assistance arrives.
- Call 911 then Campus Security.

Prevention Tips

- Date people you know and trust.
- Be cautious when meeting people through social media.
- Tell someone when you are going out on a date.
- Set limits and boundaries.
- Avoid drugs and alcohol.

Warning Signs of Dating/Relationship Violence

- You feel isolated from friends and family.
- Your significant other has angry outbursts.
- Your significant other threatens to harm you or is very jealous of you.
- Your significant other is cruel to animals or children.
- Your significant other belittles you, makes fun of you, or tries to control you.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

601.02: NONDISCRIMINATION

Policy Name	601.02: Nondiscrimination
Effective Date	April 2016
Date Reviewed/Revised	February 2021
Board Policy Reference	ACCS Board Policy 601.02 (Nondiscrimination)

No employee or applicant for employment or promotion, shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law.

Inquiries concerning this policy may be directed to:

Title IX for Employees

Dean of Students

ADA Coordinator for Employees

Office of Human Resources

601.04: HARASSMENT

Policy Name	601.04: Harassment
Effective Date	November 2020
Date Reviewed/Revised	February 2021
Source	ACCS Board Policy 601.04: Harassment

Drake State is committed to providing both employment and an educational environment free of harassment in any form. Employees shall adhere to the highest ethical standards and professionalism and refrain from any form of harassment. Both employees and students shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is respected. Any practice or behavior that constitutes harassment shall not be tolerated.

Harassment can be defined as but is not limited to:

- Disturbing conduct which is repetitive;
- Threatening conduct;
- Intimidating conduct;
- Inappropriate or offensive slurs, jokes, language, or other verbal, graphic, or other like conduct;
- Unwelcome sexual advances, requests for sexual favors, or sexual based offenses;
- Assault;
- Repeated contact solicited during non-traditional business hours which may be perceived as harassment by recipient unless it is specifically associated with work related duties.

Employees and students who are found in violation of this policy shall be disciplined as deemed appropriate by the investigating authority. Harassment of employees or students by non-employees is also a violation of this policy.

This policy encourages faculty, students, and employees who believe that they have been the victims of harassment to contact the Title IX Coordinator, Human Resources, or President within ten days of when the alleged incident occurred. Any reprisals shall be reported immediately to the Title IX Coordinator, Human Resources, or President. Any employee or student who becomes aware of any harassment shall report the incident to the Title IX Coordinator, Human Resources, or President. Failure to act, which includes initial investigation, shall be deemed in direct violation of this policy.

This policy shall be distributed, communicated, and implemented in a manner which provides all interested parties the opportunity to be informed of this policy. A system-wide educational program shall be utilized to assist all members of the community to understand, prevent and combat harassment. The College is required to provide annual training related to harassment, including sexual harassment.

Complaints or Reports concerning sexual harassment should be made, processed and addressed according to Policy 620.03 – Sexual Harassment Complaint Procedures.

620.01: EMPLOYEE GRIEVANCE

Policy Name	620.01: Employee Grievance
Effective Date	April 2019
Date Reviewed/Revised	February 2021
Source	ACCS Board Policy 620.01: Employee Grievance

This policy is intended to cover grievances between and amongst employees of J.F. Drake State Community and Technical College about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against a President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under the Employee Complaint Policy.

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within ten (10) calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify HR personnel and/or the President as appropriate.

The supervisor, or other person appointed (such as Title IX Coordinator, HR, SPO, President as applicable) to address the grievance, must review the written statement and conduct an investigation of the claims within forty-five (45) calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within sixty (60) calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has five (5) calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final.

An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined.

The President's decision will be final.

The Employee Grievance Form is located in the appendix.

NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

620.02: EMPLOYEE COMPLAINTS

Policy Name	620.02: Employee Complaints
Effective Date	November 2020
Date Reviewed/Revised	February 2021
Source	ACCS Board Policy 620.02: Employee Complaints

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with an ACCS entity. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 620.01 or complaints of sexual harassment which are covered in Policy 620.03. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within forty-five (45) calendar days if practical, but not later than sixty (60) days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within fifteen (15) calendar days if practical, but not later than thirty (30) days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

620.03: SEXUAL HARASSMENT COMPLAINTS

Policy Name	620.03: Sexual Harassment Complaints
Effective Date	November 2020
Date Reviewed/Revised	February 2021
Source	ACCS Board Policy 620.03: Sexual Harassment Complaints

Drake State has adopted a grievance procedure for complaints of sexual harassment that is consistent with the requirements of 34 C.F.R. § 106.44 and §106.45.

This policy is intended to cover complaints of sexual harassment occurring in the College's educational programs or activities by an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's educational programs or activities.

Procedure

INTRODUCTION

J. F. Drake State Community and Technical College (Drake State) is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination.

Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Drake State does not tolerate or condone retaliation. Individuals wishing to report reporting sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Ms. Katie Chance (Employees)
Human Resources Specialist
Building 500
3421 Meridian St N, Huntsville, AL 35811
Phone: 256-551-5214
Email: katie.chance@drakestate.edu

Ms. Tiffany Green (Students)
Student Success Specialist/ ADA
Building 700
3421 Meridian St N, Huntsville, AL 35811
Phone: 256-551-7265
Email: tiffany.green@drakestate.edu

and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCT@ed.gov (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at www.drakestate.edu under the Title IX webpage.

POLICY

The U.S. Department of Education's Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from

discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: “Consent” must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.

Definitions of Sexually Based Offense

Sexual abuse in the first degree:

(a) A person commits the crime of sexual abuse in the first degree if:

- (1) He subjects another person to sexual contact by forcible compulsion; or
- (2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.

(b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

(a) A person commits the crime of sexual abuse in the second degree if:

- (1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
- (2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

(b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

(a) A person commits the crime of rape in the first degree if:

- (1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or
- (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.

(b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

(a) A person commits the crime of rape in the second degree if:

(1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.

(2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.

(b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

(a) A person commits the crime of sodomy in the first degree if:

(1) He engages in deviate sexual intercourse with another person by forcible compulsion; or

(2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

(a) A person commits the crime of sodomy in the second degree if:

(1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.

(2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship will be determined based on a consideration of the following factors:

- The length of the relationship,
- The type of relationship,
- The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10)).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Crisis Services of North Alabama or any other victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration

concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole show that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DIMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing. Neither party may dismiss a College appointed advisor.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers

of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint.

Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or declines cross-examination, the decision makers must not rely on any statement of that witness in reaching a determination regarding responsibility; provided, however, that the decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;

- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Drake State or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;

- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- i. provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- ii. obtains the parties' voluntary, written consent to the informal resolution process; and
- iii. does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

L. RETALIATION PROHIBITED.

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints

alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Range of Possible Sanctions – On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

Upon the determination that a student(s) has violated any of the rules, regulations, or guidelines set forth in this Code, the following disciplinary sanctions may be imposed, either singly or in combination by the appropriate College officials:

- Censure – A statement to the offender that he/she has violated College regulations and of the possibility of more stringent disciplinary actions in the event of future violations.
- Restitution – Reimbursement for damage or misappropriation.
- Disciplinary Probation – Students placed on probation will be notified of such in writing and will also be notified of the terms and length of the probation.
- Probation may include restrictions upon the extracurricular activities of the student. Any conduct in violation of this Code while on probationary status may result in the imposition of further action.
- Suspension – Students who are suspended are deprived of student status and are separated from the College for a stated period of time. The suspension shall appear on the student's disciplinary record.
- Expulsion – Termination of student status for a definite or indefinite period. The conditions of readmission, if any, shall be stated in writing to the student.

For Employees:

1. Oral warning
2. Written warning
3. Letter of reprimand,
4. Mandatory attendance at an educational program on discrimination, harassment, and/or sexual misconduct, or retaliation
5. Mandatory referral for psychological assessment and compliance with any resulting treatment plan
6. Restriction of responsibilities
7. Reassignment or transfer to another department
8. Suspension without pay
9. Final written warning
10. Dismissal/termination of employment
11. No trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

12. No contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

For Individuals other than employees or student:

1. A no trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
2. A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at www.drakestate.edu.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

ESCC

[Home](#) / [Discrimination](#)

NON-DISCRIMINATION POLICY

ESCC Non-Discrimination Statement and Policy

Enterprise State Community College complies with the non-discriminatory regulations under Title VI and Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act, Title IX Education Amendments of 1972; and Section 504 of the Rehabilitation Act of 1973 (as amended), the Americans with Disabilities Act of 1990 (as amended), the Equal Pay Act, and the Pregnancy Discrimination Act.

It is the official policy of Enterprise State Community College that no person shall be discriminated against under any program, activity or employment conducted by the College on the basis of any impermissible criterion or characteristic including, but not limited to race, color, national origin, religion, marital status, disability, gender, age, or any other protected class as defined by federal and state law.

Age Discrimination Menu

- [Age Act Discrimination and Complaints](#)
- [Age Act Student Complaint Form](#)
- [Age Act Employee Complaint Form](#)

Age Act Discrimination and Complaints

The Age Discrimination Act of 1975 prohibits discrimination based on age in programs or activities that receive federal financial assistance. The U.S. Department of Education gives financial assistance to schools and colleges.

The Age Discrimination regulation describes conduct that violates the Act. The Age Discrimination regulation is found in the Code of Federal Regulations at 34 CFR Part 110.

Under the Age Act, recipients may not exclude, deny, or limit services to, or otherwise discriminate against, persons on the basis of age. The Age Act does not cover:

- Employment discrimination.
- Certain age distinctions in federal, state, or local statutes and ordinances.
- An action that reasonably takes age into account as a factor that is necessary to the normal operation or achievement of a statutory objective of a program.

The Age Discrimination Act of 1975 prohibits retaliation for filing a complaint with OCR or for advocating for a right protected by the Act.

WHERE/WHO TO REPORT AGE DISCRIMINATION

If you feel that you have been discriminated based on age in programs or activities that receive federal financial assistance at the College, please contact one of the College's Age Act Coordinators:

- [Title IX Policy and Procedures](#)
- [Title IX Student Complaint Form](#)
- [Title IX Employee Complaint Form](#)
- [Review of Title IX Training](#)

Title IX Policy and Procedure

The complete college policy and procedure for Title IX complaints can be found:

<https://www.escc.edu/discrimination/title-ix/policy-and-procedure>

Enterprise State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment.

Title IX states that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

Title IX protects people from discrimination based on sex in education programs or activities. This includes discrimination affecting employees of the College, applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on College premises or at any College-owned off-campus location and while participating in any educational program or activity of the College.

The U.S. Department of Education's Office for Civil Rights (OCR) enforces Title IX, among others, of the Education Amendments of 1972.

WHERE/WHO TO REPORT COMPLAINT

Individuals wishing to report sexual harassment, sexual assault, sexual violence, or sexual misconduct and/or to make inquiries concerning the application of Title IX at the College may contact:



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

SECTION: Personnel Policies and Procedures/
Employee Complaints

NUMBER: F/7.2

SUBJECT: Employee Complaints Policy

SOURCE REFERENCE: ACCS Policy: 620.02 Employee Complaints

EMPLOYEE COMPLAINTS

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with an ACCS entity. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy F/7.1 or complaints of sexual harassment which are covered in Policy E/1.5. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the College community (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

SECTION: Personnel Policies and Procedures/
Grievance Policy

NUMBER: F/7.1

SUBJECT: Employee Grievance Policy

SOURCE REFERENCE: ACCS Policy: 620.01 Employee Grievance

Grievance Policy

This policy is intended to cover grievances between and amongst employees of an ACCS entity about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against a President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under Policy 620.02.

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within 10 calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify HR personnel and/or the President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 45 calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within 60 calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has 5 calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final.

An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined.

The President's decision will be final.

NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

SECTION: Compliance with Federal Law
SUBJECT: Nondiscrimination
SOURCE REFERENCE: Board of Trustees Policy 601.02

NUMBER: E/1.3.1

Nondiscrimination

No employee or applicant for employment or promotion shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law.

Title IX Sexual Harassment Complaint Procedures

A. INTRODUCTION

Gadsden State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Gadsden State Community College does not tolerate or condone retaliation. Individuals wishing to report sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Dr. Tera Simmons
Executive Vice President
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and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at gadsdenstate.edu under the Title IX webpage.

POLICY

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: “Consent” must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person’s safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity; or
- Stalking, dating violence, domestic violence or sexual assault.

Definitions of Sexually Based Offenses

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in

common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

- (a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (b) Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - The length of the relationship,
 - The type of relationship,
 - The frequency of interaction between the persons involved in the relationship (34.S.C.12291(a) (10).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from any victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report a sexual harassment incident to the Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of

deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of the College's Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that, under the circumstances, a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint.

The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DISMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, the reason for dismissal within five (5) business days of the decision to dismiss the complaint and the Complainant's right to Appeal, if applicable.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the Student Handbook relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not on the parties.

The Title IX investigator will notify the Complaint and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence.

Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing.

J. LIVE HEARING PROCEDURE

Upon completion of the final investigative report, the Hearing Decision Maker(s) will schedule a live hearing. The Hearing Decision Maker(s) will have completed Decision Maker training during the current academic year. If there are multiple Hearing Decision Maker(s), one shall be designated as the Primary Decision Maker. The Hearing Decision Maker(s) will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, and witnesses named in the final report of the live hearing date. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Maker(s), are able to see and hear the party or witness answering questions in real-time.

The Hearing Decision Maker(s), Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Hearing Decision Maker(s), parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney. Neither party may dismiss a College appointed advisor.

The hearing process will consist of:

- Opening statement by Hearing Decision Maker (or Primary Decision Maker)
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Decision Maker (or Primary Decision Maker)

- Review of potential hearing outcomes and sanctions by Hearing Decision Maker (or Primary Decision Maker)
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Decision Maker (or Primary Decision Maker)
- Closing statement by Hearing Decision Maker (or Primary Decision Maker)
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Decision Maker (or Primary Decision Maker) shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Decision Maker (or Primary Decision Maker) concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Maker(s) may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Maker(s) may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Hearing Decision Maker(s). The Hearing Decision Maker (or Primary Decision Maker) will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Hearing Decision Maker (or Primary Decision Maker) determines that the question is not relevant, the Hearing Decision Maker(s) (or Primary Decision Maker) will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions

and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or otherwise refuses to attend the hearing or attends but declines cross-examination, the statements of that witness or party, whether given during the investigation or the hearing may be considered by the Hearing Decision Maker(s) in reaching a determination regarding responsibility. The Hearing Decision Maker(s) shall not draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Decision Marker (or Primary Decision Maker) shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Hearing Decision Maker(s) will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Hearing Decision Maker (or Primary Decision Maker) will submit the hearing report to the Title IX Coordinator within ten (10) business days of the live hearing.

The Title IX Coordinator will submit the hearing report simultaneously to the Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Gadsden State Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Hearing Decision Maker(s). The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Hearing Decision Maker(s), but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President (or his/her designee) review the decision of the Hearing Decision Maker(s). The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 106.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstances or as may be otherwise agreed by the parties.

If the Complainant is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- (i) provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (ii) obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

L. RETALIATION PROHIBITED

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

M. Range of Possible Sanctions – On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

1. Disciplinary Reprimand. This may be an oral or written warning. It notifies a student that any further violation of College regulations may subject the student to more severe disciplinary actions.
2. Disciplinary Probation. This is designated to encourage and require a student to cease and desist from violating College regulations. Students on probation are notified in writing that any further misconduct on their part will lead to more severe action.
3. Disciplinary Suspension. This excludes a student from the College for a designated period of time. While on suspension, a student will not be allowed to take any course at the College. At the end of the designated period of time, the student must make formal reapplication for admission.
4. Class Suspension. A student may be suspended from attending one or more specified courses for improper behavior. Class suspensions are for the remainder of the semester, and the student will be assigned a letter grade of "F" for each course from which he/she is suspended. The student will not be allowed to attend any college-sponsored event or activity.
5. Building/Facility/Area Suspension. A student may be suspended from a specified college area/building/facility for improper or disruptive behavior.
6. No Contact Order. A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
7. Restitution. Repayment for theft or damage
8. No Trespass Order. A no trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
9. Disciplinary Expulsion. This is the strongest disciplinary action. This category of severe penalty generally indicates the recipient may not return to the College.

For Employees:

Any employee who violates the terms of this policy or who impedes or unreasonably refuses to cooperate with an investigation regarding allegations of Prohibited Harassment will be subject to appropriate disciplinary action, up to and including termination.

For Individuals other than employees or student:

Sanctions will be determined by federal, state, and local law.

A no trespass may be issued for individuals who have been accused and/or found in violation of sexual harassment.

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at gadsdenstate.edu.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

Policy: Nondiscrimination Date Revised: 08-01-17 Cross Reference: <i>Alabama Community College System Policy 601.02</i>	Number: 601.02 Supersedes: G-01
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Ingram State Technical College prohibits discrimination based on the grounds of race, color, national origin, religion, marital status, disability, gender, age, or any other protected class as defined by federal and state law. No person shall be excluded from participation in or denied the benefits of any educational program and activity based on race, color, national origin, religion, marital status, disability, gender, age, or any other protected class as defined by federal and state law.

Policy: Employee Grievance Date Revised: 04/10/2019 Cross Reference: <i>Alabama Community College System</i> <i>Policy 620.01</i>	Number: 620.01 Supersedes: H-06 Issued: 04-13-16
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This policy is intended to cover grievances between and amongst employees of an ACCS entity about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against the President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered in Policy 620.02.

An employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within 10 calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify HR personnel and/or the President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 45 calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within 60 calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has 5 calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final.

An employee who brings a good faith grievance under this policy shall not be retaliate against in any manner. An employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined.

The President's decision will be final.

NOTE: If the last day of filing a notice of appeal falls on a Saturday, Sunday or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.



EMPLOYEE GRIEVANCE FORM

This form should be completed by the aggrieved employee and delivered to the appropriate supervisor in the employee's chain of command.

Name of person making grievance:

Address to send correspondence:

Telephone number: _____

Email address: _____

Name of person your grievance is against?

What date/s did the actions occur?

What do you allege occurred? (Please be specific, provide details, and use the reverse of this sheet if needed)

—

Is there a specific law or College/ACCS policy/guideline that you believe has been violated? _____

If so, which one/s?

In your opinion, what could be done to reasonably resolve this grievance?

Print Name

Signature

Date

This section should be completed by the college official who receives the form.

Signature of College Official Receiving Form
Form Received

Date

Policy: Employee Complaint Date Revised: Cross Reference: <i>Alabama Community College System Policy 620.02</i>	Number: 620.02 Supersedes: Issued: 04/10/2019
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This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with an ACCS entity. The policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 620.01. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- sexual harassment,
- harassment in forms other than sex,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless the period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be discipline.



EMPLOYEE COMPLAINT FORM

This form should be completed by the complainant and delivered to the Title IX Coordinator, Human Resources Director or President.

Name of Complainant: _____

Department: _____

Address to send correspondence: _____

Telephone number: _____ Email address: _____

Name of the accused: _____

Department: _____

Relationship of the Accused to the Complainant (administrator, supervisor co-worker, etc.):

Date of Incident: _____

(If more than one event, please report each event on a separate form)

Provide the specific details of the complaint. *(Attach additional sheet(s) if necessary)*

How did you react to the complained of conduct? Have you taken any action in response to the complained of conduct?

Created May 2019

Describe any harm you claim to have suffered as a result of the complained of conduct.

Were there any witnesses to this specific event? (if yes, please provide their names.)

Is there any physical, digital or documentary evidence that supports your complaint? If so, please describe or attach copy of evidence.

What is your desired outcome resolution of your complaint?

Print Name

Signature

Date

This section should be completed by the college official who receives the form.

Signature of College Official Receiving Form

Date Form Received

Policy: Sexual Harassment Complaint	Number: 620.03
Date Revised: 10/06/2021	Supersedes:
Cross Reference: <i>Alabama Community College System Policy 620.03</i>	Issued: 10-20-2020

Sexual Harassment Complaint Procedure

A. INTRODUCTION

JF Ingram State Technical College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the college does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendment of 1972 and the Violence against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and well-being of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. JF Ingram State Technical College does not tolerate or condone retaliation. Individuals wishing to report sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College my contact:

Ms. Andrea Richardson (Employees)
Coordinator of Human Resources
JF Ingram State Technical College
PO Box 220350
5375 Ingram Road
Deatsville, AL 36022
Andrea.richardson@istc.edu
(334) 290-3251 (Office)

Mr. Lucian Ward (Students)
Director of Student Support Services
JF Ingram State Technical College
PO Box 220350
5375 Ingram Road
Deatsville, AL 36022
lucian.ward@istc.edu
(334) 290-3261 (Office)

And/or

Assistant Secretary
US Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCT@ed.gov (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also this information is available on the College website at: www.istc.edu under the Title IX webpage.

POLICY

The U.S. Department of Education's Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual Knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: An individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purpose of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs or activities.

Respondent: An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal Complaint: A document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informal and voluntary consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying, or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual Harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.

Definitions of Sexually Based Offenses:

Sexual abuse in the first degree:

- a) A person commits the crime of sexual abuse in the first degree if:
 - 1. He subjects another person to sexual contact by forcible compulsion; or
 - 2. He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.
- b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

- a) A person commits the crime of sexual abuse in the second degree is:
 - 1. He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
 - 2. He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.
- b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

- a) A person commits the crime of rape in the first degree if:
 - 1. He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or
 - 2. He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
 - 3. He or she, being 16 years old or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.
- b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

- a) A person commits the crime of rape in the second degree if:
 - 1. Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 years old and more than 12 years old; provided however, the actor is at least two years older than the member of the opposite sex.
 - 2. He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.
- b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

- a) A person commits the crime of sodomy in the first degree if:
 - 1. He engages in deviate sexual intercourse with another person by forcible compulsion; or
 - 2. He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
 - 3. He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.
- b) Sodomy in the first degree is a Class A felony (Alabama Code 13a-6-63).

Sodomy in the second degree:

- a) A person commits the crime of sodomy in the second degree if:
 - 1. He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old;
 - 2. He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.
- b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C. 12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7, Domestic Violence in the 1st, 2nd, and 3rd Degrees.)

Dating Violence:

Means violence committed by a person:

- a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- b) Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship (34 U.S.C. 12291(a)(10))

In Alabama, dating violence is covered under the Alabama Code Section 13A, Article 7, Domestic Violence in the 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C. 12291 (a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation 20 U.S.C. 1092(f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Crisis Services of North Alabama or any other victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEP

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator (www.istc.edu). An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by the student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report sexual harassment incident to the Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s)

and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a decision with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education programs or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or defer sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The college must maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. STANDARD OF EVIDENCE FOR DETERMINING RESPONSIBILITY

For the purpose of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of evidence means evidence which is of greater weight or more convincing than the evidence which is offered in

opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following;

- The date of the original complaint;
- Names of Complainant and Respondent;
- Facts and description of the complaint; and
- The request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DISMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- The Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- The Respondent is no longer enrolled or employed by the school, or
- Specific circumstances prevent the school from gathering sufficient evidence to reach a determination

The College must dismiss a formal complaint or allegations therein if:

- The allegations do not meet the definitions of sexual harassment
- The alleged conduct did not occur within the United States, or
- The alleged conduct did not occur within a College sponsored program or activity

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the Respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the

provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX Investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

Neither party may dismiss a College appointed advisor.

I. INVESTIGATION PROCEDURE

The Title IX Investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX Investigator will have received Title IX Investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX Investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX Investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit to choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The college will provide both parties an equal opportunity to inspect and review any evident obtained as part of the investigation that is directly related to the allegations raised in a formal

complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX Investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence. (NOTE: A Hearing Officer may be utilized in addition to the Hearing Decision Marker(s).)

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX Investigator, Title IX Coordinator, and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to the party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

Decision Makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- Identification of the allegations potentially constituting sexual harassment
- A description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held
- Findings of fact supporting the determination
- Conclusions regarding the application of the College's Code of Conduct to the facts
- A statement of, and rationale form the result as to each allegations, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant, and
- The College's procedures and permissible bases for the Complainant and Respondent to appeal

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigation report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of JF Ingram State Technical College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived:

As to all appeals, the College will:

- Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties
- Ensure that the Decision Maker(s) for the appeal is not the same person as the Decision Maker(s) that reached the determination regarding responsibility or dismissal, the Investigator(s), or the Title IX Coordinator
- Ensure the Decision Maker(s) for the appeal complies with the standards set for in 34 C.F.R. 160.45(b)(iii)
- Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome
- Issue a written decision describing the result of the appeal and the rationale for the result; and
- Provide the written decision simultaneously to both parties

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstances or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution: The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the college may not require the parties to participate in an information resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility to College may facilitate

an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- I. Provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- II. Obtains the parties' voluntary, written consent to the informal resolution process; and
- III. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student

L. RETALIATION PROHIBITED

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C.1232g or FERPA regulations, 34CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Range of Possible Sanctions

On final determination of responsibility, the following sanctions may be imposed against a respondent:

For Students:

1. *Disciplinary Reprimand* – This may be an oral or written warning. It notifies a student that any further violation of College regulations may subject the student to more severe disciplinary actions.
2. *Disciplinary Probation* – This is designed to encourage and require a student to cease and desist from violating College regulations. Students on probation are notified in writing that any further misbehavior on their part will lead to more severe action.
3. *Disciplinary Suspension* – This excludes student from the College for a designated period of time, up to an academic year. While on the end of the designated period of time, the student must make a formal reapplication for admission.
4. *Disciplinary Expulsion* – This is the strongest disciplinary action. This category of severe penalty indicates the recipient may not return to the College.

For Employees:

1. Oral warning
2. Written warning
3. Letter of reprimand
4. Mandatory attendance at an educational program on discrimination, harassment, and/or sexual misconduct, or retaliation
5. Restriction of responsibilities
6. Reassignment or transfer to another department
7. Suspension without pay
8. Final written warning
9. Dismissal/termination of employment
10. A no trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment
11. A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment

For individuals other than employees or students:

1. A no trespass order may be issued for individuals who have been accused and/or found in violation of sexual harassment
2. A no contact order may be issued for individuals who have been accused and/or found in violation of sexual harassment

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers, and any person who facilitates an information resolution process shall require, rely upon, nor otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, and Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers, and any person who facilitates an informal resolution process may be found on the College's website at www.istc.edu.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

4.36 EMPLOYEE COMPLAINTS

- A. This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with the college. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 4.34. This policy does not apply and cannot be used against a President.
- B. Any employee who believes he/she has been subjected to or observed:
- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
 - sexual harassment,
 - harassment in forms other than sexual,
 - hostile work environment,
 - ethical violations or similar concerns,
 - criminal acts,
 - College policy or procedure violations,
 - or other legal-related issues,
- by any person associated within the college (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.
- C. The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.
- D. An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

Title IX Sexual Harassment Complaint Procedures

A. INTRODUCTION

Jefferson State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and <https://www.jeffersonstate.edu/titleix/> to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Jefferson State Community College does not tolerate or condone retaliation. Individuals wishing to report reporting sexual harassment and/or

sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Ms. Debbie Boone
Director of Human Resources
Title IX Coordinator (Employees)
111 George Wallace Hall
2601 Carson Road
Birmingham, Alabama 35215
Phone: (205)856-8598
Email: debbie.boone@jeffersonstate.edu

and/or

Mrs. Amanda D. Harbison
Vice President for Student Affairs and Enrollment Management
Title IX Coordinator (Students)
207 James B. Allen Library
2601 Carson Road
Birmingham, Alabama 35215
Phone: (205) 856-7991
Email: amanda.harbison@jeffersonstate.edu
and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website <https://www.jeffersonstate.edu/titleix/> under the Title IX webpage.

POLICY

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.

Definitions of Sexually Based Offenses

Sexual abuse in the first degree:

(a) A person commits the crime of sexual abuse in the first degree if:

- (1) He subjects another person to sexual contact by forcible compulsion; or
- (2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.

(b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

(a) A person commits the crime of sexual abuse in the second degree if:

- (1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
- (2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

(b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

(a) A person commits the crime of rape in the first degree if:

- (1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or
- (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.

(b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

(a) A person commits the crime of rape in the second degree if:

- (1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.
- (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.

(b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

(a) A person commits the crime of sodomy in the first degree if:

- (1) He engages in deviate sexual intercourse with another person by forcible compulsion; or
- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

(a) A person commits the crime of sodomy in the second degree if:

- (1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.
- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship will be determined based on a consideration of the following factors:

- 1 The length of the relationship,
- 1 The type of relationship,
- 1 The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10)).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is

threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from:

Resources for Sexual Assault Victims in Jefferson County and St. Clair County

Birmingham Crisis Center (Rape Response) is available for victims of sexual abuse 24 hours a day, 7 days a week. Services provided by Rape Response include mental health counseling and evidence collection. Services are available to victims whether or not the victim decides to contact law enforcement. All services are free and confidential.

Phone number: 205-323-7777

Address: 3600 8th Avenue South

Birmingham, Alabama 35222

Resources for Sexual Assault Victims in Shelby County and Chilton County

Safe Shelby (Rape Response) is available for victims of sexual abuse 24 hours a day, 7 days a week. Services provided by Rape Response include mental health counseling and evidence collection. Services are available to victims whether or not the victim decides to contact law enforcement. All services are free and confidential.

Phone number: 205-669-7233

Address: P.O. Box 620

Columbiana, Alabama 35051

Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting

sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator www.jeffersonstate.edu/titleix/. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the

campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a “preponderance of evidence” standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant’s desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DIMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties that they may each obtain one personal advisor, who may be selected by the party or, in the alternative, appointed by the College.

Party-Designated Advisor: Both parties shall have the right to select and designate one personal advisor. This advisor can be legal counsel or other type of personal representative and shall be retained at the respective party's own cost.

College-Appointed Advisor: In the event that either party does not or cannot designate their own advisor, that party shall have the right to request one advisor to be provided by the College by making a request in writing and declaring that the party has not selected another advisor. An advisor will be selected at the discretion of the College. Once requested, a party may not dismiss a College-appointed advisor unless that party elects to designate legal counsel. A College-appointed advisor will be released by the College if a party subsequently designates legal counsel as its advisor.

Either the party or the party's advisor (not both) may conduct cross-examination during the live hearing.

A party is not required to obtain an advisor.

At no time may any party have more than one designated advisor.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The Title IX Coordinator will select a Hearing Decision Maker(s) to conduct the live hearing. The Hearing Decision Maker(s) shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon completion of the final investigative report, the Hearing Decision Maker(s) will schedule a live hearing. The Hearing Decision Maker(s) will have completed Decision Maker training during the current academic year. If there are multiple Hearing Decision Makers, one shall be designated as the Primary Decision Maker. The Hearing Decision Maker(s) will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, and witnesses named in the final report of the live hearing date. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence. (NOTE: A Hearing Officer may be utilized in addition to the Hearing Decision Maker(s).)

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording

medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Decision Maker(s), Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Hearing Decision Maker(s), parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney. Neither party may dismiss a College-appointed advisor.

The hearing process will consist of:

- Opening statement by Hearing Decision Maker (or Primary Decision Maker)
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Decision Maker (or Primary Decision Maker)
- Review of potential hearing outcomes and sanctions by Hearing Decision Maker (or Primary Decision Maker)
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Decision Maker (or Primary Decision Maker)
- Closing statement by Hearing Decision Maker (or Primary Decision Maker)
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Decision Maker (or Primary Decision Maker) shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Decision Maker (or Primary Decision Maker) concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Maker(s) may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Maker(s) may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Hearing Decision Maker(s). The Hearing Decision Maker (or Primary Decision Maker) will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Hearing Decision Maker (or Primary Decision Maker) determines that the question is not relevant, the Hearing Decision Maker (or Primary Decision Maker) will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants, which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or otherwise refuses to attend the hearing or attends but declines cross-examination, the statements of that witness or party, whether given during the investigation or the hearing, may be considered by the Hearing Decision Makers in reaching a determination regarding responsibility. The Hearing Decision Maker(s) shall not draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Decision Maker (or Primary Decision Maker) shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Hearing Decision Maker(s) will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties,

- interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Hearing Decision Maker (or Primary Decision Maker) will submit the hearing report to the Title IX Coordinator within ten (10) business days of the live hearing.

The Title IX Coordinator will submit the hearing report simultaneously to the Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Jefferson State Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Hearing Decision Maker(s). The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Hearing Decision Maker(s), but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President (or his/her designee) review the decision of the Hearing Decision Maker(s). The written request must be filed within ten (10) business days

following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Complainant is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process

unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- (i) provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (ii) obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

- L. RETALIATION PROHIBITED. Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Range of Possible Sanctions – On final determination of responsibility the following **sanctions** may be imposed against a respondent:

State of Alabama Title 13a

Laws and Penalties for Title IX related crimes

Crime	Criminal Penalties	Employee Penalties	College Penalties for Students	College Penalties for person(s) other than students and employees
Harassment (13A11-8)	Fines Not more than \$500 Jail -not more than three months in city or county jail	Training Referral to Counseling Reprimand Loss of Privileges Suspension Expulsion Other penalties set forth by the College	Training Referral to Counseling Reprimand Loss of Privileges Suspension Expulsion Other penalties set forth by the College	Trespass from Campus Termination of contractual agreements
Assault 1 st degree (13a-6-20)	Class B Felony: not more than 20 years in prison, or less than 2 years; Not more than \$30,000.	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Assault 2 nd (13a-6-21)	Class C Felony: not more than 10 years or less than 1 year and 1 day (366 days); not more than \$15,000.	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Assault 3 rd (13a-6-22)	Class A misdemeanor: not more than 1 year in the county jail; not less than \$6,000	Termination of employment	Suspension 1-2 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements

Menacing (13a-6-23)	Class B misdemeanor: not more than 6 months; not less than \$3,000	Termination of employment	Suspension 1-2 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Reckless Endangerment (13a-6-24)	Class A misdemeanor: not more than 1 year in the county jail; not less than \$6,000	Termination of employment	Suspension 1-2 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Criminal Coercion (13a-6-25)	Class A misdemeanor: not more than 1 year in the county jail; not less than \$6,000	Termination of employment	Suspension 1-2 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Unlawful Imprisonment 1st (13a-6-41)	Class A misdemeanor: not more than 1 year in the county jail; not more than \$6,000.	Termination of employment	Suspension 1-2 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Unlawful Imprisonment 2nd (13a-6-42)	Class C misdemeanor: not more than 6 months in county jail; not less than \$500	Termination of employment	Suspension 1-2 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Kidnapping 1st (13a-6-43)	Class A felony: life or not more than 99 years or less than 10 years; not more than \$60,000	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Kidnapping 2 nd (13a-6-44)	Class B Felony: not more than 20 years or less than 2 years; not more than \$30,000	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property

				Termination of contractual agreements
Interference with Custody (13a-6-45)	Class C Felony: not more than 10 years or less than 1 year and 1 day (366 days); not more than \$15,000.	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Rape 1 st (13a-6-61)	Class A Felony: life or not more than 99 years or less than 10 years; not more than \$60,000	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Rape 2 nd (13a-6-62)	Class B Felony: Not more than 20 years or less than 2 years; not more than \$30,000	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Sodomy 1 st (13a-6-63)	Class A Felony: life or not more than 99 years or less than 10 years; not more than \$60,000	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Sodomy 2 nd (13a-6-64)	Class B Felony: Not more than 20 years or less than 2 years; not more than \$30,000	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Sexual Misconduct (13a-6-65)	Class A misdemeanor: not more than 1 year in the county jail; not less than \$6,000	Termination of employment	Suspension 1-2 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements

Sexual torture (13a-6-65.1)	Class A Felony: life or not more than 99 years or less than 10 years; not more than \$60,000	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Sexual abuse 1 st (13a-6-66)	Class C Felony: not more than 10 years or less than 1 year and 1 day (366 days); not more than \$15,000.	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Sexual abuse 2 nd (13a-6-67)	Class A Misdemeanor: not more than 1 year in the county jail; not less than \$6,000 (2 nd offense within 1 year=class c felony; not more than 10 years not less than 1 year; not less than \$15,000)	Termination of employment	Suspension 1-2 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Indecent Exposure (13a-6-68)	Class A misdemeanor: not more than 1 year in the county jail; not more than \$6,000. (3 rd or subsequent conviction is Class C Felony; not more than 10 years or less than 1 year; not less than \$15,000)	Termination of employment	Suspension 1-2 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
School employee engaging in sex act with student	Class B Felony: Not more than 20 years or less than 2 years; not more than \$30,000	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property

under 19 years (13a-6-81)				Termination of contractual agreements
School employee having sexual contact with a student under 19 (13a-6-82(a))	Class C Felony: not more than 10 years or less than 1 year and 1 day (366 days); not more than \$15,000.	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
School employee soliciting sex act with student under 19 (13a-6-82(b))	Class A misdemeanor: not more than 1 year in the county jail; not more than \$6,000.	Termination of employment	Suspension 1-2 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
School employee distributing obscene material to a student (13a-6-82.1)	Class A misdemeanor: not more than 1 year in the county jail; not more than \$6,000.	Termination of employment	Suspension 1-2 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Stalking 1st (13a-6-90)	Class C Felony: not more than 10 years or less than 1 year and 1 day (366 days); not more than \$15,000.	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Stalking 2 nd (13a-6-90.1)	Class B Misdemeanor: not more than 6 months; not more than \$3,000.	Termination of employment	Suspension 1-2 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Aggravated stalking 1 st (13a-6-91)	Class B Felony: Not more than 20 years or less than 2 years; not more than \$30,000	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements

Aggravated Stalking 2 nd (13a-6-91.1)	Class C Felony: not more than 10 years or less than 1 year and 1 day (366 days); not more than \$15,000.	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Domestic Violence 1st (13a-61-130)	Class A Felony: life or not more than 99 years or less than 10 years; not more than \$60,000	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Domestic Violence 2 nd (13a-6-131)	Class B Felony: Not more than 20 years or less than 2 years; not more than \$30,000.	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Domestic Violence 3 rd (13a-6-132)	Class A misdemeanor: not more than 1 year in the county jail; not more than \$6,000.	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Interference with a domestic violence emergency call (13a-6-137)	Class B Misdemeanor: not more than 6 months; not more than \$3,000.	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Violation of a Domestic Violence Protection order (13a-6-142)	Class A misdemeanor: not more than 1 year in the county jail; not more than \$6,000. (Min sentence: 30 days imprisonment (may not be suspended). 3 rd or subsequent conviction in addition to any	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements

	other penalty or fine shall be punishable by min sentence of 120 days (may not be suspended))			
Human Trafficking 1 st (13a-6-152)	Class A felony: life or not more than 99 years or less than 10 years; not more than \$60,000	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Human Trafficking 2 nd (13a-6-153)	Class B Felony: Not more than 20 years or less than 2 years; not more than \$30,000.	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Distributing a Private Image (13a-6-240)	Class A misdemeanor: not more than 1 year in the county jail; not more than \$6,000. (subsequent adjudication or conviction is a class C Felony: not more than 10 years or less than 1 year and 1 day (366 days); not more than \$15,000 in fines.)	Termination of employment	Suspension 1-3 Semesters Mental Health Counseling	Trespass from all school property Termination of contractual agreements
Sexual Extortion (13a-6-241)	Class B Felony: Not more than 20 years or less than 2 years; not more than \$30,000	Termination of employment	Suspension 1 to 3 semesters	Trespass from all school property Termination of contractual agreements

Directing a child to engage in sexual intercourse (13a-6-243)	Class A Felony: life or not more than 99 years or less than 10 years; not more than \$60,000 Class C Felony: not more than 10 years or less than 1 year and 1 day (366 days); not more than \$15,000.	Termination of employment	Suspension 1 to 3 semesters	Trespass from all school property Termination of contractual agreements
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Sanctions for Title IX sexual harassment may range from intensive educational sanctions (e.g., extended mandated training or professional coaching) to disciplinary sanctions such as temporary or permanent separation from the College (e.g., suspension or expulsion for students, or unpaid leave of absence or termination for employees). The range of sanctions described here is not exclusive of, and may be in addition to, other responsive interventions or other actions undertaken by the College or imposed by outside authorities.

For individuals other than employees or students:

1. A no trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
2. A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at <https://www.jeffersonstate.edu/titleix/> under the Title IX webpage.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7



THE COMPLAINT PROCESS & EMPLOYEE GRIEVANCE PROCEDURE

The Complaint Process

Lawson State Community College takes all concerns and complaints seriously. Employees are strongly encouraged to resolve conflicts under the informal process first before advancing to the formal complaint process. Once a complaint has been fully vetted and all steps have been followed and a resolution to the complaint has been issued (by the College), an individual can move beyond the college if displeased with the result. All complaints then can move forward to the Chancellor's office within the Alabama Community College System (ACCS). Follow these steps to resolve all complaints from informal to formal complaints.

Informal Complaint Process:

Step 1: Address the Matter Informally (one-on-one)

First, address the complaint or concern with the parties involved one-on-one unless you feel uncomfortable approaching the individual. Most concerns and conflicts can be resolved on this level, so start here first. If unsuccessful, move to Step 2.

NOTE: If your complaint deals with a **Title IX** offense (sexual assault, sexual harassment) file a complaint immediately using the online complaint system or by contacting the Title IX Officer at 205-929-6313 or ebell@lawsonstate.edu.

Step 2: Speak with a Supervisor

If Step 1 was not successful, speak with the individual's direct supervisor to attempt to resolve the issue. If you are uncomfortable speaking with the supervisor and/or the issue cannot be resolved at this level, file a formal complaint using the online complaint system.

Formal Complaint Process:

Step 3: File a Formal Complaint Online

Once a complaint is filed via the online complaint system, a committee will be appointed to review the complaint and conduct an investigation. The committee will be charged with the following:

1. Review the complaint
2. Schedule date(s) to hold interviews
3. Interview complainant, accused, and witnesses provided by the complainant and the accused.
- 4.
5. Provide a detailed (written) report outlining their findings.

Use the link below to file a complaint:

https://www.lawsonstate.edu/current_students/concerns_complaints.aspx

Step 4: File a Grievance Online

If you disagree or want to challenge the resolution, you would then file a Grievance. A Grievance Committee will review your complaint and the challenges you have made regarding the proposed resolution. (See Grievance Policy for additional information)

Step 5: Grievance Hearing

This is the final step in the Complaint process. Grievance Committee Decisions are final and end the complaint process at Lawson State Community College.

Step 6: External Complaints Following a Grievance Hearing: Only use this step if you are dissatisfied with the outcome of a Grievance Hearing and have exhausted the complete complaint process.

Lawson State takes all complaints seriously and will work diligently to resolve any and all matters. If an individual is dissatisfied with the outcome of a complaint, he or she should report the complaint to the proper external agency that governs the college.

Lawson State, as are all community colleges in the state of Alabama, are governed by the Alabama Community College System (ACCS). Thus, if an individual goes through the entire complaint process at Lawson State (including the grievance hearing process) and is still dissatisfied with the handling of their complaint, he or she can file a complaint in the Chancellor's Office. External complaints should never be sought if the individual has NOT allowed the college to properly investigate and take action against a complaint in order to resolve such a complaint.

Thus, Step 6 (reporting of an external complaint) should only be sought after the College has vetted the complaint and issued a resolution to the complaint. The final step to all complaints at Lawson State is a Grievance Hearing. All complaints should first be reported to the College in order for the College to respond and settle all complaints first before reporting matters to an external agency.

How to Report Your Complaint to the Chancellor's Office

Note: Before filing an external complaint, be sure you have completed all of Lawson State's internal complaint processes (to resolve your complaint) before filing an external complaint.

ACCS FORMAL COMPLAINT PROCESS

The Alabama Community College System (ACCS) Board of Trustees and Chancellor provide oversight of the State's public two-year community and technical colleges, Marion Military Institute (MMI) and the Alabama Technology Network (ATN). While most complaints should be handled at the local college level, or with the applicable entity, the ACCS System Office, through the Legal Division, also renders assistance to resolve complaints after all local avenues of resolution have been fully exhausted. If the local avenue of resolution included appeal rights to the ACCS Chancellor, then the Chancellor's decision is deemed final and a complainant may not file a complaint using this process. Each college, MMI and the ATN are charged with

providing effective and efficient avenues for employees, community members, and other interested parties to address complaints. The ACCS Formal Complaint Process is not intended to supersede or replace existing processes in place at the local college level. Complainants seeking to file a report of noncompliance of federal or state law, or system policy should first address the problem by utilizing the local complaint process prior to initiating the ACCS Formal Complaint Process. Complaints of allegation of fraud, malfeasance, presidential misconduct, or other case specific instances, where the local grievance process may not result in an unbiased evaluation, may be filed using the ACCS Formal Complaint Form and will not be required to follow the local complaint process stated above. Complainants may submit a formal complaint using this process if there is dissatisfaction with the results at the local level, or the complaint deals with allegations of fraud, malfeasance, presidential misconduct, or other case specific instances that necessitate a direct filing through this process. Formal complaints must be submitted on the required ACCS Formal Complaint Form. Complaints may be mailed to: Alabama Community College System Legal Division-Confidential Formal Complaint Post Office Box 302130 Montgomery, AL 36130-2130 The Legal Division will only review completed, signed and dated complaint forms. The Legal Division will issue a written response within a reasonable time usually between 30-45 business days. The identity of the complainant will be kept confidential and will be withheld from any information submitted to the ACCS entity identified in the complaint.

The ACCS Formal Complaint Form may be found at:

https://www.accs.cc/default/assets/File/dpe_lgl/Formal%20Complaint.pdf

EMPLOYEE GRIEVANCE POLICY

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within 10 days of the alleged incident.

Employees must file the written statement with his/her direct supervisor, unless the direct supervisor is the alleged offender. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify the Title IX Coordinator, HR personnel, and/or President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 30 days or as otherwise agreed. The supervisor must then make a written report of findings/decision and provide to the employee within 45 days of receipt grievance. The employee must, within 10 calendar days of the written report, provide specific written objections to the report of findings/decision to the supervisor, which will be considered a request for appeal. Failure to timely provide the specific written objections is a waiver of the employee's right to appeal the supervisor's findings/decision.

All appeals will be sent to the President or his/her designee, and the President or his/her designee will convene a three person grievance committee to hear the appeal within 30 calendar days. The President or his/her designee will appoint one person to sit on the grievance committee, and the President will allow both the aggrieved and accused to select an employee of the College to sit on the grievance committee (excluding the President and his/her designee). Should the aggrieved or accused fail to select a member of the grievance committee in the time period required by the President or his/her designee or the selected employee does not agree to participate as a member of the grievance committee in the time required by the President or his/her designee, then the President or his/her designee will select the grievance committee member.

The grievance committee will hold a hearing and allow the aggrieved employee to present the grievance and the accused will have an opportunity to respond within 45 days of the appeal. The grievance committee will also have access to the original grievance, report of the supervisor, and appeal notice by the employee. The grievance committee will provide its findings and decision following the hearing in a timely manner. Either party will have 10 calendar days from receipt to file a written appeal to the grievance committee decision. If timely appealed, the President will issue a final decision based on the original grievance, report of the supervisor, appeal notice by the employee, and grievance committee decision.

NOTE: If the last day for filing notice of appeal falls on either Saturday, Sunday, or a legal holiday, aggrieved will have until 5:00 p.m. the first working day following the 10th calendar day to file.



NONDISCRIMINATION POLICY

It is the policy of the Alabama Community College System, its Board of Trustees, and Lawson State Community College, a postsecondary institution under its control, that no person shall, on the grounds of race, color, disability, sex, religion, creed, national origin, age or any other protected class as defined by Federal and State Law, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program, activity, or employment.



NONDISCRIMINATION POLICY

It is the policy of the Alabama Community College System, its Board of Trustees, and Lawson State Community College, a postsecondary institution under its control, that no person shall, on the grounds of race, color, disability, sex, religion, creed, national origin, or age, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program, activity, or employment.

Lawson State Community College also prohibits discrimination due to ethnic origin, marital status, parental status, economic status, sexual orientation, gender identity, genetic information, citizenship, veteran status or disability, reasonable accommodations or any other protected class as defined by federal and state law. The college has zero tolerance for harassment, retaliation, violence, physical bullying, cyber-bullying, and hazing.

This nondiscrimination policy covers employment, admissions, training, organizational affiliation, student housing, and advisory boards in all college programs and activities. This policy is enforced by Federal law under Title IX of the Education Amendment of 1972, Title VI and Title VII of the Civil Rights Act of 1964, Section 504, of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 as amended in 2008. If you have questions regarding compliance with these statutes or you need to file a complaint, please contact the Dean of Students (205) 929-6361 or the Director of Human Resources (205) 929-6313.

Title IX Sexual Harassment Complaint Procedures

A. INTRODUCTION

Lawson State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Lawson State Community College does not tolerate or condone retaliation. Individuals wishing to report reporting sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Title IX Coordinator: Cyrus Vance, Dean of Students;
3060 Wilson Road, SW, Birmingham, AL 35221 Phone:
205-929-6361; Email: cvance@lawsonstate.edu

Title IX Coordinator: Elma Bell, Human Resources
Director; 3060 Wilson Road, SW, Birmingham, AL 35221;
Phone: 205-929-6313; Email: ebell@lawsonstate.edu

and/or

Assistant Secretary; U.S. Department of Education
Office for Civil Rights; Lyndon Baines Johnson Department
of Education Building, 400 Maryland Avenue, SW,
Washington, DC 20202-1100; Telephone: 800-421-3481;
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at <https://www.lawsonstate.edu> under the Title IX webpage.

POLICY

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures of behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be

participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: “Consent” must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person’s safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity; or
- Stalking, dating violence, or domestic violence.

Definitions of Sexually Based Offenses

Sexual abuse in the first degree:

- (a) A person commits the crime of sexual abuse in the first degree if:
- (1) He subjects another person to sexual contact by forcible compulsion; or

- (2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.

- (b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

- (a) A person commits the crime of sexual abuse in the second degree if:
- (1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
- (2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.
- (b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

- (a) A person commits the crime of rape in the first degree if:
- (1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or
- (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.
- (b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

- (a) A person commits the crime of rape in the second degree if:
- (1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.
- (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.
- (b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

- (a) A person commits the crime of sodomy in the first degree if:
- (1) He engages in deviate sexual intercourse with another person by forcible compulsion; or
- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

(a) A person commits the crime of sodomy in the second degree if:

- (1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.
- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

- (a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (b) Where the existence of such a relationship will be determined based on a consideration of the following factors:

- ☐ The length of the relationship,
- ☐ The type of relationship,
- ☐ The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10)).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Crisis Services of North Alabama or any other victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator [link to Title IX webpage]. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DIMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

Neither party may dismiss a College appointed advisor.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days or receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator,

witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors. If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After

the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

Decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions. *(10/4/2021)*

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;

- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Lawson State Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process

with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

- (ii) obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

L. **RETALIATION PROHIBITED.** Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Range of Possible Sanctions – On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students

A student or group of students deemed to be in violation of the Student Code of Conduct is subject to the imposition of the following restrictions, sanctions and/or action.

1. **Warning (Level 1 Sanction):** Used for minor infractions of college regulations and consists of a restatement of the regulation violated with an official warning concerning future behavior. The restriction notifies a student that:
 - a. Any further violation of college regulations will subject him/her to further disciplinary action.
 - b. He/she must maintain exemplary conduct during the period of restriction.
 - c. The restriction is generally for an indefinite period of time, but not less than one academic semester/term.
 - d. Termination of the restriction is generally based upon a student's cooperative attitude, academic progress, and positive contributions of service to the college.
2. **Community Service (Level 1 Sanction):** Students may, in response to a student code of conduct violation, be required to perform a certain number of community service hours within a specific and targeted time period.
3. **Online Courses (Behavioral Remediation)--(Level 1 Sanction)::** Students may, in response to a student code of conduct violation, be required to complete specific behavioral remediation courses (i.e., Alcohol 101, Drug Abuse 101, Plagiarism 101, etc.)

4. **Written Work (Remedy)-- (Level 1 Sanction):** Students may, in response to a student code of conduct violation, may be required to produce written pieces of work that specifically address the infraction and the harm that it caused.
5. **Probation (Level 2 Sanction):** A strong restriction designed to encourage and require a student to cease and desist from violating college regulations. A student under this restriction is notified in writing. A student on Disciplinary Probation is warned that:
 - a. Any further violations on his/her part while under probation will lead to an extension of his/her restriction, Disciplinary Suspension, or Disciplinary Dismissal.
 - b. He/she may not hold any office, elective or appointive, in any student organization.
 - c. The probation restriction is generally not less than one academic semester/term.
6. **Immediate Temporary Suspension (Level 3 Sanction)::** Is imposed in a situation when a student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the teaching- learning environment. Immediate temporary suspension may be imposed in order to ascertain information and resolve conflicts in an effort to avoid official suspension though individual student situations may ultimately result in suspension.
7. **Suspension (Level 3 Sanction)::** The removal of a student from rolls of Lawson State Community College for a stated period of time, usually not less than one semester/term. At the end of the designated period, a student must make formal application for re-admission.
8. **Dismissal (Level 3 Sanction)::** The strongest disciplinary restriction. A penalty this severe generally indicates that a student may not return to the college unless he/she is granted special dispensation from the President of the college or his designee. Disciplinary dismissal would apply to a student who is guilty of chronic violations or a major breach of conduct so that rehabilitation possibilities appear to be remote. The college recognizes the right of both substantive and procedural due process in any matter involving a student misconduct violation where a sanction may be imposed. A student is entitled to a notice, a hearing, and an explanation before receiving a suspension or expulsion from the college.

For Employees

Oral warning

1. Written warning
2. Letter of reprimand,
3. Mandatory attendance at an educational program on discrimination, harassment, and/or sexual misconduct, or retaliation
4. Mandatory referral for psychological assessment and compliance with any resulting treatment plan
5. Restriction of responsibilities
6. Reassignment or transfer to another department
7. Suspension without pay
8. Final written warning
9. Dismissal/termination of employment

10. No trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
11. No contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

For Individuals other than employees or student

1. A no trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
2. A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege. The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at www.lawsonstate.edu.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

FOREWORD

The *Lurleen B. Wallace Community College Policies and Procedures Manual* promotes the mission of the College and guides the work of administrative, instructional, and support personnel in accomplishing the objectives of the College. It contains several guidelines that support the policies of the Alabama Community College System Board of Trustees. These guidelines include statements concerning employment, benefits, instruction, evaluation, and services. The *Lurleen B. Wallace Community College Policies and Procedures Manual* also contains specific Alabama Community College System Board of Trustees policies and samples of various forms used in the daily operation of the College.

The entire *Alabama Community College System Board of Trustees Policy Manual* is maintained on the Alabama Community College System website. The website URL is <https://www.accs.edu/about-accs/board-of-trustees/policies-and-procedures/>. Print copies of the *Alabama Community College System Board of Trustees Policy Manual* may be found in the following locations at the College: the office of the President, the office of the Chief Financial Officer, the Human Resources office, and the Learning Resources Center.

The *Lurleen B. Wallace Community College Policies and Procedures Manual* is intended as a resource to promote the smooth operation of the College, not as a contract between the College and employee. The College reserves the right to add, delete, or revise policies and procedures at any time in order to ensure the smooth operation of the College. Any statements inadvertently in conflict with federal or state statutes or Alabama Community College System Board of Trustees policies have no legal force or effect. If there is a discrepancy between the *Lurleen B. Wallace Community College Policies and Procedures Manual* and any policy found in the *Lurleen B. Wallace Community College Catalog*, the current catalog shall prevail.

It is the policy of Lurleen B. Wallace Community College that no individual shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law. Issues relating to Title IX for employees should be reported to Ms. Lisa Carnley, Chief Financial Officer and Senior Personnel Officer, Andalusia Campus, George C. Wallace Administration Building, 1000 Dannelly Boulevard, Andalusia, Alabama 36420. Issues relating to Title IX for students should be reported to Ms. Tammye Merida, Associate Dean for Career Technical Education, MacArthur Campus, Administration Building, 1708 N. Main Street, Opp, AL 36467. ADA policies should be reported to Mr. Jason Jessie, Dean of Student Affairs. Mr. Jessie's office on the Andalusia Campus is located in the Student Center of Lurleen B. Wallace Community College, 1000 Dannelly Boulevard, Andalusia, Alabama 36420; telephone (334) 881-2245. Mr. Jessie's office on the MacArthur Campus is located in the Administration Building of Lurleen B. Wallace Community College, 1708 North Main Street, Opp, AL 36467.

For questions regarding student rights and privileges please contact the Dean of Student Affairs. For questions regarding instructional processes, please contact the Dean of Instruction. For questions regarding employee benefits, please contact the Payroll Officer. For questions regarding the terms of your employment, or any policy or procedure found in this document that cannot be answered by your immediate supervisor, please contact the Associate Director of Human Resources.

9 HUMAN RESOURCES POLICIES

09-14-2023 Revised Smoking/Tobacco Policy
06-06-2023 Added Celebration Fund Policy
02-14-2023 Updated Tuition Waiver Policy
11-15-2022 Added Student Recruitment by Employees Policy
07-20-2022 Revised Flower Fund Policy
06-06-2022 Revised Software Permissions Policy
04-14-2022 Revised Faculty Qualifications Policy
11-10-2021 Updated Sexual Misconduct Policy
03-16-2021 Added: Expressive Activities on Campus Policy approved by ACCS BOT
06-01-2020 Updated Smoking/Tobacco Policy
02-11-2020 Added: Information Security Program
04-30-2019 Updated Complaint Procedure for Employees, Tuition Waiver Policy, and ACCS website address

RESPONSIBILITIES OF EMPLOYEES

The major responsibilities and essential job functions of all employees are specified in their job descriptions and/or in their employment notification. In addition to fulfilling these responsibilities, an employee may be called upon to sponsor an appropriate student organization. Employees may be required to attend area and general meetings and annual commencement exercises. All employees must comply with the College's policies and procedures as well as Alabama Community College System Board of Trustees policies and Chancellor's directives.

NON-DISCRIMINATION POLICY STATEMENT

It is the policy of the Alabama Community College System, Lurleen B. Wallace Community College, and all postsecondary community and technical colleges under the control of the Alabama Community College System Board of Trustees, that no employee or applicant for employment or promotion, on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age, or any other protected class as defined by federal and state law, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, activity, or employment.

Lurleen B. Wallace Community College is an equal opportunity employer and complies with the *Americans with Disabilities Act*. The College will make reasonable accommodations for qualified disabled applicants or employees.

ACCOUNTABILITY FOR EQUIPMENT

All College personnel are held accountable for equipment, furniture, and other materials issued to them. They should immediately report any loss to their immediate supervisor and to security. To prevent loss, doors should be locked when rooms are not in use. All personnel are instructed to lock their offices when they leave. To minimize loss of College-owned equipment, the following steps shall be followed:

1. Identification and proper inventory of all furniture, equipment, and materials;
2. Provisions of adequate physical security for designated equipment and materials;
3. Arrangement of a staggered lunch schedule so that someone is always available in or near offices and critical areas;
4. Assignment to the last person using equipment the responsibility for properly storing it at the end of the day;
5. Approval by the appropriate College official prior to use of facilities.

Equipment Disposal

Items of equipment that are obsolete and no longer functional may be removed from inventory. Completed *Inventory Redistribution Form* should be submitted to the Division Chair who then forwards to the Chief Financial Officer.

Equipment Inventory

An inventory of equipment is maintained in the Business Office and a physical inventory is taken annually. If there is need for equipment or furnishings to be moved, employees should complete *Inventory Redistribution Form* and submit to their supervisor.

Equipment Transfers

No staff member is given authority to give away equipment or accept transfers from other institutions. Should there be a justifiable need to transfer or dispose of equipment or receive a transfer, the Division Chair will complete the *Inventory Redistribution Form* and submit it to the President for proper signatures. This is a contractual procedure that must be adhered to strictly.

ADDITION AND REVISION OF COLLEGE POLICIES

The addition or revision of all College policies will be presented to the Executive Council for review and approval. Upon approval, the member of the Executive Council who submitted the policy will forward a complete electronic copy of the new or revised policy to the Executive Council's Recording Secretary. The Recording Secretary will edit the *Policies and Procedures Manual* to include the new or revised policy and will send a copy of the complete policy to all College employees via e-mail for notification purposes. Supervisors are responsible for notifying any employees within their departments who do not have an LBWCC e-mail address of the policy addition or revision.

ADVERTISING

The College shall not permit the use of its name or logo in any announcement, advertisement, publication, or report if such use in any way implies institutional endorsement of any person, product, or service. Any firm or its advertising agency requesting use of pictures or facilities of the College for sale or advertising purposes, or requesting the use of any copy relating to such pictures or facilities, should be referred to the President. The President is responsible for determining whether the institution's name or logo may be used in conjunction with the particular project or service.

Advertising on College Property

No advertising signs, posters, or other material may be placed on any campus property or facility by any non-affiliated group, organization or individual; except that the institution may permit advertising at designated locations on campus. Affiliated groups, organizations and individuals may place advertising materials on campus property, but only in such places as are designated by the institution.

The institution may authorize the inclusion of advertisements in appropriate campus publications for a reasonable fee. The institution may permit limited advertising by groups, organizations or individuals when incidental to donation of property or services to the institution, or pursuant to a contract with the institution.

BULLETIN BOARDS

All campus bulletin boards are the property of the institution. The Dean of Student Affairs may assign responsibility for bulletin board use and maintenance according to the location of bulletin boards on campus.

CASH MANAGEMENT AND INVESTMENTS

On October 23, 1986, the Alabama Community College System (ACCS) adopted guidelines for the purpose of establishing an official cash management and investment policy for public two-year colleges. The Chancellor is charged with the responsibility for administering guidelines and for specific directions in regard to the performance of an investment and cash management program.

Cash management is defined as the maximum use of temporarily available cash for short-term investments and employs available funds in an investment program. The total operating revenue of the institution represents the amount of working capital flowing through the institution in a year. Even though a large percentage of unrestricted current funds is received in monthly installments, there is some amount of revenue that is held long enough for short-term investments that increase available revenues.

Whenever possible, the College avails itself of somewhat longer-term investments when sufficient amounts over that which is needed for operations are available.

The following guidelines are set forth by the Alabama Community College System Board of Trustees and the Chancellor:

Responsibility

The President is responsible for the establishment of a cash management and investment program for institutional funds. The President designates the Chief Financial Officer to be responsible for the day-to-day activities and functions of the program, as well as short-term investments. The President's designee is bonded in an appropriate amount in accordance with the *Alabama Community College System Board of Trustees Policy 302.01: Fidelity Bond Schedule*.

Investment Goals

1. The institution invests all appropriate available cash on a daily or short-term basis to secure the maximum investment return that is consistent with investment management policy. All monies available for investment are placed in an interest-bearing account unless legally restricted by an external agency.
2. Cash is managed so as to maximize the balance available for short-term investments.
3. Sufficient liquid funds are maintained to pay current bills on time.

Procedures

1. All funds invested (in any manner) are secured with U.S. Government or other appropriate collateral within acceptable limits of risk and consistent with the purposes of the funds. Financial institutions in which the College invests funds must be insured by FDIC/FSLIC and be designated as a qualified public depository under the *Security for Alabama Funds Enhancement (SAFE) Act*.
2. Banking services, including investments, are evaluated and selected based upon services rendered by the financial institutions in the College service area.
3. Interest earned is accounted for in the fund in which earned. Account number 484, "Investment Income", is used to record interest earned.
4. The institution has an accurate cash projection plan to anticipate cash receipts and planned disbursements.
5. Effective management of cash receipts consists of methods that improve the rapidity with which the institution increases its bank balance. All cash is deposited in an interest-bearing account at least once a week, and in no case do receipts exceed \$500.00 without making a deposit.
6. The institution attempts to increase the yield of investments to the maximum extent consistent with all other considerations that must be observed.

CELEBRATION FUND POLICY

The purpose of the LBWCC Celebration Fund is to provide a source of funds to recognize current employees during special milestones in their life. Approved occasions include official retirement from the College, a marriage, and the birth or adoption of a child. A method for employees to contribute to the Celebration Fund will be provided by direct contribution or through payroll deduction.

The following guidelines have been adopted for the Celebration Fund:

- **Retirement**
 - A retirement ceremony will be held each year by the College during the Spring to recognize all employees who officially retire from the Teacher's Retirement System of Alabama during the current academic year (Fall – Summer).
 - The Celebration Fund will provide funds to purchase refreshments and paper products for the retirement ceremony.
 - The Celebration Fund will also provide funds to purchase a retirement gift for each employee.
- **Marriage**
 - A shower may be held by the College to recognize an employee's upcoming marriage.
 - The Celebration Fund will provide funds to purchase refreshments and paper products for the shower.
- **Birth or Adoption of a Child**

- A shower may be held by the College to recognize the birth/adoption of an employee's child.
- The Celebration Fund will provide funds to purchase refreshments and paper products for the shower.

Arrangements for each celebration will be made by the Director of Student and Community Engagement and/or the appropriate Campus Social Committee Chair. It is the responsibility of all employees to notify the Director of Student and Community Engagement and the appropriate Campus Social Committee Chair regarding an employee's upcoming retirement, marriage, or the birth/adoption of a child.

Contributions to the LBWCC Celebration Fund can be made through an annual donation of cash or check to the Business Office or through monthly payroll deduction. A one-time donation of \$12.00 annually or \$1.00 per month payroll deduction will be accepted. In the event funds are exhausted due to higher than normal needs, employees will be asked to make additional contributions.

Each employee will have the opportunity to join the LBWCC Celebration Fund at any time. *The Payroll Deduction form is available on the LBW Employee Intranet in the Forms Section.*

CLAIMS FOR UNINSURED MEDICAL COSTS OR PERSONAL PROPERTY DAMAGE ON INSTITUTION PROPERTY

Procedures for Filing Claims

1. All personal injury/property damage shall be reported to the Campus Director on the campus which the incident occurred. All claims will be processed through the office of the Campus Director.
2. Upon notification of injury or personal property damage, the Campus Director must advise the claimant of, and allow the claimant to file, a Claim for Uninsured Medical Costs or Personal Property Damage on Institution Property. The claimant must return completed forms to the Office of the Campus Director within 45 days of reporting incident.
3. Claims submitted to the Campus Director will be reviewed by a committee consisting of the Campus Director, Director of College Facilities and Maintenance, and the Chief Financial Officer.
4. The committee will submit their recommendation for each claim to the President, using the *Recommendation for Disposition of Claim for Uninsured Medical Costs or Personal Property Damage on Institution Property form*.
5. Upon disposition of claim, the President will notify the claimant by letter of his/her decision.

6. If claim is partially paid or denied, the President must advise claimant of the right to file a contested claim with the Alabama State Board of Adjustment (BOA) and must provide the claimant with appropriate forms and procedures for filing a claim with the BOA.
7. If claim is approved, the President will provide documentation to the Business Office for payment.
8. The President will be responsible for maintaining records of claims and filing quarterly reports with the Chancellor's Office.
9. Every effort must be made to complete the claim process within 60 days. Should the College be unable to meet the 60 day requirement, the President must provide a written explanation to the Chancellor.

(See Section 11 of the Policies & Procedures manual for the claims report form and the claim form.)

COMMUNITY USE OF LEARNING RESOURCES EQUIPMENT

In an effort to provide services in the best community spirit, the Lurleen B. Wallace Community College Learning Resource Center offers limited public services to the community served by the College district. The extent to which these services can be offered is governed by state law regarding non-college affiliated individuals and groups.

All persons in the LBW Community College service area have access to the resources of the Learning Resource Center; they are invited and encouraged to utilize these resources in the LRC. Government agencies, business and industrial groups, and non-profit agencies that need to borrow learning resource materials and equipment are required to submit a request to the Director of the Learning Resource Center.

The College reserves the right to refuse checkout privileges to any community organization. Failure to comply with the above rules will result in immediate suspension of borrowing privileges.

COMPUTER RESOURCES AND SERVICES

Faculty offices are equipped with computer hardware and software to support instructional services. Any changes in software must be requested through the Office of the Associate Dean of Instructional and Information Technology. If faculty and staff have problems with computer hardware or software they may contact any member of the Information Technology Department. If you cannot reach someone and it's an emergency please contact the Office of the Associate Dean of Instructional and Information Technology.

Computer laboratories are available for student use on a scheduled basis. The following policy applies to all computer laboratories on all campuses:

Lab Usage Policy:

Computer laboratories will be closed on all state holidays and breaks between semesters.

Labs will have a schedule on the door listing the posted hours of operation. These hours will vary from lab to lab and semester to semester. These labs will only be open during the posted hours.

After hours students may use the Library for computer access.

Instructors may have to unlock the lab for your class and will be expected to lock the lab back unless a class is scheduled to follow yours.

Maintenance staff and instructors should lock any lab found open outside of the posted hours of operation.

During class time instructors should only allow students enrolled in class to access the lab.

If the lab usage policy conflicts with student needs and access, students should contact the Associate Dean of Instructional and Information Technology.

Labs will only be opened outside of the posted hours on a case by case basis. For example:

If a student must complete an assignment the instructor could open the lab as long as the instructor locks the lab once the student is finished.

These policies will be enforced.

CONTRACTS AND LEASES

All existing and/or new contracts and/or agreements, (including leases) between the College and other institutions/agencies/organizations for services/programs/staff utilization must be properly prepared and routed as follows with the appropriate individual reviewing and initializing their approval: initiator → immediate supervisor → Chief Financial Officer → President. The approved documents should be processed at least two weeks in advance of the expiration/renewal/submission date. This time line allows time for verification of legality, as well as time for the Chief Financial Officer and the President to check budgets and other relevant items.

Any lease of land or facilities owned by others must be approved by the Chancellor and reported to the Alabama Community College System Board of Trustees periodically. Any such lease which exceeds three years must be approved by the Governor.

DRUG FREE WORKPLACE POLICY AND PROGRAM FOR EMPLOYEES

In compliance with the drug-free workplace requirements of Public Law 100-690 for recipients of federal contracts and grants, the following policy is in effect for Lurleen B. Wallace Community College (LBWCC):

Lurleen B. Wallace Community College complies with the provisions of the Federal *Drug-Free Workplace Act of 1988* and the *Drug Free Scholar and Communities Act of 1989* as set forth by the *Alabama Community College System Board of Trustees Policy 613.01: Drug Free Workplace*. In addition, it is the policy of Lurleen B. Wallace Community College that information on drug and alcohol abuse prevention and assistance is available continuously online to each employee of Lurleen B. Wallace Community College through the *Lurleen B. Wallace Community College Policies and Procedures Manual*. This information and its distribution serves as the LBWCC drug-free awareness program.

- I. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited by LBWCC on any property owned, leased, or controlled by LBWCC or during any activity conducted, sponsored, or authorized by or on behalf of LBWCC. A “controlled substance” shall include any substance defined as a controlled substance in Section 102 of the Federal Controlled Substance Act (21 U.S. Code 802) or in the Alabama Uniform Controlled Substance Act (Code of Alabama, Section 20-2-1, et seq.)
- II. Lurleen B. Wallace Community College has and shall maintain this drug-free awareness program to inform employees about:
 - a. the dangers of drug and alcohol use in the workplace;
 - b. LBWCC’s policy of maintaining a drug-free workplace;
 - c. any available drug counseling, rehabilitation, and employee assistance program; and
 - d. the penalties that may be imposed upon employees for drug abuse violations.
- III. All employees of LBWCC shall comply with paragraph I. above.
- IV. Any employee who is convicted by any federal or state court of an offense which constitutes a violation of paragraph I. above shall notify the Senior Personnel Officer in writing of said conviction within five (5) work days after the conviction occurs. Conviction, as defined in P.L. 100-690, shall mean “a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both.”
- V. In the event of a report of a conviction pursuant to paragraph IV. above where the employee is working on a project or in a program funded through a federal contract or grant, LBWCC shall notify in writing within ten (10) days any federal agency to which such notification by LBWCC is required under P.L. 100-690.
- VI. In the event an employee violates paragraph I. above or receives a conviction as described in paragraph IV. above, the respective employee shall be subject to appropriate disciplinary action which may include but is not limited to reprimand, suspension, or termination of employment. LBWCC shall also reserve the right to require said

employee, as a condition of continued employment, to satisfactorily complete a drug treatment or rehabilitation program of a reasonable duration and nature. If any employee engages in any behavior prohibited by this policy which is also a violation of federal, state, or local law, that employee shall be subject to referral to law enforcement officials.

- VII. Lurleen B. Wallace Community College shall make a good faith effort to ensure that paragraphs I. – VI. above are followed.
- VIII. Each employee of Lurleen B. Wallace Community College shall receive a copy of this policy and information.
- IX. The illegal use or abuse of controlled substances can cause serious, negative effects. This activity can injure the health of the user, adversely impair performance and understanding, and endanger the safety and well-being of others.

In addition to absenteeism, loss of production, accidents, and deaths, other problems associated with the use and/or abuse of controlled substances in the workplace include:

- Tardiness / sleeping on the job
 - Withdrawal symptoms decreasing job performance
 - Poor decision making
 - Loss of efficiency, attention, concentration
 - Theft
 - Lowered morale of co-workers
 - Preoccupation with using the substances while at work
 - Illegal activities at work to support the addiction
 - Increased likelihood of trouble with co-workers, supervisors, or tasks
 - Increased need for disciplinary measures
 - Increased turnover rates
 - Increased expense of hiring and training new employees
- X. According to the National Clearinghouse for Alcohol and Drug Information, when the issue of workplace substance abuse is addressed by establishing policy and programs, absenteeism, problems with supervisors, mistakes in work, and on-the-job injuries all decrease. Therefore, LBWCC encourages people who are engaging in the illegal use and/or abuse of controlled substances to seek professional advice and assistance. The Substance Abuse and Mental Health Services Administration provides a free, confidential national helpline that is available twenty-four (24) hours a day, seven (7) days a week, and three hundred sixty five (365) days a year by calling 1-800-662-HELP (4357). This service provides referrals to local treatment facilities, support groups, and community-based organizations.

Available drug and alcohol counseling and rehabilitation programs within a one hundred (100) mile radius of LBWCC include:

South Central Alabama Mental Health – Butler County

185 Industrial Parkway
Greenville, AL 36037
Phone: (334) 382-2018

South Central Alabama Mental Health – Coffee County

2861 Neal Metcalf Road
Enterprise, AL 36330
Phone: (334) 347-0212

South Central Alabama Mental Health – Covington County

205 Academy Drive
Andalusia, AL 36420
Phone: (334) 428-5050

South Central Alabama Mental Health – Crenshaw County

587 Bentley Avenue
Luverne, AL 36049
Phone: (334) 335-5201

Insight Treatment Program

501 Plaza Drive
Enterprise, AL 36330
Phone: (334) 445-6190

East Central Mental Health, Inc.

200 Cherry Street
Troy, AL 36081
Phone: (334) 566-6022

Army Substance Abuse Program

Andrews Avenue
Fort Rucker, AL 36362
Phone: (334) 255-7509

COPE Center

3686 U.S. Highway 331 South
Defuniak Springs, FL 32435
Phone: (850) 892-8045

Lakeview Center, Inc.

6024 Spikes Way
Milton, FL 32572
Phone: (850) 437-8900

Bradford Health Services

114 Adris Place
Dothan, AL 36303
Phone: (334) 671-1677

Destin Recovery, L.L.C.

4635 Gulfstarr Drive
Destin, FL 32541
Phone: (855) 638-7258

Cahaba Cares

45 Camden Bypass
Camden, AL 36726
Phone: (334) 682-4499

Bradford Health Services

8333 North Davis Highway
Pensacola, FL 32514

Lighthouse Counseling Center, Inc.

111 Coliseum Boulevard
Montgomery, AL 36109

Phone: (850) 308-7720

Bradford Health Services

386 Saint Lukes Drive
Montgomery, AL 36117
Phone: 800-873-2887

A Nu Direction

500 Hospital Drive
Wetumpka, AL 36092
Phone: 877-647-7552

Early County Mental Health Substance Abuse Center

763 Jesse Johnson Drive
Blakely, GA 39823
Phone: (229) 724-2206

Phone: (334) 286-5980

Cahaba Center for Substance Abuse

1017 Medical Center Parkway
Selma, AL 36701
Phone: (334) 874-2600

Emerald Coast Behavioral Hospital

1940 Harrison Avenue
Panama City, FL 32405
Phone: (850) 763-0017 x 221

This list is not meant to be comprehensive. Information about additional programs and treatment facilities is available in the Human Resource office.

DISTRIBUTION OR SALE OF LITERATURE

Any literature which is, or which is proposed to be, distributed, or sold shall comply with all applicable federal, state, and local laws and regulations, and with the regulations and policies of the institution, and the Alabama Community College System Board of Trustees. No obscene literature or material shall be distributed or sold on any property owned or used by the institution.

No literature, material, or other printed matter shall be sold or distributed within (1) classrooms, libraries, or other academic buildings or facilities; or (2) administrative and employee offices and work areas. Further, this shall not restrict a faculty member from distributing within the classroom non-commercial material related to the particular course or subject matter.

The institution shall have the right to terminate the distribution or sale of literature by any group, organization or individual that violates the provisions of this policy.

EMPLOYEE DISCIPLINARY ACTION FORM

LBWCC utilizes a progressive discipline approach and has adopted the use of an *Employee Disciplinary Action* form as part of the disciplinary process. The *Employee Disciplinary Action* form is to be used by supervisors when an employee's behavior requires correction and when the degree of the behavior requires that disciplinary action be taken. The form may be used in conjunction with an unsuccessful *Performance Improvement Plan*, for a stand-alone behavior, or for a series of behaviors.

The use of the *Employee Disciplinary Action* form will provide clear documentation for the cause of the disciplinary action as stated by the supervisor, the employee's statement of facts concerning the issue, and the disciplinary action taken. All *Employee Disciplinary Action* forms will be maintained in the personnel file of the disciplined employee. Supervisors are encouraged to work with the Senior Personnel Officer prior to creating an *Employee Disciplinary Action* form.

EMPLOYEES ENROLLING AS COLLEGE STUDENTS

Prior to registering for any college course, an employee must submit to his/her immediate supervisor an *Employee Course Registration Approval* form which details his/her proposed work schedule and supporting documentation including a copy of the course schedule and independent study documentation, if applicable. The supervisor is responsible for verifying that the employee's work schedule does not conflict with the course schedule. If no scheduling conflict exists or if the course will be conducted as an independent study, the supervisor will approve the request and forward the form and documentation to the next appropriate supervisor in the chain of command. If the employee intends to register for a course that will be taught as an independent study, the employee must submit with the *Employee Course Registration Approval* form a written statement from the course instructor stating that the course will be conducted on an independent study basis.

If a scheduling conflict does exist and the course will not be conducted as an independent study, the supervisor is responsible for verifying that the employee's adjusted work schedule reflects any travel time associated with the course and the number of hours the employee is required to work each week.

Following the President's approval, the request and all documentation will be forwarded by the President's Administrative Assistant to the Payroll Office. A copy of the approval will also be forwarded to the Human Resources Office, the immediate supervisor, and the requesting employee. Should the request be declined or require further discussion, all documentation will be returned to the immediate supervisor. All approvals must be completed prior to the conclusion of the Drop/Add period. Following the initial approval, any revisions, such as dropping or adding of classes, to the course schedule or work schedule must be re-submitted for the approval process.

The Employee Course Registration Approval form is included in Section 11 of the Lurleen B. Wallace Community College Policies and Procedures Manual.

E-VERIFY POLICIES AND PROCEDURES

Lurleen B. Wallace Community Colleges complies with the *Beason-Hammon Alabama Taxpayer and Citizen Protection Act (Act 2011-535)*. The final determination of an unauthorized alien shall be vested in the federal government.

Contractors and Subcontractors – Section 9

“A condition for an awarding of a contract, grant, or incentive by the State to a contractor will be that the contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien. The contractor must attest by signed, sworn affidavit, which shall be notarized. The contractor must provide verification that he/she is enrolled in the E-Verify program. These same conditions apply to subcontractors” (*Act 2011-535*).

Prior to the awarding of a contract, grant, or incentive, the contractor will return to the LBWCC Chief Financial Officer the required *Memorandum* and the required completed *Affidavit of Alabama Immigration Law Compliance* form affirming that no unauthorized alien has or will be knowingly employed, hired for employment, or continue to be employed by the contractor and/or subcontractor, and the required completed *Notice of Alabama Immigration Law Compliance to all Contractors of ACCS Institutions*. The contractor is responsible for providing a copy of the same *Memorandum*, *Affidavit of Alabama Immigration Law Compliance*, and *Notice of Alabama Immigration Law Compliance to all Contractors of ACCS Institutions* to its subcontractors/grantees and is responsible for maintaining the required completed copies in the contractor’s office.

For contractual agreements with individuals for the purpose of providing specific services such as tutoring, instructing continuing education classes, instructing training for existing business and industry classes, etc., the individual must submit a completed Form I-9 with the required identification documents to the LBWCC Chief Financial Officer at the time the contractual service agreement is reached. The Chief Financial Officer will initiate the E-Verify program procedures no later than the College’s third business day after the beginning date of the contractual services agreement and is responsible for meeting and complying with all follow-up procedures of the E-Verify program.

Penalties for violations of this section or portions of this section are described in the Act. The effective date of this section is January 1, 2012.

Employees and Employment – Section 15

“No public employer shall employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Alabama. Every business entity or employer in this state shall enroll in E-Verify... This system shall be used to verify the employment eligibility of an employee. A business that utilizes E-Verify will not be deemed to have violated this section of the Act as to the employment of an employee” (*Act 2011-535*).

This section relates to anyone employed receiving state or federal monies from any source including work study students. Once an offer of employment is accepted, the employee submits a completed Form I-9 and the required identification documents to the appropriate College official. Work study students will submit the Form I-9 and documents to the appropriate campus Financial Aid Office. All other employees will submit the Form I-9 and documents to the Human Resources Coordinator.

The appropriate College official will initiate the E-Verify program procedures no later than the College’s third business day after the beginning date of employment. The respective

College official is responsible for meeting and complying with all follow-up procedures of the E-Verify program.

Penalties for violations of this section or portions of this section are described in the Act. The effective date of this section is April 1, 2012.

Employers – Section 26

“On or after January 1, 2012, before receiving any contract, grant, or incentive by the State, an employer shall provide proof to the State that it is enrolled and participating in E-Verify, either independently or through the Alabama Department of Homeland Security. An employer that is enrolled in E-Verify is immune from liability under Alabama law for any actions by an employee for wrongful termination or retaliation based on notification from the E-Verify should the program identify the employee as an unauthorized alien” (*Act 2011-535*).

In accordance with this section, LBWCC enrolled in the E-Verify program and submitted the memorandum of understanding in December, 2011. The administrative user and multiple general users were established within the E-Verify program in December, 2011. Public notices required for employers participating in the E-Verify program were posted on all LBWCC campuses and at the Luverne Center in December, 2011. LBWCC submitted the *Affidavit of Alabama Immigration Law Compliance* form and a copy of the *E-Verify Memorandum of Understanding* to the Alabama Community College System in January, 2012.

EXTERNALLY FUNDED GRANTS AND CONTRACTS

Policy for Externally Funded Grants and Contracts

External grants and contracts are available to the community college from a number of sources, both public and private, to fund a variety of programs and purposes. It is the policy of Lurleen B. Wallace Community College that all external grants and contracts must conform to the purpose and goals of the College.

Executive Council members are responsible to the President to ensure that grants and contracts proposed from within their divisions support the mission of the College, to determine if the College can develop a competitive grant in a cost-effective manner, and to assist faculty and staff in acquiring and managing grants and contracts according to College policy and grantor requirements.

In order to maintain an appropriate balance between grant and contract activity and instruction, grant applications and contracts will specify the time and effort required of a College employee for grant activities. If time and effort for the grant activities will threaten continuity of instruction or services, the grant application or contract will specify conditions of release time for the employee participating in the grant. The College will specify the amount of release time to be provided for the employee and if grant or College funds will be used to pay for release time.

Lurleen B. Wallace Community College is a teaching institution, not a research institution. The College allows for academic freedom, and faculty and staff have the option to engage in research. Investigation, reporting, and publishing findings or results must not diminish or detract from their primary responsibilities as specified in their job descriptions. Salaries for faculty and staff conform to salary schedules approved by the Alabama Community College System, and nine month appointments are issued to full-time faculty for fall and spring semesters. Three month appointments are issued to faculty with full-time instructional loads in the summer semester. Full-time staff members have twelve-month appointments. Faculty or staff receiving salaries from grant funds must complete time and effort reports showing the percentage of time worked on grant activities and the percentage of time devoted to institutional activities. Grant funds will not be used to supplant state funds. Any consultative service outside the employee's regular duties as specified in the College job description must be detailed in a separate consultant agreement and signed by the employee, grant project director, and President.

The College's *Guidelines for External Grants and Contracts* outlines procedures which ensure that the institution maintains control over research and instruction. The College will apply only for grants and contracts which conform to the mission of the institution. The College will follow the policies of the Alabama Community College System Board of Trustees as well as federal and state regulations to ensure that continuity of support for general institutional activities is not endangered and that supplanting of state funds does not occur with grant funds. The College will utilize grant funds to improve, rather than to maintain, general institutional activities. Grants and contracts must have a specified beginning and ending date and activities and must be signed by the College President.

The College will not depend upon indirect cost allowances from grants and contracts to support its regular operation budget. Indirect costs allowances from grants and contracts are used to reimburse the College for general administrative expenses born by the College on behalf of the grant.

Guidelines for External Grants and Contracts

Grants and contracts for external funding are sought to enhance College programs and services in conformance with the mission of the institution. Executive Council members coordinate the grant-seeking and application process to ensure compliance with College policies for external grants and contracts.

When the College seeks external funding for special projects, additional responsibilities are placed upon the College in securing and administering these potential funds. The mission is to encourage personnel to develop creative ideas into viable model projects with an emphasis on identified needs and to ensure that these projects are properly managed. The funding process, from the initial stages of proposal development through the duration of the funded project, should provide for a minimum of in-house constraints but should also provide for a maximum of accountability.

Employees are encouraged to discuss project ideas with the appropriate Executive Council member who will use the following procedures.

After determining that the goals of the proposal are in line with the College mission and identifying appropriate grantors, the Executive Council member and project initiator will determine if the grant can be developed by the grantor deadline and have a reasonable chance of funding. Federal grant opportunities and deadlines may be found at www.grants.gov or the Federal Register. Employees may subscribe to a mailing list of grant opportunities by following subscription directions at www.grants.gov or www.gpoaccess.gov/fr/.

1. If the College is determined to be competitive and can meet the deadline for the grant application by using an in-house writing team, the Executive Council member invites the project initiator and faculty and staff with expertise relating to the project to serve as members of the grant writing team. The Executive Council member may contact experienced grant writers within the College for advice on proposal preparation including the Associate Dean of Adult Education, Workforce Development, and Continuing Education, Director of Student Support Services, Director of Institutional Effectiveness and Quality, Dean of Instruction, and Associate Dean of Applied Technologies. If the project initiator has the necessary qualifications and experience required to serve as project director, he or she may serve as project director with the approval of the President and lead the grant writing team. If the deadline can be met, but the College does not have adequate expertise to write a grant, the Executive Council member will recommend a subject area specialist to the President and request that a contract be prepared to acquire consultative services which result in a fundable proposal by the grant deadline.
2. The Associate Dean of Institutional Effectiveness and Quality and the Luverne Center will provide the in-house grant writing team or the consultant with a College Profile which can be used to provide background about the College's mission, accomplishments, and student population.
3. The Executive Council member will assist the grant writing team with the proposal development process as needed and will act as a liaison to request information and approval from the Business Office regarding budgets, to request input from the Executive Council, and to request matching funds as appropriate and project approval from the President.

Projects which are College-wide in scope will be initiated by the appropriate Executive Council member with input by the Executive Council and direction by the President. The President will determine if College employees or a consultant will be responsible for preparing multi-year grants.

4. Proposals may vary in length, format and quality; however, all proposals must contain a consistent core of elements and characteristics. In general, a good proposal has the following components:
 - A. Need
 - B. Objective(s) (Purpose)
 - C. Methodology (Procedures)
 - D. Evaluation
 - E. Budget

These five major elements structure the essence of a good proposal. The proposal must be written in concise language. It is advisable to prepare a one- or two-page summary of proposed objectives and activities as an initial concept paper. This abstract can then be

expanded to fully develop each of the five components mentioned. These brief recommendations are especially valid in the area of federal and state programs.

A well-written competitive proposal takes time to plan and develop for potential funding. The planning process can take several months. After the idea and proper funding agency have been identified and the President has approved the proposed project, the following elements will be a part of the timeline.

- Contact funding agency for RFP or download from agency web site.
- Complete preliminary research and write well-planned needs assessments.
- Develop prospectus (abstract) working with various approaches to implement the project.
- Submit preliminary prospectus to agency if required.
- Modify prospectus based on agency recommendations.
- Complete second draft using feedback from faculty and staff
- Finish and refine final proposal
- Submit to agency
- Agency approves or rejects proposal

Employees who submit grants to external agencies will provide a *Grant Information Submission Form* to the Public Information Officer who will provide regular reports to the President regarding funding status of submissions.

All external grants or contracts offered to the College require thorough review by the Chief Financial Officer, the appropriate Executive Council member, divisional personnel participating in the grant or contract, and the President of the College. The President makes the final decision to accept or refuse terms and/or conditions of externally funded grants or contracts. All contracts must have the signature of the President of the College. The grant program's designated Project Director shall be the negotiator for grant awards. However, the President shall be designated as the appropriate College official for award notifications.

Grant requests are submitted directly to governmental agencies on behalf of the College unless the grantor requires a *501(c) (3) agency*. In this case, the grant proposal will be submitted through the Lurleen B. Wallace Community College Foundation and/or the MacArthur State Technical College Foundation and require the appropriate action of the respective Board of Directors and signatures as necessary.

Fiscal Management of Grants and Contracts

The Chief Financial Officer shall be responsible for the review and fiscal impact determination of all external grant and contract awards. Recommendations shall be made to the Dean of Instruction and the President.

Fiscal management responsibility for grant awards shall be handled by the Business Office through the Director of Business Services in coordination with the Project Director.

All contracts with outside agencies may be reviewed by an attorney for proper legal form and proper protection of the interests of the College prior to application. The legal review may be made by the College attorney or any other attorney selected by the College.

Acceptance of externally funded grants, contracts or other sponsored programs is accompanied by the College's commitment to fiscal and programmatic accountability. Funds are awarded to the College and not to individuals.

When, in the execution of grants and contracts, it is necessary to employ individuals to carry out the terms of the grant or contract, these individuals will be employed for the term specified. These employees will be required to complete and submit monthly time and effort reports to the appropriate supervisor.

The Business Office exercises fiscal control of all externally funded grants, contracts, and other sponsored programs. Separate accounts are established for each grant, contract, or sponsored program. Expenditure Reports are prepared and distributed monthly to the appropriate individual(s) responsible for carrying out the program. Financial statements are prepared according to generally accepted accounting practices. Purchasing and contracting subordinate to grants will be conducted to meet the sponsoring agency's guidelines, but will always meet the requirements of the College's and state's purchasing and contract policies.

Externally funded grants and contracts are audited annually by the College's independent auditing firm. Grants and contracts are also made available for audit on demand by the sponsoring agency.

FACULTY QUALIFICATIONS POLICY

Lurleen B. Wallace Community College employs qualified faculty members to accomplish its mission and goals. While primary consideration is given to an applicant's highest degree earned in the discipline, faculty may also be employed based on other demonstrated competencies and achievements that contribute to effective teaching and student learning outcomes such as professional licensure and certifications, honors and awards, and continuous documented excellence in teaching.

The College offers associate degree courses designed for transfer to a baccalaureate degree, associate degree courses not designed for transfer to a baccalaureate degree, and certificate courses designed to prepare students for employment which are not designed for transfer.

The following are minimum requirements for faculty employed based on their degrees earned and related work experience in the field. Minimum faculty qualifications may be more stringent if required by a program accreditor or state licensing agency. Additionally, some programs may require board licensure or professional certifications.

Faculty teaching associate degree courses designed for transfer to a baccalaureate degree and nursing faculty are required to have a master's degree in the teaching discipline or master's degree with a concentration in the teaching discipline (a minimum of 18 graduate semester hours in the teaching discipline).

Faculty teaching associate degree courses not designed for transfer to the baccalaureate degree are required to have an associate's degree with a major in the assigned teaching area and a

minimum of three years of full-time work experience in field. Faculty teaching developmental courses must have a bachelor's degree and 27 semester hours within the discipline.

Faculty teaching certificate programs are required to have an associate's degree or the equivalent (at least 60 semester hours in a planned program including an associate degree core), specialized coursework equivalent to the program, and three years of full-time work experience in the field.

Exceptions to these degree qualifications may be made with the Chancellor's approval if a faculty member has documented work experience, professional certifications, or other demonstrated competencies that qualify him or her for the position.

FLOWER FUND

The purpose of the LBWCC Employee Flower Fund is to provide a source of funds to be used in sending flowers on behalf of the LBWCC employees. It will provide a method for employees to contribute to the flower fund by direct contribution or through payroll deduction.

The following guidelines have been adopted for sending flowers:

- Flowers are to be sent to all employees when the College is notified during:
 - Bereavement due to the death of an employee or employee's immediate family member.
 - Immediate family includes: spouse, child, step-child, foster child, parent, step-parent, foster parent, sister, step-sister, brother, step-brother, grandparent, step-grandparent, grandchild, step-grandchild, father-in-law, mother-in-law, son-in-law, or daughter-in-law.
 - Upon recommendation from College faculty and staff, these funds may be used in the event of the death of a currently enrolled student or a retired College employee.
- Cost of flowers should be approximately \$65.00 for bereavement. Additional wiring fees and delivery fees may be paid if required.
- In lieu of flowers, the employee or family may request a donation to a charity or foundation. A maximum donation of \$65.00 may be payable by the Flower Fund.

Arrangements for sending flowers will be made by the LBWCC President's Office. It is the responsibility of all employees to notify the Administrative Assistant to the President in the event of a need to send flowers or a donation.

Contributions to the LBWCC Employee Flower Fund can be made through an annual donation of cash or check to the Business Office or through monthly payroll deduction. A one-time donation of \$12.00 annually or \$1.00 per month payroll deduction will be accepted. In the event funds are exhausted due to higher than normal needs, employees will be asked to make additional contributions.

Each employee will have the opportunity to join the LBWCC Employee Flower Fund at any time. *The Flower Fund Participation form is available in the College Business Office.*

FRINGE AND OTHER BENEFITS

Several types of fringe and other benefits are available to employees of the College.

All employees participate in the *Social Security System (FICA)*. A portion of each salary installment is withheld until the maximum for a calendar year is reached.

All full-time and permanent part-time employees (who are not already retirees of the Teachers' Retirement System of Alabama) are members of the *Teachers' Retirement System of Alabama* as Tier 1 or Tier 2 employees. Contact the Payroll Office for information.

Tax-sheltered annuity plans are also available to College employees. Contact the Payroll Office for information.

The College contributes funds under the *Alabama Unemployment Compensation Law* to cover all employees who may become totally or partially unemployed under conditions defined by law.

Eligible employees may participate in the *Alabama Public Education Employees' Health Insurance Plan*. Supplemental insurance plans are also available. Contact the Payroll Office for details.

EMPLOYEE FITNESS CENTER USAGE POLICY

Lurleen B. Wallace Community College provides a Fitness Center for use by all regular full and part-time employees and LBWCC sponsored programs. The fitness center is located in the Seth Hammett Gymnasium on the Andalusia Campus.

Use of the College Fitness Center is conditioned on accepting and following the requirements listed in this policy.

1. All Fitness Center users are required to complete a *Fitness Center Liability Waiver*.
2. The use of the Fitness Center is AT YOUR OWN RISK. Fitness Center users must use caution while using the facility or embarking on an exercise program. All patrons are advised to seek medical consultation and clearance before using the College Fitness Center. LBWCC is not responsible for any injury or accident occurring in the facility including use of the locker room and shower area. The College is not responsible for any lost or stolen items left in the locker room or brought into the Fitness Center.
3. Only employees of Lurleen B. Wallace Community College or members of LBWCC sponsored programs (i.e., Athletics) may use the Fitness Center.
4. Use of the Fitness Center is prohibited during a LBWCC sponsored program organized event or session. The Fitness Center is reserved for athletics use during the fall and spring semesters from 1:00 p.m. to 5:00 p.m. Monday through Thursday and 9:00 a.m. to noon on Friday.
5. The Fitness Center shall not be used during basketball games.
6. Appropriate attire and footwear are required at all times when using the Fitness Center.
7. Employees may access the facility using their issued keys. Employees that access the facility after regular business hours are responsible for ensuring the security of the

facility. Heating and air conditioning may not be available if accessed outside of regular hours.

8. Report maintenance problems or other facility problems to College Athletic staff immediately.

INFORMATION FOR EMPLOYEES WITH DISABILITIES

Lurleen B. Wallace Community College has the following physical facilities for faculty, staff, visitors, and students with disabilities:

- All parking lots have designated parking areas for persons with disabilities. These areas are equipped with wheelchair ramps, cut curbs, and guard rails where appropriate.
- Restrooms are available and accessible and are equipped with holding rails and stalls large enough to accommodate wheelchairs.
- All buildings requiring public access have entrances to accommodate wheelchairs.

Lurleen B. Wallace Community College makes every effort to comply with the provisions of the *Americans with Disabilities Act (ADA)*. As a part of its effort, the College seeks to provide an atmosphere for work and learning which is free of deterrents for students, employees, and individuals served by the institution.

Americans with Disabilities Act - Employees

The Americans with Disabilities Act (ADA) requires Lurleen B. Wallace Community College to reasonably accommodate qualified individuals with disabilities. It is the policy of Lurleen B. Wallace Community College to not discriminate against qualified individuals with disabilities in regard to application of procedures, hiring, advancement, employment separation, salary, or any other conditions of employment.

LBWCC will provide reasonable accommodations to qualified employees with a disability so that these individuals can perform the essential functions of their positions.

Current employees who pose a direct threat to the health or safety of the other individuals in the workplace will be placed on appropriate leave until a decision has been made in regard to the employee's immediate employment situation to include the determination of an accommodation that can reasonably be made.

In order to assist employees with needs for reasonable accommodations the following procedures have been adopted.

- Employees are encouraged to make their supervisors aware of any reasonable accommodation requested for the performance of the essential functions of their jobs. Supervisors shall contact the Human Resources Coordinator once an employee has requested or disclosed a perceived need for a reasonable accommodation.
- If an employee is not comfortable working through the supervisor he or she should contact the Human Resources Coordinator directly. The Human Resources Coordinator will assist the employee in completing and submitting the *Employee Request for*

Disability Accommodation Form. The form will be submitted to the Human Resources Coordinator.

- Documentation of disability may be required. If so, such documentation will be maintained in a confidential file separate from the employee personnel file. Documentation of the disability and the reasonable accommodations will only be shared on an as-needed basis and within the strictest of confidentiality.

Definitions

As used in this policy, the following terms will be adhered to in relation to the ADA policy.

"Disability" means a physical or mental impairment that substantially limits one or more major life activities. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

"Qualified individual with a disability" refers to a person with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position the individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

"Reasonable accommodation" may include a modification or adjustment to a job, the work environment, or the way activities or processes usually occur that enables a qualified individual with a disability to enjoy an equal employment opportunity.

"Essential functions of the job" refers to the fundamental job duties of the employment position the individual with a disability holds or desires. The term "essential functions" does not include the marginal functions of the position.

Requests for Accommodation

All employees seeking an accommodation of any kind must submit a completed *Employee Request for Disability Accommodation Form* and in certain instances may require the employee submit a current physician statement which includes the required information as stated in the Criteria for Disability Documentation section of this policy. The College may require further testing or evaluation by qualified professionals to verify or further establish the impairment/disability and the need for accommodation. Providing reasonable accommodations for employees with disabilities requires an individual assessment of need. Specific accommodations depend on the nature and requirements of a particular activity and the skills and functional abilities of the employee.

Americans with Disabilities Act Employee Accommodation Procedures

1. Documentation of Disability: When submitting an Employee Request for Disability Accommodation Form, the employee must provide documentation of the disability from an appropriate health care provider. The employee will be required to sign an *Employee Medical*

/ *Health Care Information Release Form*, so that the health care provider can provide the College with the appropriate documentation. (See Criteria for Disability Documentation.)

Upon request, the supervisor will provide a written description of the essential functions of the job, which may include the mental and physical demands of the employee's job.

It is the employee's responsibility to ensure that the medical documentation/information requested is provided.

2. Temporary Accommodations: After consultation with the employee and the appropriate supervisor(s) temporary accommodation may be provided pending receipt and evaluation of the documentation of the disability.

3. Evaluation of Documentation: Upon receipt of documentation from an employee's health care provider, the Human Resources Coordinator in consultation with the supervisor if necessary and legal services provider will determine whether the employee has a disability as defined by the ADA and if the employee can perform the essential functions of the position, with or without reasonable accommodation.

4. Final Determination and Notification to Employee: The College has the authority to make the final determination regarding what accommodation, if any, is appropriate. When a final determination is made, the Human Resources Coordinator will send written notification to the employee of the determination, whether an accommodation has been granted, and if so, will specify what accommodation has been granted. Notification will also be given to the appropriate supervisor(s).

5. Right to Appeal: If an accommodation is denied, the employee may submit a written notice of appeal to the Human Resources Coordinator within seven (7) working days of receipt of the written accommodation decision. The President will review the appeal and make the final decision on the matter within seven (7) working days of receipt of the appeal. The President will provide written notice of the final decision. The final decision of the President is not subject to appeal.

Responsibilities

Employees: The employee must satisfy the requirements for the job, such as education, employment experience, skills, certificates, or licenses. The employee must also be able to perform the essential functions of the job with or without reasonable accommodation and must maintain institutional standards of performance. Employees who believe they have a disability are responsible for notifying the Human Resources Coordinator and following the procedures outlined in this policy to assure timely provision of accommodations. It is also the responsibility of the employee to document their disability (from an appropriately licensed professional) and to demonstrate how the disability limits their ability to perform the essential functions of their job. (See Criteria for Disability Documentation below)

Supervisors: Personnel serving in supervisory positions are responsible for referring employees requesting or needing accommodation to the Human Resources Coordinator.

Supervisors should not offer accommodations to employees. Supervisors remain responsible for evaluating whether or not an employee is able to perform his or her job (with or without reasonable accommodations) just as the supervisor would for any other employee under his or her supervision.

When questions arise as to a specific accommodation, it is the responsibility of the supervisor to contact the Human Resources Coordinator to resolve the matter. The College is not required to make modifications that are not reasonable or would pose an undue financial burden.

Criteria for Disability Documentation

Based upon Guidelines from The Association on Higher Education and Disability (AHEAD)

Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 provide that qualified employees with disabilities who meet the employment standards of Lurleen B. Wallace Community College are entitled to reasonable accommodations. Under these laws, a disability is defined as any physical or mental impairment that substantially limits a major life activity. Having a history of impairment, or being perceived as having impairment may also qualify one as an individual with a disability. It is the employee's responsibility to disclose his/her needs and provide appropriate documentation to the Human Resources Coordinator. Appropriate documentation is defined as follows:

Health Condition, Mobility, Hearing, Speech, or Visual Impairment

A letter or report from the treating physician, orthopedic specialist, audiologist, otologist, speech pathologist, ophthalmologist, optometrist (as appropriate) which includes:

1. Clearly stated diagnosis
2. Defined levels of current functioning and any limitations
3. Current treatment and medication
4. Current letter/report (within 1 year), dated and signed
5. Statement of necessary accommodations

Psychological Disorder

A letter or report from a mental health professional who is impartial and not related to the employee, i.e., psychiatrist, psychologist, neuropsychologist, licensed professional counselor, or clinical social worker which includes:

1. Clearly stated diagnosis based upon current DSM criteria
2. Defined levels of current functioning and any limitations
3. Assessment and evaluation instruments used, observations, history, etc.
4. Current treatment and medication
5. Current letter/report (within 1 year), dated and signed
6. Statement of necessary accommodations

Traumatic Brain Injury (TBI)

A comprehensive evaluation by a physician, neurologist, licensed clinical, rehabilitation or school psychologist, neuropsychologist, or psychiatrist which includes:

1. A clear statement of head injury or traumatic brain injury
2. Current impact on employee's functioning and limitations
3. Cognitive and achievement measures used and evaluation results
4. Current residual symptoms and a statement regarding the employee's ability to meet the demands of a postsecondary academic or work environment
5. Current treatment and medication
6. Current letter/report (post-rehab within 1 year), dated and signed
7. Statement of necessary accommodations

Learning Disabilities (LD)

A comprehensive evaluation report written in narrative form by an impartial individual not related to the employee, i.e., licensed psychologist, psychiatrist, learning disabilities specialist, licensed professional counselor, educational therapist or diagnostician, which includes:

1. Clearly stated diagnosis of a SPECIFIC learning disability in reading, math, or written language based upon current DSM criteria.
2. Educational/work history documenting the impact of the learning disability
3. Alternative explanations and diagnoses are ruled out
4. Relevant test data with standard scores provided to support conclusions of the measures of intellectual/cognitive/information processing abilities by at least one of the following instruments: (a) WAIS-II or III (b) Woodcock-Johnson Psychoeducational Battery-Revised (c) Stanford-Binet IV (d) Peabody Individual Achievement Test (e) Stanford Test of Academic Skills
5. Statement of the functional impact or limitations of the disability
6. Current report (within 3 years), dated and signed
7. Statement of necessary accommodations

Note: High School IEP, 504 Plan, and/or letter from a physician or other professional will not be sufficient to document a learning disability. The evaluation must be comprehensive.

Attention Deficit Hyperactivity Disorder (ADHD)

A comprehensive evaluation report written in narrative form by an impartial individual not related to the employee, i.e., a developmental pediatrician, psychiatrist, neurologist, licensed clinical or educational psychologist, which includes:

1. Clearly stated diagnosis of ADHD based upon current DSM criteria
2. Evidence of early and current impairment in at least two different environments including past and present symptoms
3. Alternative explanations and diagnoses are ruled out
4. Relevant test data with standard scores provided to support conclusions including at least one of the following instruments: (a) WAIS-II or III (b) Woodcock-Johnson Psychoeducational Battery-Revised (including Written Language) (c) Behavioral Assessment Instruments and Checklists normed on adults

5. Statement of the functional impact or limitations of the disorder and the degree to which it impacts the individual
6. Medications prescribed and how they will impact the employee's ability to meet the demands of the postsecondary academic or work environment
7. Current report (within 3 years of enrollment date), dated and signed
8. Statement of necessary accommodations

Note: High School IEP, 504 Plan and /or letter from a physician or other professional will not be sufficient to document ADHD. Prescription medication cannot be used to imply a diagnosis.

Americans with Disabilities Act - Students

All programs and facilities are available for eligible students with disabilities. If a student needs any special accommodations, please contact the appropriate ADA Campus Coordinator or the Dean of Student Affairs.

INFORMATION TECHNOLOGY RESOURCES

LBW Community College provides access to computer equipment and resources necessary to support the educational mission of the College. Access to College information systems is granted to students and employees as a privilege and, as such, imposes certain responsibilities and obligations. The purpose of information technology resources is to provide educational resources for the College's students and employees.

Acceptable Use Policy

The College expects all students and employees to use information technology resources in a responsible manner, respecting the public trust through which they've been provided, the rights and privacy of others, the integrity of the facilities, and pertinent laws, College policies and standards, and to limit their use of information resources to the educational purposes and legitimate business of the College. This policy applies to all users of the College's information technology resources including faculty, staff, students, guests, organizations, and individuals accessing external network services, such as the Internet via College facilities. By using the College's information resources, users agree to abide by these policies and procedures.

Violations of this policy may result in suspension or revocation of utilization privileges, administrative discipline, or immediate termination/dismissal of the violator's relationship with Lurleen B. Wallace Community College, and could lead to criminal and civil prosecution. Every member of the College community has an obligation to report suspected violations of the *Acceptable Use Policy for Information Technology Resources*. Reports should be directed to the department responsible for the particular system involved. College information technology usage policies apply to all users and to all telephones, computer hardware, software, networks peripheral devices, data and any other components connected to or associated with the College's computer systems, including access to the Internet and the

use of electronic mail. The College will not be held liable for the actions of the College computer users when those actions are inconsistent with the policies and procedures set forth here.

The College makes no representation concerning the availability of computer resources, the privacy of material, or the integrity and/or retrievability of material placed on these resources. The College is not responsible for any damages resulting from the receipt and/or transmission of any electronic information. Acceptable use of the College's Internet connection provided via the Alabama Research and Education Network (AREN) is also governed by this document. Any activity that is not listed here, which violates local, state, federal laws, or the *AREN Acceptable Use Policy*, is also considered a violation of this *Acceptable Use Policy*.

User Responsibilities

Use of the College's information technology resources is permitted based on acceptance of the following specific responsibilities:

Use only those information technology resources for which you have permission.

Example: it is unacceptable

- To use resources you have not been specifically authorized to use;
- To use someone else's account and password or share your account and password with someone else
- To access files, data, or processes without authorization;
- To access files or data that are not publicly available;
- To purposely look for or exploit security flaws to gain system or data access;
- To obstruct the operation of the College's computer systems;
- To insert inappropriate objects into disk drives;
- To tamper with cables;
- To add or delete files or software without authorization;
- To change computer or network settings without authorization;
- To display or print materials of sexually explicit or discriminatory nature;
- To use information technology to violate any other College policy or procedure;
- To use information technology for illegal or criminal purposes that violate federal, state, or local laws.

Use information technology resources for their intended purpose.

Example: It is unacceptable

- To send forged email;
- To use electronic resources for harassment or stalking other individuals;
- To send bomb threats or hoax messages;
- To send chain letters that may interfere with the system's efficiency;
- To intercept or monitor any network communications not intended for you;
- To use computing or network resources for commercial advertising or other commercial purposes;

- To use computing or network resources for the promotion of other external organizations not related to the mission of the College;
- To attempt to circumvent security mechanisms;
- To use privileged access for other than official duties;
- To use former privileges after graduation, transfer, or termination.

Protect the access and integrity of information technology resources and the privacy of others.

Example: It is unacceptable

- To access or attempt to access another individual's password or data without explicit authorization;
- To access or copy another user's electronic mail, data, programs, or other files without permission;
- To use obscene, profane, lewd, vulgar, rude, inflammatory, threatening, or disrespectful language;
- To use threatening, intimidating, or vulgar behavior toward lab assistants, work study students, or staff;
- To continue sending email messages to someone after being told to stop;
- To post derogatory information or statements about a person

Abide by applicable laws and College policies, and respect the copyrights and intellectual property rights of others, including the legal use of copyrighted software.

Example: It is unacceptable

- To make more copies of licensed software than the license allows;
- To plagiarize works that you find on the Internet;
- To upload, download, distribute, or possess pornography;
- To violate copyright laws, including the use of images, programs, sounds, and text.
- To upload, download, or distribute copyrighted materials, including, but not limited to, software, music and movies for which the user does not have permission from the owner to do so.

System Administrators Responsibilities

System administrators and providers of College information technology resources have the additional responsibility of ensuring the integrity, confidentiality, and availability of the resources they are managing. Persons in these positions are granted significant trust to use their privileges appropriately for their intended purpose and only when required to maintain the system. Any private information seen in carrying out these duties must be treated in the strictest confidence unless it relates to a violation of the security of the system.

Although information technology providers throughout the College are responsible for preserving the integrity and security of resources, security sometimes can be breached through actions beyond their control. Users are urged to take appropriate precautions such as safeguarding their account and password and promptly reporting any misuse or violations of the policy.

College E-Mail Policy

The College provides email services to all faculty and staff. The e-mail system, which is an integral component of the College's technological resources, is owned by the College and managed by Instructional and Information Technology for the benefit of the College. The acceptable use of the e-mail system is consistent with the mission of the College. The College reserves the right, if circumstances warrant, to access, inspect, and disclose the contents of messages created, sent, or received using the e-mail system. It is the responsibility of all e-mail account holders to manage the use, message content, and size of their mailboxes.

Guidelines have been established to help faculty and staff members judge the appropriateness of broadcast e-mail when they need to send important information electronically to distribution lists on the exchange server. These are lists designated for specific groups and were created for use on the College e-mail system to easily distribute information that is official or relevant to College business. Currently, these are *everybody*, *Andalusia*, *MacArthur*, and *faculty* groups, but may include others.

Guidelines for Broadcast E-mail: It is an appropriate use of e-mail services to distribute timely messages in an environmentally friendly medium. At the same time, many e-mail users would prefer not to receive messages that are of no use to them or that could have been communicated in less intrusive ways. Therefore, please use the narrowest distribution list to find your audience. E-mail to large audiences can also burden the College network, especially when the message is large from inclusion of graphics or attachments.

Appropriate Subjects for Broadcast E-mail: Messages that communicate official notices or pertain to College business are appropriate. Examples are, but not limited to:

- Crisis/urgent announcements: natural disaster alerts, mechanical failures, weather closures or delays, crime alerts, health alerts, server maintenance.
- Logistics announcements: construction closures; traffic routing; environmental alert notices; and security announcements.
- Major policy and procedural changes that must be communicated quickly.
- Financial and administrative announcements (e.g., budget deadlines, purchasing deadlines, and personnel notices).
- Registration information and academic announcements/deadlines.
- Campus events sponsored by officially recognized College organizations may be publicized through broadcast email.

Inappropriate Subjects for Broadcast E-mail: Messages that are of a personal nature or content are not appropriate. Examples are, but not limited to:

- Commercial use (e.g., selling a car; renting a cottage; offering music lessons).
- Any message that supports a personal affiliation, view, or belief that is of a political or religious nature.
- Fundraising, except by or for officially recognized College organizations.

- Chain letters: any message which requests that the recipient forward it to others.

Unacceptable Use of the E-mail System: Unacceptable use of the e-mail system puts both the offending individual and the College at risk. Unacceptable use of the e-mail system includes, but is not limited to:

- Use of the College's e-mail resources for personal monetary gain or for commercial purposes that are not directly related to College business.
- Use of e-mail to harass or intimidate others or to interfere with the ability of others to conduct College business.
- A user sharing his or her password information with another person. A user should change his or her password if there is reason to believe that the password is known by other persons.
- Spamming - sending unsolicited material and/or material not related to the College's mission to a large number of individuals and/or groups.
- Spoofing – constructing an e-mail communication so it appears to be from someone else.
- The willful introduction of computer viruses or other disruptive/destructive programs into the network.
- Sending copies of documents or inclusion of the work of others that are protected by copyright laws into e-mail communications.
- Attempting unauthorized access to e-mail or attempting to breach any security measures on any e-mail system, or attempting to intercept any e-mail transmissions without proper authorization.
- Use of e-mail systems for any purpose restricted or prohibited by federal, state, or local laws or regulations.
- Political solicitations.

Consequences

Illegal acts involving computing resources may also be subject to prosecution by local, state, or federal authorities.

Information Security Program

Information Security is the subject of many state and federal laws. These laws and regulations create an emerging legal standard for obligations on the part of Lurleen B. Wallace Community College (LBWCC) to protect the data we collect, store, process, use, and disclose. Also, these laws affect how we handle personal information, which includes sensitive health and financial data.

Today information security is necessary to protect not only the College, but also homeland security. Institutions of higher education, like LBWCC, must also be protected from cyber-attacks. Any Information Security Program (ISP) should be designed to protect information and critical resources from a wide range of threats in order to ensure continuity, minimize risk, and ensure the availability of information.

In an effort to set safeguarding standards the Gramm-Leach-Bliley Act directs that all financial institutions implement an Information Security Program and designate a program coordinator.

The Lurleen B. Wallace Community College Information Security Program is available via the LBW Intranet, Publications Section.

COMPUTER SYSTEM

Weekly Scheduled Backups:

iSeries Power 7 Alliant Data Backup:

The BRMS backs up the Administrative Computing System (Alliant). The backups begin at 12:00 a.m. and are performed every weeknight Monday through Friday. Backups on Monday through Thursday perform incremental backups. The Friday back up performs a full back up.

iSeries Power 7 Backups:

Power 7 backups which include all operating system files and Alliant data files and libraries are backed up quarterly to a tape that is stored in the business office fire vault. The previous back up is stored off-site.

Tivoli Backup System – Windows Servers

Tivoli Storage Manager is software that runs on a Linux partition on our iSeries (IBM Power 7) system. Its purpose is to back up Windows and Linux servers.

TSM backs up the various servers first to hard drive storage so it can get them done quickly. Then it moves the backed up data to tape for longer term storage. TSM allows for granularity of restores by allowing you to restore just one file or a complete server. TSM is more efficient than other methods because it does a full back up the first time it backs up a server and afterwards it does incremental backups. This allows backups to be quick. And the TSM database allows file restoration to be easy because it knows what tapes it needs to restore any files.

Tivoli Storage Manager recently had a name change and is now called IBM Spectrum Protect. IBM Spectrum Protect offers integration with Hyper-V and VMware as well as file, block and object data protection.

Multiple servers from all campus locations are backed up nightly on staggered schedules. Again, these backups are initially created as a full back up on the Tivoli System and then incremental files are backed up beginning at 12:00 a.m. nightly Tuesday through Saturday.

Force or Unscheduled Backup:

A forced Full System backups are done based on the following:

- Power 7 (AS/400) Operating System Upgrade
- Emergency of Bad Weather (Hurricanes)

Note: Full backups contain all College data and programs which can be loaded on another IBM Power 7 (AS/400) for normal operations. A Full System back up contains all College

data and libraries plus a copy of the Power 7 operating system. This type of back up would be used to re-load to a new Power 7 if the current system was damaged.

Off-Site Backups

Solutions Team: (Off-Site backup of Power 7 – Alliant Data)

Data400 Library is backed up daily for incremental changes at 5:00 a.m. A complete back up is completed every Friday at 11:00 p.m. Also some of the critical file folders from our file server FS03 are backed up as well.

Locations of Tapes:

The backups for the Power 7, which are full backups of the system, are stored in the Business Office vault on the Andalusia Campus. All daily backups of the AS400 are stored in a secured location in the Computer Center. In the event of an emergency or bad weather, a copy of the tape for the Power 7 and servers will be on-site in the business office and off-site in our safety deposit box.

In Case of a Major Disaster:

In the case of a major disaster resulting in the loss of main hardware, LBWCC would have two copies of the administrative software and critical data on file servers. An on-site copy and an off-site copy provided by the Solutions Team. A contractual agreement with the Solutions Team to provide Online Data Backup – Disaster Recovery was entered into on October 1, 2010. The details of this plan are in the Office of the Associate Dean of Instructional and Information Technology. The actual process for this backup is defined in the section above under nightly backups.

INSTITUTIONAL DATA/REPORTS

Requests for institutional data or reports may be made by submitting an email to the Office of Institutional Effectiveness and Quality.

INTELLECTUAL PROPERTY POLICY

The College defines intellectual property as works, discoveries, or findings that are intellectual or creative in nature.

Employees

The following policy applies to all full-time and part-time faculty and staff, as well as to individuals who have contracted with the College to perform services:

LBWCC owns all intellectual property, including but not limited to any copyrighted, trademarked, or patented works that are fully or partially created by employees on institution time or with the institution's resources, such as equipment, facilities, and supplies. Revenue generated from the sale or distribution of such intellectual property belongs to the College.

The employee retains the rights to any copyrighted, trademarked, or patented works that are not created on institution time or with the institution's resources. Employees who anticipate creating a piece of intellectual property on their own time shall submit a completed *Notification of Secondary Employment* form prior to beginning work in order to avoid potential conflicts over ownership rights of that material.

Students

The following policy applies to all full-time and part-time students:

Ownership of any intellectual property created by a student enrolled at the College such as written compositions, musical scores, sculptures, paintings, photographs, films, audio or video recordings, and computer software, shall be vested in the student unless the student has created this intellectual property in the course of employment by the College. Students who are employed by the College (e.g., tutors, Work Study students) are subject to the employee policy noted above.

When a student submits work as a course requirement, the College is granted a perpetual, royalty-free license by the submitting student to make copies of the work and to distribute copies to faculty, staff, or students for administrative and educational purposes.

The College and its students recognize that some intellectual property may arise or be developed by students from interaction with the instructor and other students. Under those circumstances, the intellectual property may not be the exclusive property of the student.

When a student's work has been accepted for publication by a journal or a publisher, absent an agreement to the contrary, the work becomes the property of the publisher.

Resolution of Disputes

In cases where ownership of intellectual property is uncertain, the President will establish an *ad hoc* committee to review the details of the case and make a final determination regarding rights to the material.

KEYS

Requests for receipt of keys should be submitted through the Business Office, which is designated as the College's key custodian. A *Key Check-Out Form* must be completed and signed by both the employee and supervisor/division chair.

LIVE WORK

Live work is performed by students, under the supervision of an instructor, as part of their vocational/technical training program. The work project is for service, repair, or production jobs related to the instructional program and may be performed in the school or on a job site. Live work projects are conducted for the education of the student, not as a benefit to the eligible

person or organization. LBW Community College will not compete with private industry, or profit from live work projects.

The following individuals and organizations are eligible recipients:

1. Tax supported programs and institutions,
2. Public employees, active and retired,
3. Students in ACCS institutions,
4. Charitable organizations.

Live work can occasionally be conducted for individuals or organizations other than those listed, provided:

1. Such live work is not designated for competition with private enterprises.
2. The circumstances involved are unusual and justify the acceptance of the live work project.
3. The instructor justifies in writing why the live work is necessary for the training program and receives approval from the President.

Administration and control of live work is the responsibility of the President. In addition, the President is responsible for the determination and collection of all charges and maintenance of appropriate records. These responsibilities are delegated to the Chief Financial Officer. State prescribed and approved accounting procedures will be followed.

Internal control of live work projects requires a system that includes a work order, *Internal Audit Report*, institutional policies for administering live work projects, and guidelines for purchases for resale. The work order should be printed in sufficient copies and numbered consecutively to provide internal control. The terms of payment and a statement releasing the College from liability must be printed on all copies of the work order. A work order must be assigned to each project and signed by the customer prior to beginning the work.

College personnel are to review the status of work projects in order to determine compliance with the goals of the instructional program, institutional procedures, and the policies of the Alabama Community College System Board of Trustees.

1. Service charge for live work is the cost plus 20% and in no case shall the total charge be less than \$5.00.

Cosmetology services are provided to the public with a schedule of charges established by the Cosmetology Department.

Purchases for resale on live work projects must follow the same procedures as other expense items; however, each purchase must be referenced by placing the work order number on the invoice and the invoice number on the work order. This procedure establishes an audit trail when purchasing for resale.

To avoid competition with private enterprise, live work is restricted as follows:

1. Live work will be done only when it is essential to training and necessary for the acquisition of occupational skills leading to employment.

2. Live work will not be performed when there is any connection with or relation to the making of a financial profit by a program, organization, institution, or individual.
3. No person shall use the College for personal gain or profit.

The customer contacts the instructor concerning the work to be done. The instructor determines if the work is eligible and if it is beneficial to training. If the work does meet these requirements, the instructor places the customer on a waiting list.

When the instructor is ready to begin work, he will notify the customer to bring in the job and ask the customer to sign a work order for work to begin.

The instructor purchases materials as needed and charges them to the job by the invoice number. If the cost of supplies and repairs reaches an amount the instructor judges to be greater than the value of the item, the instructor may require that the customer pay a monetary deposit before further work is performed.

PARKING/TRAFFIC REGULATIONS

LBWCC's policy on Parking/Traffic Regulations can be found in Section 10 of the Policies and Procedures Manual.

PERFORMANCE IMPROVEMENT PLAN

LBWCC has adopted the use of a *Performance Improvement Plan (Plan)* as a formal process to be used by supervisors to assist employees when an employee's performance does not meet acceptable standards or when an employee's behavior requires modification. The *Performance Improvement Plan* identifies performance and/or behavioral issues requiring correction or modification and creates a written plan of action to guide the improvement or corrective action process. The *Plan* is not intended to replace the annual employee evaluation process. The *Plan* may be used as a supplement to the annual employee evaluation or it may be used at any time during the year as a process for correcting a stand-alone situation or behavior that was not reflected at the time of the annual employee evaluation.

The *Performance Improvement Plan* is a structured communication tool designed to facilitate constructive discussion and action between the supervisor and the employee. The use of the *Performance Improvement Plan* will provide clear documentation of the deficiencies and/or unacceptable behaviors, the required improvements and methods of improvement, the available resources to support the improvements, the timeline for improvements, and the communications between the supervisor and the employee relative to the issues described within the plan.

The *Performance Improvement Plan* is not intended to serve as a disciplinary measure but rather as a process for improvement or reinforcement. For that reason, supervisors may maintain the *Plan* in their supervisory file without a copy of the *Plan* being placed in the employee's personnel file. Should the *Plan* result in a correction of the deficiencies, the *Plan* is not required to be placed in the employee's personnel file.

However, should the *Plan* not result in correction or should the supervisor, the administrator for the functional area, or the Senior Personnel Officer determine that the reason for the *Plan* justifies initial placement in the personnel file, the *Plan* will become part of the employee's personnel file. In circumstances when a *Performance Improvement Plan* was successfully completed and not included in the employee's personnel file but the correction is not maintained and a follow-up *Performance Improvement Plan* is required, the new *Plan* and all prior *Plans* concerning the same areas of deficiency will be placed in the employee's personnel file.

Supervisors are encouraged to work with the Senior Personnel Officer prior to creating a *Performance Improvement Plan*.

PRINTING OF COLLEGE MATERIALS

To present a consistent image among all departments and divisions of the College, it is important that uniform formats, styles, colors, and paper stocks be used in printing of College materials. To assure uniformity in presentation of the College's image, certain guidelines are to be followed.

Procedures include:

1. All publications of the College, including program brochures and flyers, will be developed in cooperation with the Director of Marketing and Development prior to distribution to the public or posting on campus.
2. All letterhead and envelopes will be printed in the same format, style and color, and on the same paper stock.
3. All business cards will be printed using identical formats.

The Marketing Department is responsible for proofing, printing, and delivery of publications, including electronic based (Internet) information, and will provide assistance with preparation of printed materials, when needed.

PUBLICATIONS

All College publications are reviewed by the Marketing Department for consistency of message and accuracy of image.

PUBLICITY AND NEWS RELEASES

All news releases or statements made on behalf of the College to the media are to be handled through the Marketing Department. In order to protect the public image of the College and ensure unified messaging, all College employees will notify the Public Information Officer regarding media requests for interviews, quotes or soundbites on behalf of the College, or background information on a particular topic.

Information for any event (registration, GED testing, program promotion, student honors or recognition, etc.) to be publicized in area newspapers or aired on broadcast media should be submitted to the Marketing Department for review and approval prior to distribution. Employees should be conscious of allowing the necessary "lead time" when making requests for media coverage or attendance of Marketing Department personnel at events.

This procedure will aid in getting the proper information released to the College service area in a timely and efficient manner.

Crisis Communications: During any crisis situation, whether due to a natural disaster or man-made, only the President (or a designee) and the Public Information Officer are authorized to release information to the media and the public. All other employees should be professional and helpful to the media by connecting them with the designated spokesperson, but will not provide any information during a time of crisis. All comments should be coordinated, guided by professionalism and transparency, and serve to mitigate the crisis while maintaining the College's integrity.

PURCHASING PROCEDURES

Standardized forms for requisitions are available in the copier room on the Andalusia Campus and in the Business Office at the other College locations. The employee prepares the *Requisition Form* and submits the completed form to their immediate supervisor or budget manager for approval. The supervisor submits it to the appropriate administrator for processing to the Business Office.

When approvals have been made, a purchase order number is assigned. Purchase orders are prepared and copies are distributed to the vendor, the Business Office, and the requester. When the order is received, the person who requested the order will sign and date the invoice or packing slip signifying that the order has been received and in good condition. The signed invoice or packing slip is then returned to the Business Office to be matched with the approved purchase order and vendor invoice. Once this is done the invoice is processed for payment.

Requisitions that are not approved are returned to the requester with a note stating the reason it was not approved.

Receipt of Purchases

The designated central receiving point for equipment, large bulk items and items not intended for sale in the College bookstore is the Switchboard/copier room on the Andalusia Campus and the Business Office at the other College locations.

RESTROOM/LOCKER ROOM USE POLICY

All Lurleen B. Wallace Community College restrooms and locker rooms are designated separately for women or men unless otherwise posted. Any individual using a restroom or locker

room designated for the other biological sex shall be subject to discipline. For individuals with exceptional circumstances or privacy concerns, a single use/unisex restroom is available on each of our campuses. On the Andalusia Campus, unisex restrooms are located in the Child Development Center building, the Forestry building, and the building that houses the athletics concession stands. On the MacArthur Campus, unisex restrooms are located Building F, Building I, the Nevin building, and within several laboratories of the technical instructional programs. On the Greenville Campus, unisex restrooms are located in the Conference Center building. A unisex restroom is also located in the Luverne Center.

SAFETY AND EMERGENCY PROCEDURES

LBWCC's Safety and Emergency Procedures can be found in Section 10 of the LBWCC Policies and Procedures Manual.

SERVICES FOR EMPLOYEES

Mail Services

Business Office/Switchboard personnel will distribute mail to all appropriate employee mailboxes on each campus. Outgoing College mail will be processed by College personnel, who will use the College postage meter located on the Andalusia and MacArthur campuses and will utilize stamps on the Greenville Campus and at the Luverne Center.

Notary Public

Services of a notary public for official College business is provided at no cost in the Business Offices, President's Office, and the Human Resources Office of Lurleen B. Wallace Community College.

SEXUAL MISCONDUCT POLICY

Title IX Sexual Harassment Complaint Procedures

A. INTRODUCTION

Lurleen B. Wallace Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Lurleen B. Wallace Community College does not tolerate or condone retaliation. Individuals wishing to report reporting sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Ms. Lisa Carnley (Employees)
Chief Financial Officer and Senior Personnel Officer
Andalusia Campus
George C. Wallace Administration Building
1000 Dannelly Blvd.
Andalusia, AL 36420
334.881.2216
lcarnley@lbwcc.edu

Ms. Tammy Merida (Students)
Associate Dean, Career Technical Education
MacArthur Campus
1708 N. Main Street
Opp, AL 36467
334.493.5357
tmerida@lbwcc.edu

and/or

Assistant Secretary

U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at www.lbwcc.edu under the Title IX webpage.

POLICY

The U.S. Department of Education's [Office for Civil Rights](http://www.ed.gov/officeforcivilrights) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a

complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, domestic violence or sexual assault.

Definitions of Sexually Based Offenses

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

- (a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (b) Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - The length of the relationship,
 - The type of relationship,
 - The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10)).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291 (a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but

do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Local Domestic Violence Services or any other victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report a sexual harassment incident to the Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's

education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. STANDARD OF EVIDENCE FOR DETERMINING RESPONSIBILITY

For the purposes of the College's Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that, under the circumstances, a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint.

The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DISMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, the reason for dismissal within five (5) business days of the decision to dismiss the complaint and the Complainant's right to Appeal, if applicable.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least ten (10) days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response.

J. LIVE HEARING PROCEDURE

Upon completion of the final investigative report, the Hearing Decision Maker(s) will schedule a live hearing. The Hearing Decision Maker(s) will have completed Decision Maker training during the current academic year. If there are multiple Hearing Decision Maker(s), one shall be designated as the Primary Decision Maker. The Hearing Decision Maker(s) will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, and witnesses named in the final report of the live hearing date. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or an audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Maker(s), are able to see and hear the party or witness answering questions in real-time.

The Hearing Decision Maker(s), Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Hearing Decision Maker(s), parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney. Neither party may dismiss a College appointed advisor.

The hearing process will consist of:

- Opening statement by Hearing Decision Maker (or Primary Decision Maker)
- Review of hearing procedures, formal complaint and notice of allegations by Hearing

Decision Maker (or Primary Decision Maker)

- Review of potential hearing outcomes and sanctions by Hearing Decision Maker (or Primary Decision Maker)
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Decision Maker (or Primary Decision Maker)
- Closing statement by Hearing Decision Maker (or Primary Decision Maker)
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Decision Maker (or Primary Decision Maker) shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Decision Maker (or Primary Decision Maker) concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Maker(s) may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint.

Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Maker(s) may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Hearing Decision Maker(s). The Hearing Decision Maker (or Primary Decision Maker) will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Hearing Decision Maker (or Primary Decision Maker) determines that the question is not relevant, the Hearing Decision Maker(s) (or Primary Decision Maker) will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

Decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Decision Marker (or Primary Decision Maker) shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Hearing Decision Maker(s) will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Hearing Decision Maker (or Primary Decision Maker) will submit the hearing report to the Title IX Coordinator within ten (10) business days of the live hearing.

The Title IX Coordinator will submit the hearing report simultaneously to the Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Lurleen B. Wallace Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Hearing Decision Maker(s). The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Hearing Decision Maker(s), but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President (or his/her designee) review the decision of the Hearing Decision Maker(s). The written request must be filed within ten 10 business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;

- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 106.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstances or as may be otherwise agreed by the parties.

If the Complainant is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. T

he College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- (i) provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (ii) obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

L. RETALIATION PROHIBITED

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

M. RANGE OF POSSIBLE SANCTIONS

On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

- Disciplinary Reprimand
- Disciplinary Probation
- Disciplinary Suspension
- Class Suspension
- Library Suspension
- Disciplinary Expulsion
- Payment of Damages
- No Trespass Order
- No Contact Order

For Employees:

- Oral warning
- Written warning
- Letter of reprimand
- Mandatory attendance at an educational program on discrimination, harassment, and/or sexual misconduct, or retaliation
- Mandatory referral for psychological assessment and compliance with any resulting treatment plan
- Restriction of responsibilities
- Reassignment or transfer to another department
- Suspension without pay
- Final written warning
- Dismissal/termination of employment
- No trespass order may be issued for individuals who have been accused of and/or

For Individuals other than employees or students:

1. A no trespass order may be issued for individuals who have been accused and/or found in violation of sexual harassment.
2. A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at <https://www.lbwcc.edu/>.

SMOKING/TOBACCO POLICY

As of June 1, 2020, Lurleen B. Wallace Community College is smoke-free and tobacco-free. "Smoking" includes inhaling, exhaling, burning, carrying, or possessing any lighted product, including cigarettes, cigars, pipe tobacco, or any other lit product. "Smoking" also includes the use of electronic cigarettes or similar devices. "Tobacco" includes smokeless tobacco, including, but not limited to, products known as dip, chew, snuff, or snus.

All locations of Lurleen B. Wallace Community College are smoke-free and tobacco-free, including instructional sites, campuses, housing, athletic facilities, grounds, parking lots, and vehicles owned, leased, or rented by the College. All College employees, students, visitors, vendors, and contractors are required to comply with this policy, which will remain in force at all times.

Furthermore, this policy prohibits any smoke and/or tobacco-related advertising or sponsorship from appearing in any publication produced by the College or by any club, team, organization, or association authorized by LBWCC.

Each faculty or staff member will be responsible for enforcing the policy in his/her area. See the *Alabama Community College System Board of Trustees Policy 514.01: Use of Tobacco Products*.

SOFTWARE PERMISSIONS

Procedures for Granting Permissions to Banner (OneACCS)

The following policy is to govern procedures to establish for employees' security permissions to Banner (OneACCS). Procedures should be established to ensure that permissions to programs of an employee be based on the duties of the employee and that all changes to Banner permissions be documented.

It will be considered insubordination if a College employee shares his or her password to allow others to open Banner (OneACCS) for which they do not have security permissions. Students who are on work-study shall not be given duty assignments that require permissions or use of Banner (OneACCS).

Policy

Granting security permissions to Banner (OneACCS) for employees who have duties and responsibilities in a functional area shall be the responsibility of the Functional Team Lead or IT. Functional Team Leads are listed below for each group.

- Student – Functional Team Lead, Ms. Jan Riley
- Finance - Functional Team Lead, Ms. Lisa Carnley
- Financial Aid - Functional Team Lead, Ms. Donna Bass
- Human Resources - Functional Team Lead, Ms. Ashley Williamson
- IT – Mr. Alan Cobb, Mr. Greg Aplin

It shall be the responsibility of the Functional Team Lead to remove security permissions upon termination of the employee or when the duties and responsibilities of the employee changes. Care shall be taken to ensure that the employee is given permissions to only those security groups/classes with the least number of objects yet allows the employee to have permissions to the objects that are needed and with the appropriate role of maintenance or query only. When changes to an employee's Banner security permissions are needed, a support ticket shall be submitted to the OneACCS Help Desk. The support ticket should include the employee's name and ID number with the name of the security groups or classes to have permissions added or removed.

Banner Audits

The Functional Team Lead must review all employees' security permissions in their specific group annually. IT shall coordinate with the Functional Team Lead each summer to conduct an audit of all Banner (OneACCS) permissions to ensure that permissions are based on the current duties of the employees. This process will ensure all employees have security permissions to objects based on their specific job responsibilities. Mr. Alan Cobb, Mr. Greg Aplin, or the Functional Team Lead can use ARGOS to generate a listing of security permissions for each employee. This document will list all security groups, classes, objects, and roles the employee has access to. The Functional Team Lead can then use this document to review the current

security permissions and determine if permissions need to be added or removed. To make these changes, the Functional Team Lead must create a support ticket with One ACCS Help Desk. All Banner audits should be documented.

SOLICITATIONS

Except as is otherwise permitted by this provision, solicitation for purely commercial purposes is prohibited on all property owned or used by the institution. Solicitations by vendors incidental to the vendor providing services on behalf of the institution pursuant to a contract between the institution and the vendor are permissible.

An agent, vendor, or solicitor shall not be permitted on campus to distribute literature, solicit funds, or sell to faculty, staff, students, or campus organizations without specific approval by the President or designee.

An agent, vendor or solicitor will not be allowed on campus to sell merchandise or services to students except when sponsored by a student organization. Sponsorship by a student organization involves bearing the responsibility for the reputation of the vendor. Sponsorship by a student organization also involves the requirement of student participation in the actual selling as well as ensuring that the sponsoring student organization receives a significant portion of the receipts from sales. Charitable, tax-exempt organizations will be considered on an individual basis.

On-campus solicitation or other solicitations originated by students to raise funds for institution-related activities may be permitted only with prior approval of the President or appropriate dean. Solicitation for non-institution-related activities shall not be permitted on campus except with the approval of the President or designee.

The funds raised by such activities or events shall be used for the benefit of the group, organization or individual, or for charity; and no funds shall be distributed to the officers, members, or any individual for personal profit or use.

Solicitation of dues and/or membership in an organization is permissible only by affiliated groups, organizations or individuals.

STUDENT RECRUITMENT BY EMPLOYEES

Policy for Student-Recruitment Incentives

It is the policy of Lurleen B. Wallace Community College that employees or any individuals representing LBWCC that engage in student recruitment, admissions, or the awarding of student financial assistance shall not be provided a commission, bonus, or other incentive payment based directly or indirectly on securing student enrollments.

Policy for High-Pressure Recruitment

It is the policy of Lurleen B. Wallace Community College that the College will refrain from using high-pressure recruitment tactics. The College and its representatives shall not make multiple unsolicited contacts (3 or more), including contacts by phone, email, or in-person; or engage in same-day recruitment and registration for the purpose of securing Service member student enrollments.

STUDENT ORGANIZATIONS

Obtaining Continued Recognition/Chartering Procedures

Formation of New Organizations

Any group wishing to organize on campus must submit a written request to the Dean of Student Affairs. The Dean of Student Affairs will present this request to the Executive Council for approval and then notify the group of that decision. At the appropriate time, a constitution containing the following information must be presented to the Dean of Student Affairs for approval:

1. The name of the organization,
2. The statement of purpose of the organization,
3. Membership eligibility requirements,
4. A list of promoting students,
5. A listing of officers by title and duties and any special function of the offices,
6. A statement of the length of terms of the officers and the time and method of election,
7. A statement of when, where, and how often meetings will be held,
8. A statement of membership dues, including amount and frequency of payment, and provision for disposition of any funds in the event of dissolution of the organization,
9. Provision for club advisors and name of club advisor,
10. Statement of any national, state, or regional affiliation and a copy of this affiliation's constitution must be attached.

Temporary Recognition

Temporary recognition may be given to organizations upon submission of a constitution containing the above listed requirements and would permit the organizations to function for not more than one semester pending official charter approval.

Review and Approval

A typed copy of the proposed constitution must be submitted to the Dean of Student Affairs for suggestions, recommendation, and approval. In the event that recognition is withheld, an appeal may be made to the President of the College. During the time that its application for recognition is being considered or an appeal is being made, a group may not sponsor speakers or activities in the name of the proposed organization.

Any change or amendment affecting the nature or purpose of the organization as originally approved must also be approved by the Dean of Student Affairs, and an up-to-date copy of the constitution must be on file in the Student Affairs Office.

Club Sponsors/Advisors

All student organizations must have a qualified club sponsor/advisor approved the Dean of Student Affairs and the President of the College. Any changes to sponsors or advisors must be coordinated through the same individuals. Each organization must also have at least one co-sponsor or alternate advisor, who will also be approved by the Dean of Student Affairs and the College President.

Upon acceptance of the recommendations, the Dean of Student Affairs shall notify the sponsor/advisor. A faculty member who agrees to serve as a club sponsor/advisor accepts the responsibility for encouraging the organization in its purpose and activities within the limits of College policy and the goals and objectives of the organization as set forth in the statement of purpose and constitution.

No meeting is authorized or recognized unless attended by the sponsor/advisor or a substitute duly approved by the Dean of Student Affairs. The proceedings of meetings held with a substitute must be reviewed by the sponsor/advisor.

Speakers, special programs, and activities, and program topics must have the formal approval of the club sponsor/advisor and the Dean of Student Affairs or his/her designee. Requests for activities, other than normal meetings must be made in writing at least seven days prior to the activity. A request for outside speakers must be made, in writing, a minimum of three days prior to the issuance of an invitation.

Meetings

Recognized student organizations are required to hold their meetings on campus, and the College facilities will be made available to them. Special permission must be obtained from the Dean of Student Affairs or his/her designee for off-campus meetings.

Policies for Clubs and Organizations

Campus organizations shall be open to all students without respect to race, creed, national origin, sex, or disability. All clubs and organizations must conform to the laws and policies of the State of Alabama, the Alabama Community College System Board of Trustees, Lurleen B. Wallace Community College, and the Student Government Association. No club or organization shall interfere or support interference with the regular academic pursuit of any student. No club or organization shall cause or encourage non-attendance of classes or campus activities without prior consent of proper College officials. Clubs or organizations shall not encourage any action that might cause disrepute to a student, instructor, or College activity.

Tenure of Student Organizations

Any organization determined not to fulfill its approved purpose and goals is subject to probation, reorganization, or dissolution. The Dean of Student Affairs may request minutes of meetings, financial statements, and/or any other information he/she may deem appropriate in determining the tenure of a student organization.

Fund-Raising and/or Solicitation of Funds

All fund-raising activities for student organizations and clubs must be supervised by the faculty/staff sponsor(s). College fund-raising activities for student organizations and clubs must be approved by the Dean of Student Affairs. All student organizations must submit through their faculty/staff program sponsor to the Dean of Student Affairs, a written request for approval stating the purpose and type of fund-raising activity, whether it will take place on campus or off-campus, and the targeted group (e.g., community, business, student body, staff, community agencies organizations). The date the activity is planned should be specified and the request should be submitted at least one week prior to the activity. The Dean of Student Affairs will provide a copy of this information to all appropriate personnel of the College.

The request may be made through the use of a memorandum addressed through the faculty/staff sponsor to the Dean of Student Affairs.

TELEPHONES

Campus telephones are for official College business only.

Procedure for Evening Coverage of the Telephone

The switchboard receptionist will handle incoming telephone calls requiring an operator until 5:00 p.m. Monday through Thursday and until 12:00 p.m. on Friday.

At 5:00 p.m. the switchboard receptionist will transfer incoming operator calls to the Learning Resource Center. The evening staff member in the Learning Resource Center will handle incoming operator calls until 8:00 p.m. or until the Learning Resource Center closes.

Note: Telephone receptionists are not expected to leave their stations to deliver telephone messages. They should contact the College employee, when applicable, or record the message for delivery at a later time.

TUITION WAIVER POLICY

This tuition assistance program is designed for all full-time benefits eligible employees, retirees, and benefits eligible H Salary Schedule employees of The Alabama Community College System and the Alabama Community College System office and their dependents. The program provides tuition assistance for courses taught for credit by community and technical colleges under the control of the Alabama Community College System Board of Trustees and, when applicable, Athens State University.

This program will not include non-benefits eligible, temporary, or part-time employees, or persons serving as independent contractors to any of the Alabama Community College System colleges or entities or to the Alabama Community College System Office.

For eligibility purposes, a dependent is defined as:

1. the spouse of any eligible employee or retiree;
2. the unmarried children of any eligible employee or retiree residing in the household of the employee or retiree, residing in the household of the employee's or retiree's former

- spouse, or residing in temporary housing while enrolled in college such as college dormitories, apartments, and student housing;
3. the unmarried stepchildren of any eligible employee or retiree residing in the household of the employee or retiree;
 4. a legal ward (a minor child placed by the court under the care of a guardian) when the guardian is a benefits eligible employee or retiree.

All eligible employees and their dependents will be allowed a waiver of one-third (1/3) of the normally-charged tuition after the first (1) year (the equivalent of one (1) full academic year for faculty or at least twelve (12) months for non-instructional employees) of employment. A waiver of two-thirds (2/3) tuition after the second (2) year of employment (the equivalent of two (2) full academic years for faculty or at least twenty-four (24) months for non-instructional employees) is allowed for eligible employees and their dependents. A waiver of full tuition after the third (3) year of employment (the equivalent of three (3) full academic years for faculty or at least thirty-six (36) months for non-instructional employees) is allowed for retirees, eligible employees, and their dependents.

Partial tuition adjustments are to be rounded down to the nearest dollar. Eligible Salary Schedule H employees will be allowed a waiver calculated at a prorated rate of full-time employment. Expenses for supplies, books, and fees other than tuition will not be waived. Each college or entity will be allowed to count the credit hours generated by these enrollees.

Participation in this program is in addition to the employee's full-time work week, and should not be considered when computing the employee's time for financial compensation. However, in certain cases the employee's work schedule may be adjusted to permit course attendance. Adjustments to an employee's weekly work schedule must be recommended by the employee's supervisor and/or Dean, and approved by the President.

Approved tuition assistance waivers are honored through the completion of the current term only.

Submission of Tuition Waivers

A tuition waiver is requested by completing the Tuition Waiver Form. A Tuition Waiver Form is available on the LBW Intranet. Tuition Waiver Forms should be submitted to the President's Office as soon as possible during the registration period before the beginning of the semester. A copy of the student's Course Schedule and Unofficial Transcript should be attached to the Tuition Waiver Form in order to verify the total number of hours for the waiver, and the student meets the GPA requirement to qualify for a waiver. The employee will be responsible for paying any remaining tuition and fees after the waiver is applied.

Eligibility

Employees must have been employed by an Alabama Community College System college or entity of the Alabama Community College System office for the equivalent of one full academic year for faculty or at least 12 months for non-instructional employees, prior to the first scheduled day of class for the term for which the employee is applying. Dependents will be eligible when

said employee or retiree is eligible, and to the same degree to which the employee or retiree is eligible, except as herein modified. Only those former employees who have 25 years of continuous service and retired from an ACCS entity or system office or those former employees who have a disability retirement from an ACCS entity or system office are eligible for tuition assistance under this policy.

Eligibility terminates if the employee discontinues full-time employment or becomes ineligible for benefits at the respective college or entity or ACCS System Office for any reason. Dependents will be ineligible when their respective eligible employee or eligible retiree becomes ineligible. Eligibility terminates for retirees and their dependents five years after the retiree's effective retirement date on file with the System entity or System Office.

Any eligible student under this policy must maintain at least a "C" average (2.0 on a 4.0 scale) to be eligible for tuition waiver in the courses for which the student receives tuition assistance. Failure of the eligible student to meet this grade requirement causes the student to be ineligible for further tuition assistance until the student (1) brings his cumulative grade point average at the same college in which the tuition assistance was previously provided to a 2.0, or (2) provides satisfactory evidence that the student paid tuition at a college after he/she became ineligible for tuition assistance for the same number of hours in which the student failed to make a 2.0 in tuition assistance classes with evidence that he/she obtained at least a 2.0 in the paid classes. If a student has become ineligible for tuition assistance at one college due to his/her inability to maintain a 2.0 in tuition assistance courses, the student is ineligible to receive tuition assistance at any other college.

Recertification of Eligibility

The eligible student must re-certify eligibility, as specified in the Eligibility section above, prior to registering for a new term by completing, submitting, and receiving approval of the Tuition Waiver Form. Providing false information will result in exclusion from all tuition assistance benefits and result in a requirement to repay all tuition paid for the student under this program and possible other disciplinary action.

Repeating Classes

An eligible student may not receive tuition assistance to repeat a course for which tuition assistance was already provided. Tuition assistance, if obtained by an eligible student for a repeated course, must be repaid by the student. Tuition assistance will be disallowed at any college for repeating a class for which the grade of "W" was originally received.

Auditing

An eligible student will be allowed to audit one (1) course (up to five (5) credit hours) per term and will be allowed the appropriate percentage of waiver of the normally charged tuition. The eligible student must meet all attendance requirements, class participation, and assignments as required of credit-enrolled students except the final examination is not required. Failure to comply with these requirements will result in the student becoming ineligible for further

participation as an audit student in credit hour-producing courses.

The student-employee or dependent wishing to audit a course must complete the *Intent to Audit* form, have it signed by the instructor of the desired course and the Dean of Instruction and submit the form to the Director of Admissions and Records before the end of the registration period. Once the registration is designated as an audited course, it cannot be changed to a credit course. Financial aid is not available for audited courses.

Eligible Student Responsibility

It is the responsibility of the eligible student under this benefit program to ensure that all documents and forms required in this process are completed, submitted, and approved by the appropriate personnel in a timely manner. Any information or forms deemed incomplete will cause a delay in the processing of the tuition waiver. It is the eligible student's responsibility to verify with the college of enrollment that all documentation and forms are completed and approved in a timely manner.

USE OF STATE PROPERTY FOR POLITICAL PURPOSES

Sections 36-12-60, et seq., of the Code of Alabama (1975) make it illegal for "any officer or employer of the State of Alabama to use or to permit to be used any state-owned property of any character or description, including stationery, stamps, office equipment, office supplies, automobiles or any other property used by him, in his custody, or under his control, for the promotion or advancement of the interest of any candidate for public office of the State of Alabama." Furthermore, it is "unlawful for any officer or employee of the State of Alabama to transport, cause to be transported or allow to be transported in any automobile or other vehicle belonging to the state or any privately owned vehicle while mileage is paid by the state any campaign literature or propaganda which promotes or tends to promote his/her candidacy or the candidacy of any other person for the nomination or election to any office of the State of Alabama."

USE OF FACILITIES AND SERVICES

Access to Campus

The facilities and grounds of the institution are restricted to LBWCC students, employees, and invited guests of the institution, except when part or all of the campus, its buildings or facilities are open to the general public for a designated time and purpose, or when use by non-affiliated groups, organizations or individuals has been granted or approved pursuant to the provisions of this policy. A guest of the institution, whether invited by a student or employee, is approved to visit for a specific time, place, and purpose. Loitering is prohibited.

All persons on the campus of Lurleen B. Wallace Community College shall be subject to all rules and regulations of the institution applicable to the conduct of students on campus, and to all

applicable federal and state laws and regulations. In addition, all persons who operate motor vehicles on any campus or any off-campus center agree by such operation to be subject to institution rules, regulations, policies, and procedures for operating and parking of vehicle. Anyone who is committing any act tending to interfere with the normal, orderly, peaceful, or efficient conduct of activities of the College, may be directed by an official of the institution to leave the campus or facility. If the person fails to do so, trespass charges may be made by the institution through the appropriate local law enforcement agency or court.

General Conditions for Use of Property or Facilities

LBWCC will allow the use of its facilities, when available and when the use does not conflict or interfere with normal, day-to-day operations and activities. Use of the institution's facilities by others shall be compatible with the philosophy, mission, functions and objectives of the College. LBWCC will allow the use of its facilities in accordance with this policy, applicable laws and ordinances, established rules and regulations, and prevailing community standards of conduct and behavior. Exceptions to this policy must be approved by the President, prior to the signing of a contract.

Facilities may be used based on a priority system. A priority system is established to facilitate decisions on facilities use and applicable charges, when scheduling conflicts arise. First priority for use will be given to College events and no charge will be levied. Second priority will be given to organizations with which the College has a written partnership agreement and events co-sponsored by the College such as meetings requested by elected federal, state and local officials or municipalities; however LBWCC facilities may not be used for political campaign activities. Rental fees will not be levied, but other fees, such as clean up and damage to the property, may be charged to the user. Third priority will be given to users that are non-profit, civic, cultural, or charitable in nature. These users will be assessed applicable charges. The last priority will be given to other individuals, governmental entities, religious and other groups, professional associates, clubs, corporations, and institutions. These users will be assessed applicable charges. In conjunction with the priority system, facilities may be used based on a rental fee schedule and established rules and regulations. A fee schedule is published to establish rates for rentable space. Detailed rules and regulations are published and available to the public via the LBWCC website. A rental application will be used to specify contractual terms between the College and the applicant.

Campus property and facilities may not be used by any non-affiliated group, organization or individual for the conduct of profit-making activities, except when a rental or lease agreement is negotiated and the institution receives a fair rental value for the property or facility used. Rental or lease agreements may be required for nonprofit activities of non-affiliated groups, organizations or individuals; however, rental charges for such use may be reduced or waived at the discretion of the President. Rentable space is defined as all space that may be available after the academic needs of the institution have been met.

Use of campus property and facilities, pursuant to prior approval, for meetings or other activities, is subject to limitations on the number of persons who may attend in accordance with appropriate building and fire codes and safety standards. Smoking, tobacco, use of electronic cigarettes, or

similar devices is prohibited at all locations of LBWCC. According to Public Law 100-690, no alcoholic beverage, illegal drugs, or controlled substances are allowed on the premises of LBWCC at any time. Firearms are prohibited on campus or on any other property operated by the College, except by law enforcement officers legally authorized to carry such weapons, who are officially enrolled in classes or are acting in the performance of their duties, or for an instructional program in which firearms are required equipment. Illegal gambling while using College facilities is prohibited.

Ample time, agreed upon by both parties, will be allowed for decorating the facility prior to the event. No nails, tacks, staples, hot glue, Velcro, cellophane, or duct tape are allowed in walls, ceilings, doors, or furniture. No decorations may be attached to, or obscure the sprinkler heads, exit signs, fire alarm or other necessary fixtures. Use of candles, smoke machines, fog machines, and any other open flames are prohibited. Glitter and confetti are prohibited. Coffee, condiments, tablecloths and paper products are not provided by LBWCC. Furniture may not be removed from the facility.

The responsibility for damage shall be assumed by the user. A damage deposit may be required at the time a request is made to use a College facility. Adequate liability insurance carried by the user may be required by the institution prior to the event naming the institution as an “additional insured.”

Rental rates for the Student Center Classroom are available in the Student Affairs Office on the Andalusia Campus, rental rates for the Dixon Center Theater and Conference Center are available in the office of Instructional and Information Technology on the Andalusia Campus, rental rates for facilities on the MacArthur Campus are available in the office of the Director of College Facilities and Maintenance on the MacArthur Campus, rental rates for the Wendell Mitchell Conference Center are available in the office of the Director of the Greenville Campus on the Greenville Campus. The rental charge covers only physical plant related costs, such as custodial services or utilities. Charges for use of equipment and operators are not included. Additional charges may be necessary if special arrangements of furniture or personnel are required, exceptions may be made with the approval of the President.

If outside groups are to use LBW Community College facilities, maintenance personnel must be notified in advance.

No assembly, meeting, demonstration or other activity shall be authorized or permitted on any property or in any building or facility, when:

1. A determination by the appropriate official of the institution is made that the requested use would cause substantial disruption or interference with the normal activities of the institution conducted in the course of its lawful mission, processes, and functions.
2. A determination is made that the requested use would be contrary to federal, state or local law or regulation, or policies and regulations of the Alabama Community College System Board of Trustees or the institution.
3. The applicant or sponsor of the activity has not provided accurate or complete information required on the application for registration.

4. The applicant or sponsor of the activity has been responsible for violation of subparagraphs (1), (2), or (3) above during a previously registered use of campus property or facilities, or has violated any conditions or assurances specified in a previous registration application, and the institution has reasonable cause to believe such violation will reoccur.
5. Approval for use of the property or facilities has previously been given to another group, organization, or individual for the time(s) and location(s) requested.
6. Use of the property or facilities requested would be impossible due to setup time and/or take-down time required for other previously scheduled activities at the requested location immediately before and/or after the requested use, or due to other extenuating circumstances.
7. The activity is of such nature or duration that it cannot reasonably be accommodated.
8. The activity creates or would create a danger, or dangerous condition.
9. Such use conflicts or would conflict with existing contractual obligations of the institution.
10. The President of the College retains powers of veto regarding approval/appeal or denial of requests for utilization of campus facilities.

Those persons or groups interested in renting facilities are encouraged to plan their event as far in advance as possible. A signed rental agreement and the appropriate deposit / payment are required of all users of LBWCC facilities prior to occupying the premises. All fees must be paid to LBWCC in order for the user's event to be scheduled and space reserved. Checks must be made payable to LBWCC.

Cancellation notice requirements are described on the facilities rental agreement. Cancellation notice provided less than forty-eight (48) hours from the time of the event will result in forfeiture of all rental refunds.

The lessee is responsible for cleaning the rental area. It is the responsibility of the lessee to remove all decorations, collect all trash/garbage into trash bags, sweep floors, vacuum carpet if applicable, and mop all spills. Trash cans, can liners, brooms and mops will be available. Failure of the lessee to properly clean the facilities will result in forfeiture of the cleaning deposit and can result in the lessee no longer being allowed to use the facilities.

LBWCC reserves the option to retain food and beverage concessions.

Damage to any facility occurring while being used or leased will be repaired and all costs will be applied to the rental deposit. Any cost beyond the rental deposit will be invoiced to the lessee.

In the event of a disaster or emergency of any kind, LBWCC has the right, as it may determine in its sole discretion, to suspend or terminate any event.

As a condition to the leasing of facilities, LBWCC requires evidence of appropriate liability insurance, if applicable.

Anyone leasing LBWCC facilities or any event attendees must observe all parking regulations.

LBWCC assumes no responsibility for any property placed on the premises and will assume no liability for any loss, injury, theft, or damage to property.
LBWCC does not provide security for outside users.

Exterior doors should be closed, other than for entry or exit to maintain a proper temperature.

Organizations or individuals leasing or otherwise utilizing any facility of LBWCC may use the college name only insofar as necessary to provide directions to the location. Any other use will void any and all contracts for the use of LBWCC facilities.

EXPRESSIVE ACTIVITIES BY THE CAMPUS COMMUNITY

In accordance with Act 2019-396 of the Alabama Legislature and the *ACCS Board of Trustees' Policy 224.01: Expressive Activities by the Campus Community*, effective December 9, 2020, Lurleen B. Wallace Community College's implementing policy on Expressive Activities by the Campus Community is as follows:

I. Findings

Lurleen B. Wallace Community College finds the following:

- A. A primary function of Lurleen B. Wallace Community College is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate, and that to fulfill that function, LBWCC will strive to ensure the fullest degree possible of intellectual freedom and free expression.
- B. It is not the proper role of Lurleen B. Wallace Community College to shield individuals from speech protected by the First Amendment to the United States Constitution and Article I, Section 4 of the Constitution of Alabama of 1901, including without limitation, ideas and opinions they find unwelcome, disagreeable, or offensive.
- C. Students, administrators, faculty, and staff are free to take positions on public controversies and to engage in protected expressive activity in outdoor areas of the campus, and to spontaneously and contemporaneously assemble, speak, and distribute literature.
- D. Lurleen B. Wallace Community College supports free association and will not deny a student organization any benefit or privilege available to any other organization based on the expression of the organization, including any requirement of the organization that the leaders or members of the organization affirm and adhere to an organization's sincerely held beliefs or statement of principles, comply with the organization's standard of conduct, or further the organization's mission or purpose, as defined by the student organization.
- E. Lurleen B. Wallace Community College will strive to remain neutral, as an institution, on the public policy controversies of the day, except for administrative decisions that are

essential to the day-to-day functioning of the institution, and LBWCC will not require students, faculty, or staff to publicly express a given view of a public controversy.

- F. Lurleen B. Wallace Community College prohibits all forms of harassment as defined in Act 2019-396, which includes expression so severe, pervasive, and objectively offensive that it effectively denies access to an educational opportunity or benefit provided by the College.

II. Speech and Expression in Outdoor Areas, Invited Speakers, and Security

- A. For purposes of this policy, the “Campus Community” includes Lurleen B. Wallace Community College’s students, administrators, faculty, and staff as well as the invited guests of the College and the College’s recognized student organizations (including organizations seeking recognition), administrators, faculty and staff.
- B. Members of the Campus Community shall be permitted to engage in expressive activities in outdoor areas of Lurleen B. Wallace Community College’s campuses which enjoy general access during regular hours of College operation, subject to the limitations described below. Expressive activities are defined as those activities protected under the First Amendment to the United States Constitution and Article 1, Section 4 of the Alabama Constitution of 1901, including any lawful verbal, written or electronic communication of ideas; lawful forms of peaceful assembly, protests, and speeches; distributing literature; carrying signs; and circulating petitions.
- C. Outdoor areas where expressive activities are not allowed include:
 - 1. Areas within 50 feet of classrooms or places of residence;
 - 2. Athletic facilities;
 - 3. Outdoor classrooms;
 - 4. Areas where access is restricted due to operational or safety protocols, such as energy or maintenance control areas;
 - 5. The LBWCC Child Development Center.
- D. Except for II.H. below, this policy does not apply to expressive activities that take place in indoor areas of Lurleen B. Wallace Community College property including, but not limited to, classrooms or classroom buildings or offices; auditoriums; performing arts venues; events centers; and recreational facilities. Expressive activities in these areas are governed by LBWCC’s Use of Facilities and Services Policy, subject to the requirement that LBWCC must be open to any speaker whom LBWCC’s student organizations or faculty have invited. These areas may be used for official events sponsored by the College or for non-college use under ACCS Board of Trustees Policies 500.01 and 507.01.
- E. Members of the Campus Community who engage in expressive activities in permitted outdoor areas may do so freely, spontaneously, and contemporaneously as long as the conduct is lawful, in accordance with laws applicable to conduct and activities on Lurleen B. Wallace Community College property, and does not materially and substantially

disrupt the functioning of the College or infringe upon the rights of others to engage in expressive activities. Members of the Campus Community may contact the Dean of Student Affairs to reserve outdoor spaces in advance of an event to ensure they have their first choice of location and that the event goes smoothly.

- F. Conduct that may materially and substantially disrupt the functioning of Lurleen B. Wallace Community College or infringe upon the rights of others to engage in expressive activities may include:
1. Obstruction of vehicular, bicycle, pedestrian, or other traffic;
 2. Obstruction of entrances or exits to buildings or driveways or impeding entry or exit from any building or parking lot or vehicular path;
 3. Violations of a state, federal or local law, regulation, or ordinance;
 4. Threats to passersby or the use of fighting words, which are words that by their mere utterance inflict violence or would tend to incite a reasonable person to violence or other breach of the peace;
 5. Following, badgering, or forcibly detaining individuals;
 6. Interference with scheduled College classes, ceremonies or events, including memorials, dedications or classroom activities, whether indoors or outdoors;
 7. Damage to property, including buildings, benches, sidewalks, fixtures, grass, shrubs, trees, flowers, or other landscaping;
 8. Use of sound amplification, including bullhorns, except within reasonable limits that will not disrupt normal College operations;
 9. Use of placards, banners, or signs that are dangerous or cause obstruction as described in subsections 1 and 2 above;
 10. Engaging in expressive activities in prohibited or restricted areas as defined in Sections II.B. and II.C. above;
 11. Any other interference with normal College operations beyond a minor, brief, or fleeting nonviolent disruption that is isolated or brief in duration; or
 12. Any other conduct or activity not protected by the First Amendment to the United States Constitution and Article I, Section 4 of the Alabama Constitution, or other state law.
- G. Nothing herein shall be construed to limit the application of laws related to disruptions, disturbances, or interference with the College and the function of educational institutions.
- H. Lurleen B. Wallace Community College may charge a fee for the use of campus facilities, such as for the use of IT resources or cleanup costs. These fees will not be based on the content of the expressive activity. Information regarding fees can be found in the College's Use of Facilities and Services Policy.
- I. Individuals and groups who engage in expressive activity in outdoor areas on Lurleen B. Wallace Community College property are subject to LBWCC policies relating to the use and operation of campus facilities, including without limitation policies relating to firearms and weapons, alcohol, smoking, and trespass. LBWCC prohibits the possession or use of clubs, bats, weapons, open flames, or other dangerous materials on campus

property during these events. Such policies include the College's Code of Conduct, Use of Facilities and Services Policy and Smoking/Tobacco Policy.

- J. Lurleen B. Wallace Community College shall not permit members of the Campus Community to engage in conduct that materially and substantially disrupts protected expressive activity or infringes on the right to engage in expressive activity. Any act of reprisal, interference, coercion, or restraint, by a student or employee, of protected expressive activity, violates this policy and will result in appropriate disciplinary action. Disciplinary sanctions for members of the Campus Community under the jurisdiction of LBWCC who violate this subsection shall be handled through the Student Code of Conduct and the College's disciplinary action policies and procedures.
- K. Nothing in this policy shall be construed to prevent Lurleen B. Wallace Community College from regulating and restricting expressive activity that is not protected by the United States Constitution, the Constitution of Alabama of 1901, or state law, including, but not limited to, any of the following:
 - 1. Violations of state or federal law, including, but not limited to, actions that damage institutional property.
 - 2. Expressions that a court has deemed unprotected defamation.
 - 3. Harassment.
 - 4. True threats, which are defined as statements meant by the speaker to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.
 - 5. An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern.
 - 6. An action that unlawfully disrupts the function or security of the institution.
 - 7. Any constitutional time, place, and manner restrictions for outdoor areas of campus when they are narrowly tailored to serve a significant institutional interest and when the restrictions employ clear, published, content-neutral, and viewpoint-neutral criteria, and provide for ample alternative means of expression.
- L. Complaints or questions regarding the application of this policy should be addressed in accordance with the Student Grievance Procedures and the Grievance Procedure for Employees. Questions regarding this policy should be directed to the Dean of Student Affairs.

Commercial Activity on Campus

Individuals, organizations and groups, both internal and external to Lurleen B. Wallace Community College, may not conduct commercial transactions or engage in commercial speech on LBWCC property unless authorized pursuant to ACCS Board of Trustees Policy 515.01 and approved by the President in advance in accordance with the policy on Solicitations found in section 9 of the LBWCC Policies and Procedures Manual.

Commercial speech means speech in which the speaker is engaged in commerce, the intended audience is commercial or actual or potential consumers, and the content of the message is commercial. Fundraising, including political fundraising, is considered solicitation and therefore deemed commercial speech under this policy.

Policy Distribution

This policy will be included in new student, new faculty, and new staff orientation programs. Lurleen B. Wallace Community College shall disseminate this policy to all members of the Campus Community and make this policy available in handbooks and our website.

Relationship to Other Policies

This policy shall supersede and nullify any previous Lurleen B. Wallace Community College policies that could regulate speech on LBWCC campuses. However, this policy is not intended to supersede, nullify, or amend any LBWCC policy that regulates the reservations and use of interior spaces on campus, or that charge incidental fees for the use of such spaces.

Annual Report

Lurleen B. Wallace Community College will submit an annual report to the Chancellor and Board of Trustees by August 15 for the prior 12-month period ending July 31 that includes the following:

1. The date and description of each violation of this policy.
2. A description of the administrative handling and discipline relating to each violation.
3. A description of substantial difficulties, controversies, or successes in maintaining a posture of administrative and institutional neutrality.
4. Any additional assessments, criticism, commendations, or recommendations LBWCC sees fit to include.

7 EMPLOYMENT POLICIES & PROCEDURES

09-01-2023 Salary Schedules 2023-2024 and Updated LBW C3 Salary Schedule
09-01-2022 Salary Schedules 2022-2023 and Updated LBW C3 Salary Schedule
05-03-2022 Updated Timeframe for Vacancy Postings
10-20-2021 Salary Schedules 2021-2022 and Updated LBW C3 Salary Schedule
02-02-2021 Updated LBW C3 Salary Schedule
09-01-2020 Salary Schedules 2020-2021
03-16-2020 Updated Resignation Policy to be consistent with ACCS
10-09-2019 Salary Schedules 2019-2020
06-18-2019 Updated Resignation Policy
04-30-2019 Updated Employment Policies & Procedures, Supplements or Extra Duty Pay, Employee Grievance or Complaint

INTRODUCTION

It is the policy of Lurleen B. Wallace Community College that no individual shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, disability, gender, religion, creed, national origin, or age as defined by federal and state law.

Lurleen B. Wallace Community College abides by the established recruiting and hiring procedures set forth in the *posting and hiring policy and guidelines, 602.02 of the Alabama Community College System Board of Trustees*.

Lurleen B. Wallace Community College is an equal opportunity employer and complies with the *Americans with Disabilities Act*. The College will make reasonable accommodations for qualified disabled applicants or employees.

All personnel employed in a state college must meet such qualifications as may be specified by the College, the Alabama Community College System Board of Trustees, and Regional and National accrediting associations to which the College holds memberships.

EMPLOYMENT POLICIES AND PROCEDURES

Appointment and Assignment of Personnel

The President of the College shall appoint and make assignments to the faculty and staff of the institution in accordance with Alabama Community College System Board of Trustees policies and Chancellor's directives.

Employment Responsibilities of the President, or as designated to the Human Resources Office

The President is responsible for posting notices of vacancies, in accordance with *Policy 602.02*. All vacancy notices shall be posted on the institution's website for a minimum of seven (7) days before the position is filled and a minimum of fourteen (14) days when the vacancy is supervisory, managerial, or newly created.

The President is responsible for all searches conducted at the College. A search is required for all posted vacancies, except temporary / interim positions, internal postings, transfers, reorganizations, or "supplemental" or "chair" duties. The President may conduct a search alone or may form an Advisory Committee to assist in a search. The President is permitted, at his/her discretion, to delegate his/her search responsibilities to another College employee. The President shall ensure that the College maintains appropriate documentation of notices, postings, applications, searches, and hires.

The President may use temporary / interim postings to fill a position with a current institutional employee without a search. These temporary / interim positions may be selected at the discretion of the President but must be for a duration for one year or less. No extension beyond one year may be granted without the written approval of the Chancellor. Notice for temporary / interim positions must be posted in accordance with all posting requirements.

The President may use internal postings to fill a current institutional position with a current institutional employee without a search. Internal postings must meet all the posting requirements.

All position announcements will be released from the Human Resources Office based on the approval of the President. All applicant files will be maintained by the Human Resources Office. The Human Resources Office will maintain complete files for each position posted.

Available positions may be filled by external searches, internal searches, lateral transfer, temporary appointments, or reorganizations.

Recruitment Procedures

1. In order to assist in recruiting qualified applicants, available position announcements are posted on College bulletin boards, distributed via email to all College employees, posted on the Human Resources page of the College website, and may be posted on the Alabama Community College System website and advertised.
2. At the sole discretion of the President, the College may advertise open positions, such as posting on employment-related websites, the College website, newspapers, other media outlets, or the ACCS website through notification to ACCS-Human Resources. Any advertisement submitted must contain a statement that “LBWCC is an Equal Opportunity Employer.”

Search Procedures

1. The appropriate supervisor prepares a *Lurleen B. Wallace Community College Approval To Fill A Position* form and submits the form for approval to the appropriate administrators and the President. Upon approval of the form, the Human Resources Office prepares a draft position announcement in conjunction with the appropriate administrator. The Human Resources Office submits the position announcement with the current job description or a draft of a new job description to the President for review and approval. The Human Resources Office verifies that the position announcement includes all the information required by the Alabama Community College System Board of Trustees.
2. Once the position announcement is finalized, the Human Resources Office develops any advertisements of the position for publication, as requested.
3. After the advertisements are finalized, the Human Resources Office publicizes the advertisements as requested.

Selection Process

1. The President shall review all applications received for minimum qualifications and other application requirements. The President may delegate this responsibility to a Human Resources employee or other designee at the College.
2. Qualified applicants only will be considered for positions. If any applicant's information is not considered in a particular search because of a lack of minimum qualifications or failure to meet an application requirement, that information shall be retained in a search file.

3. An Advisory Committee (if formed) will assist the President, as directed, in reviewing the applicant pool, interviewing candidates, participating in other campus meetings related to the search, or consulting on selections. The Advisory Committee serves as an advisory council only to the President with no authority to make recommendations, unless expressly allowed by the President. The President is under no obligation to accept any counsel, advice, or recommendation from the Advisory Committee. The President has the authority to appoint any single employee or group of employees to an Advisory Committee for any individual search. The President shall provide guidance and instructions about conducting the search (“a search charge”) to any Advisory Committee formed. The President may delegate this responsibility to a Human Resources employee or other designee at the College.
4. The President shall ensure that applicants are considered without regard to race, color, disability, gender, religion, creed, national origin, age, or other unlawful reason. The President shall decide the number of applicants to interview and select which applicants to interview (if any). The President may delegate this responsibility to a Human Resources employee or other designee at the College or seek assistance from any Advisory Committee formed. The President shall decide how interviews will be conducted for a particular search and interviews are not required to the in-person meetings. The President may delegate this responsibility to a Human Resources employee or other designee at the College or seek assistance from any Advisory Committee formed. The President shall ensure any interviews conducted are fair and non-discriminatory.
5. At the request of the President (or his/her designee), a Human Resources employee (or other designee at the College) will verify any named applicant’s references prior to hire.
6. The President may appoint any of the applicants for the position, or the President may elect not to hire any of the applicants and instead close the search and / or re-post the position.
7. All new hires must undergo ethics training, harassment training, and complete the *Family Relationship Disclosure* form. Harassment training shall be continued on an annual basis for all employees.
8. Upon the applicant for hire accepting the position, a *Request for Employment/Status Change* form is completed by the appropriate administrator and the Human Resources Office and submitted to the President for final approval.
9. The President notifies the person selected with a *Letter of Appointment* which stipulates the terms of employment; such as salary, beginning date, and title of position. The *Letter of Appointment* will also have a signature line of acceptance of the position.
10. The Human Resources Office will notify all applicants of the decision of the College.

Exceptions

These procedures do not apply to transfers or reorganizations of existing personnel. These procedures do not apply to supplemental duties or chair responsibilities. The President may

appoint an existing employee to handle supplemental duties or “chair” responsibilities because these are not considered job vacancies that require a posting or search.

Procedures for Employing Adjunct Faculty

Recruitment Procedures

In order to assist in the on-going recruiting of qualified adjunct instructors, the College maintains a continuous vacancy announcement which is posted on the College bulletin board and posted on the Human Resources page of the College website. In certain instances where qualified adjunct instructors are difficult to locate, the College may advertise.

Search Procedures

Division Chairs are responsible for locating qualified adjunct instructors. Because the College utilizes a continuous vacancy posting, the Human Resources Office continuously accepts adjunct application materials and the Division Chair is not required to submit an *Approval to Fill a Position* form.

Selection Process

The Human Resources Coordinator and the Division Chair review the adjunct applicant files to ensure that the applicants meet all of the required qualifications and that the applicant files are complete. Applicants may be invited for an interview with the Division Chair and any other College personnel deemed necessary. Following the review of the application files, the Division Chair determines the applicant who is most qualified to fill the position. The Division Chair will discuss the decision with the Dean of Instruction who may review the applicant’s file. The Division Chair and Dean of Instruction will determine if the applicant is selected for adjunct employment.

Upon the applicant for hire accepting the adjunct employment, a *Request for Employment/Status Change* form is completed by the Division Chair and the Human Resources Office and submitted to the President for final approval. The President provides the person selected with a *Letter of Appointment* which stipulates the terms of employment; such as salary, beginning date, and title of position. The *Letter of Appointment* will also have a signature line of acceptance of the position.

Reimbursement of Interview Expenses

Travel expenses of job applicants for positions in which recruitment problems exist will be reimbursed up to a maximum of \$500 provided the applicant travels more than 150 miles round trip to interview. The following expenses may be reimbursed:

1. Actual expenses for travel on commercial transportation, such as airline, bus, rental car, etc.
2. Mileage at the current rate of reimbursement for College employees in lieu of travel by commercial transportation, with certification of the applicant of the number of miles traveled
3. Actual expense for lodging
4. Actual expenses for meals (itemized receipt required)

Original receipts signed by the applicant are required for all expenditures. Applicants must follow travel policies applicable to travel by employees of the Alabama Community College System.

**The determination that a position is eligible for travel expense reimbursement based on recruitment problems will be made at the request of the supervisor of the position with the approval of the College President. Exceptions to the maximum reimbursement amount can be authorized only by the President.*

Lateral Internal Transfer Procedures

In accordance with *Alabama Community College System Board of Trustees Policy 602.04*, the President is responsible for all internal College transfers and is responsible for complying with *Alabama's Students First Act*. The President has the authority to transfer or reassign any employee, at any time, as the needs of the College require, to any position or work location within the College, of which the employee is qualified. Transfers are appropriate as permitted under the *Students First Act* or when moving an existing College employee to a previously-existing College position. Internal posting rules are appropriate and may be used for transfers. Notice must be provided to affected employees as stated in the *Students First Act*.

Procedures for Lateral Transfer Between Colleges

A full-time consenting employee may be transferred from one college to another or from the Alabama Community College System office to a college, with the written agreement of both the transferring and receiving Presidents or Chancellor, and with the approval of the Chancellor. Transfer requests will only apply to positions for lateral moves and will conform to the *Students First Act*. Any employee transferred will retain all benefits, rights, and status held at the time of transfer. No employee will lose tenure or non-probationary status as a result of transfer.

1. The receiving college must submit a *Request To Fill A Position by Lateral Transfer* form to the Chancellor for approval.
2. If approved, the position must be advertised by sending notice to each two-year college and the Alabama Community College System for posting. Each institution must post the position(s) to employees on the same salary schedule and rank placement.
3. The position announcement must be posted at least 14 days.
4. The employee wishing to transfer must send a written request for transfer to the President of the current employing institution.
5. If no one else applies, the receiving institution submits the *Request for Approval of Lateral Transfer*, signed by both Presidents to the Chancellor for approval.
6. If others do apply, the President must interview all candidates for the position. The President also has the option of completing the process through the search committee process.
7. Under no circumstances may the Lateral Transfer process be used to circumvent the *Students First Act*.
8. A Lateral Transfer between institutions may not be completed and is not official until final approval from the Chancellor is received.

Reorganizations

Reorganizations are modifications to positions that both currently exist at the institution and have been filled previously through a regular search process. Reorganizations may involve shifting duties that currently exist within positions at the College or adding new duties to a current position at the College. The reorganization may include changes of title, salary schedule placement, job duties, or level of responsibility, but it cannot create a fundamentally new position or an entirely new set of duties or responsibilities. Reorganizations require written approval of the Chancellor before implementation, including changes to salaries.

Employment Notices

The President may offer employment notices for one semester, two semesters, a summer term, or a full year, as appropriate to librarians, counselors, and instructors, provided there is sufficient enrollment and funds are available.

Adjunct Faculty

Adjunct faculty members are employed to teach specific classes and are compensated on the basis of credit or contact hours taught. They are given orientation and direct supervision by the Division Chair. Adjunct faculty are issued a *Letter of Appointment* on an as-needed, semester-by-semester basis.

Training for Existing Business & Industry and Continuing Education Instructors

Continuing Education instructors are issued a *Letter of Appointment* to teach non-credit special interest classes and are selected according to their ability, credentials, and proficiency in the subject matter. Remuneration is based on the length of the class, type of class, and enrollment of the class. These instructors are issued a *Letter of Appointment* on an as-needed, class-by-class basis.

Employment Requirements

1. Upon initial employment, the employee will be required to attend a scheduled orientation meeting, and a mentor will be assigned by the immediate supervisor to assist each employee.
2. It is the responsibility of all employees to have on file in the Human Resources Office the following documentation:
 - a. An Application for Employment
 - b. Official transcripts, certifications, and licenses
 - c. Employment Eligibility Verification
 - d. Personnel File Portfolio Data Sheet, if appropriate
3. Other required employee documentation, including State and Federal withholding forms, and *Payroll Direct Deposit Authorization*, must be completed and submitted to the Payroll or Human Resources Office at the beginning of employment.
4. Pursuant to the *Alabama Community College System Board of Trustees Policy 623.01: Criminal Background Checks*, all employees and volunteers are required to submit a completed consent form for the purpose of conducting a criminal background check prior to employment. New employees are required to submit payment for the background check to the College unless the President deems such payment places an undue hardship

on the employee. In which case, the College will be responsible for payment. Employment or volunteer service shall be contingent upon an acceptable criminal background check. Individuals convicted of a felony or crime involving moral turpitude will not be eligible for employment or volunteering except with the Chancellor's approval.

5. The Human Resources Office and immediate supervisor verifies the educational credentials of all new employees and the accreditation of the institutions from which the employees received diplomas, certificates, degrees, or additional coursework. Each new employee is required to have included in his/her personnel file official copies of all postsecondary education transcripts. The Human Resources Office and the immediate supervisor verifies that the official transcripts document the appropriate credentials have been earned by the employee.

The Human Resources Office uses the U.S. Department of Education's Office of Postsecondary Education website <http://www.ope.ed.gov/dapip/> to research and print documentation of the accreditation of each institution from which the employee received diplomas, certificates, degrees, or additional coursework. This printed documentation is placed in the employee's personnel file behind his/her official transcripts.

6. The Human Resources office verifies the experience credentials of all new employees. Each new employee is required to submit letters of employment verification from previous or current employers verifying work experience relevant to the position in which the employee was hired. The letters of verification must include the beginning and ending dates of employment, employment title, and indicate if the employment was full or part time. Initial placement on the appropriate schedule will be determined by the President based upon Salary Schedule Guidelines issued by the Chancellor and using the College's ratio of awarding one year of step credit for one year of directly related experience outside of public education in Alabama.
7. All employees of the Alabama Community College System are required to complete ethics training. Employees of LBWCC are required to complete this ethics training as part of the new employee orientation program.
8. All employees of the Alabama Community College System are required to complete training regarding the *Violence Against Women / Campus Save Act*. Employees of LBWCC are required to complete this training as part of the new employee orientation program.
9. Applicants for employment are required to complete the section of the application for employment relating to the disclosure of relatives. It is the responsibility of the employee to inform the College if a change in status occurs which involves the relationship of a qualifying individual. For the purpose of disclosure, relative includes any person related within the fourth degree of affinity or consanguinity to any job, position, or office of profit with the State or with any of its agencies.
10. The College requires all classified employees and instructors to acknowledge receipt of any Letter of Appointment (LOA) presented to the employee by the College by personally signing and returning the LOA within five days of receipt. Failure to timely sign and return a LOA as stated herein is a violation of the College policy and a failure to satisfactorily perform required job duties, which serves as grounds for disciplinary action up to and including dismissal.

11. Beginning employment is contingent upon the above information being provided in a timely manner.

Employee Orientation/Supervision

1. Orientation and supervision: The immediate supervisor is responsible for their subordinate employees' direct supervision, orientation, and adherence to policies of the institution.
2. The Business Office, immediate supervisor, and Human Resources Office will conduct a formal orientation for new employees of the College. Adjunct faculty members are employed to teach specific classes. They are given orientation and direct supervision by the Division Chair.

E-Verify Policies and Procedures

Lurleen B. Wallace Community Colleges complies with the *Beason-Hammon Alabama Taxpayer and Citizen Protection Act (Act 2011-535)*. The final determination of an unauthorized alien shall be vested in the federal government.

Contractors and Subcontractors – Section 9

“A condition for an awarding of a contract, grant, or incentive by the state to a contractor will be that the contractor shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien. The contractor must attest by signed, sworn affidavit, which shall be notarized. The contractor must provide verification that he/she is enrolled in the E-Verify program. These same conditions apply to subcontractors” (*Act 2011-535*).

Prior to the awarding of a contract, grant, or incentive, the contractor will return to the LBWCC Chief Financial Officer the required *Memorandum* and the required completed *Affidavit of Alabama Immigration Law Compliance* form affirming that no unauthorized alien has or will be knowingly employed, hired for employment, or continue to be employed by the contractor and/or subcontractor, and the required completed *Notice of Alabama Immigration Law Compliance to all Contractors of ACCS Institutions*. The contractor is responsible for providing a copy of the same *Memorandum*, *Affidavit of Alabama Immigration Law Compliance*, and *Notice of Alabama Immigration Law Compliance to all Contractors of ACCS Institutions* to its subcontractors/grantees and is responsible for maintaining the required completed copies in the contractor's office.

Penalties for violations of this section or portions of this section are described in the Act. The effective date of this section is January 1, 2012.

Employees and Employment – Section 15

“No public employer shall employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Alabama. Every business entity or employer in this state shall enroll in E-Verify...This system shall be used to verify the employment eligibility of an employee. A business that utilizes E-Verify will not be deemed to have violated this section of the Act as to the employment of an employee” (*Act 2011-535*).

This section relates to anyone employed receiving state or federal monies from any source including work study students. Once an offer of employment is accepted, the employee submits a completed Form I-9 and the required identification documents to the appropriate College official. Work study students will submit the Form I-9 and documents to the appropriate campus Financial Aid Office. All other employees will submit the Form I-9 and documents to the Human Resources Coordinator.

The appropriate College official will initiate the E-Verify program procedures no later than the College's third business day after the beginning date of employment. The respective College official is responsible for meeting and complying with all follow-up procedures of the E-Verify program.

Penalties for violations of this section or portions of this section are described in the Act. The effective date of this section is April 1, 2012.

Employers – Section 26

“On or after January 1, 2012, before receiving any contract, grant, or incentive by the state, an employer shall provide proof to the state that it is enrolled and participating in E-Verify, either independently or through the Alabama Department of Homeland Security. An employer that is enrolled in E-Verify is immune from liability under Alabama law for any actions by an employee for wrongful termination or retaliation based on notification from the E-Verify should the program identify the employee as an unauthorized alien” (*Act 2011-535*).

In accordance with this section, LBWCC enrolled in the E-Verify program and submitted the *Memorandum of Understanding* in December, 2011. The administrative user and multiple general users were established within the E-Verify program in December, 2011. Public notices required for employers participating in the E-Verify program were posted on all LBWCC campuses and at the Luverne Center in December, 2011. LBWCC submitted the *Affidavit of Alabama Immigration Law Compliance* form and a copy of the *E-Verify Memorandum of Understanding* to the Alabama Community College System in January, 2012.

Secondary Employment

Approval for Doing Consulting Work

Approval for College personnel to act as consultants must be secured from the administration of the College sufficiently in advance so that the administrators may make adequate arrangements for class or work assignments.

Reporting Secondary Employment

Lurleen B. Wallace Community College complies with the *Alabama Community College System Board of Trustees Policy 615.01: Conflict of Interest* which requires that all employees provide prior notification to the College concerning all secondary

employment. No distinction is made between compensated or un-compensated secondary employment. Employees of the College are required to submit for approval a completed *Notification of Secondary Employment* form prior to beginning any employment outside of the College.

The purpose of the *Notification of Secondary Employment* form is to allow the employee and the College to document that the secondary employment (a) does not interfere with the performance of responsibilities as a System employee; (b) is limited in time; (c) is compatible with the interests of the individual employing institution; and (d) does not require use of institutional resources or facilities. The form also documents that the employee is not engaging in any secondary employment which would (a) disrupt or interfere with the normal operations of the College; (b) directly compete with the College; (c) impose additional financial operations burden upon the College; (d) violate the *Alabama Code of Ethics for Public Employees* as set forth in the *Code of Alabama*; or (e) be of a nature such that the outside employment would tend to decrease the effectiveness of the employee in performing his/her College employment duties.

Prior to entering into an agreement of secondary employment, the employee completes the *Notification of Secondary Employment* form and submits the form to his/her immediate supervisor for review. The immediate supervisor reviews the described secondary employment in order to determine if a conflict of interest exists. If no conflict exists, the immediate supervisor signs the form and submits the form to the next appropriate supervisor in the chain of command. Upon receiving the President's approval, a copy of the form is returned to the employee, the employee's immediate supervisor, and the Human Resources Office for placement in the employee's personnel file. Should the form not be approved by someone in the supervisory chain of command, a justification shall be documented in the appropriate place on the form. A copy of the disapproved form will be provided to the employee, the immediate supervisor, and the Human Resource Office. The copy provided to the Human Resources Office will not be filed in the employee's personnel file but instead will be filed in a separate location.

The College recognizes that employees may engage in repeated secondary employment opportunities for work of the same nature with the same secondary employer. An example of this repetitive work might be employment as an Adjunct Spanish Instructor for XYZ University. It is the responsibility of the employee to notify the College by submitting a revised *Notification of Secondary Employment* form if the status of the previously approved secondary employment changes. For example, the employee in the previous situation has approval to teach as an Adjunct Spanish Instructor for XYZ University but would also like to accept an opportunity to teach as an Adjunct History Instructor. The employee is required to submit a new form and receive approval prior to accepting the Adjunct History Instructor employment.

Review and approval of the submitted *Notification of Secondary Employment* form by the supervisory chain of command is not for the purpose of the College administration to decide whether a College employee is allowed to obtain secondary employment which does not present a conflict of interest. This review and approval is required in order to

verify that the potential secondary employment does not constitute a conflict of interest as defined by the *Alabama Community College System Board of Trustees Policy 615.01: Conflict of Interest*.

CONFLICT OF INTEREST AND EXTERNAL INFLUENCE POLICY

The standard of behavior for Lurleen B. Wallace Community College (“the College”) and its employees is that all employees scrupulously avoid conflicts of interest between the interests of the College on one hand, and personal, professional, and business interests on the other. This includes avoiding potential and actual conflicts of interest, as well as perceptions of conflicts of interest.

The employees of the College shall be free from influence from political, religious, or other external bodies and protect the College from such influence in a number of ways, including, the fact that each employee is governed by Alabama’s ethics laws as a “public employee,” through the policies and procedures of the Alabama Community College System Board of Trustees, and the policies and procedures of the College. In addition to the foregoing, the College has adopted this Conflict of Interest and External Influence Policy to further ensure that the College is free from influence from political, religious, or other external bodies.

If any employee shall reasonably believe political, religious, or other external bodies are influencing or are attempting to influence that employee or other employees, such employee may notify in writing the president of the College of such conduct stating specifically the basis for such belief. The president upon receipt of such notice shall appoint three (3) employees of the College who shall seek to determine whether such conduct has occurred or is occurring and who shall report the allegations and the results of their investigation to the president. If the conduct involves the president of the College, then the employee may notify the Chancellor of the Alabama Community College System. The Chancellor upon receipt of such notice shall appoint a committee of three (3) individuals, which may include representatives of the College, which shall seek to determine whether such conduct has occurred or is occurring and which shall report the allegations and the results of its investigation to the Chancellor. The recipient of the report (i.e., the president or the Chancellor) shall take all necessary and proper actions to correct such conduct or prevent such attempted influence.

COMPENSATION

Salary Disbursement

Payroll direct deposit is issued on the last working day of the month. The Business Office distributes information related to direct deposit.

Full-time faculty members have the option of being paid their nine month salary in nine months (September-May) or in twelve months (September-August). Payments for full-time faculty for summer classes will be paid based on the combination of evening, mini-session, or full-term classes determined by summer employment notice.

The salary for the regular academic year (nine months) may be disbursed in equal monthly payments for convenience in bookkeeping under the following conditions:

1. Persons beginning or ending employment at a time which does not coincide with the regular beginning and ending of the academic year shall be paid on a daily rate basis for the actual number of working days they are on duty.
2. The daily rate for the nine-month term (academic year) shall be determined by dividing the nine-month salary by the number of working days (exclusive of all holidays). This same rate is also applied to compute payment of partial summer employment (number of days x daily rate). A person terminating employment before his or her contract is fulfilled may receive a reduced "last payment" or be required to reimburse the College for salary overpaid.

Salary Placement

Salary schedules for all personnel, other than employees compensated from local C3 and L schedules, have been developed and approved by the Alabama Community College System Board of Trustees. Copies of current salary schedules are included at the end of this section of the *Policies and Procedures Manual*.

Adjunct, Part-Time, and Overload Rate

Classes taught by adjunct or part-time faculty may be remunerated on an hourly rate that varies according to the type of program or courses taught. Part-time faculty are paid on a pro-rata full-time salary or on an hourly basis depending on the type of program or courses taught. Adjunct faculty are paid at a set rate per credit hour or contact hour and are contracted on an as-needed basis. Full-time faculty teaching overloads are paid at a per credit hour rate for the overload class(es).

For classes determined to have adequate enrollment and remunerated on a credit hour rate, payment for a faculty member is calculated as follows: Theory (one contact hour per one teaching credit hour), Academic Labs (two contact hours per one teaching credit hour), Vocational & Technical Lab or Clinical (three contact hours per two teaching).

See Section 8, Instructional Policies for additional information on remuneration for faculty, including computing part-time faculty remuneration and the remuneration rate for under-enrolled classes.

Part-Time College Employee Compensation Guidelines

Part-time employees shall be paid in accordance with qualifications. If the employee is to be paid on a local wage or salary schedule, the employee will still be paid based on qualifications, although a local salary schedule need not have the same number of qualification levels as a state schedule. In no event shall a part-time employee be paid a higher wage or salary under a local salary schedule than he/she would be entitled to if paid a pro-rata salary based on the B, C, D, or E salary schedule. If the College uses a local schedule for a given job title or type of position (for example, instructor) then the same schedule shall be used for all part-time employees in similar positions. In other

words, all such part-time employees shall be paid in accordance with the same schedule, whether it is a local schedule or a statewide schedule.

Time and Attendance

All non-exempt employees, hourly paid employees, as well as all employees remunerated by restricted funds are required to document hours worked each day of the month on the *Employee Attendance Report*. The time sheets are distributed to the employee approximately one month prior to due date. The supervisor will review, sign verifying its correctness, and forward to the Business Office by the 15th of each month. Dates to distribute these sheets to employees and return to the Business Office may be earlier depending on the last workday of the month.

All employees must document the amount of leave and the type of leave taken during the month. Leave adjustments received after submittal of the monthly *Employee Attendance Report*, will be processed in the following month's payroll.

Overtime Procedures

On November 13, 1985, the *Fair Labor Standards Amendments of 1985* were enacted. These amendments changed certain provisions of the *Fair Labor Standards Act (FLSA)* as they relate to employees of state and local governments, most notably non-excluded employees in education. The effective date of the amendments adopted on November 13, 1985, was April 15, 1986. The United States Department of Labor has enacted a "Final Rule on Defining and Delimiting the Exemptions for Executive, Administrative and Professional, Outside Sales, and Computer Employees under the Fair Labor Standards Act (FLSA)" which is effective December 1, 2016.

These guidelines addressing the issue of overtime compensation only apply to those employees who come under the overtime provisions of the *Fair Labor Standards Act (FLSA)*. Exempt employees are not eligible for overtime or compensatory time and are not required to work an adjusted schedule during a week in which their work hours will exceed forty (40) hours. For the purposes of these guidelines, the normal workweek constitutes the period of time between 12:01 a.m. Sunday through 12:00 a.m. the following Sunday.

(References: 29 USCA sec. 203, as amended; 29 USCA sec. 207, as amended, 29 USCA sec. 213; 29 CFR 553.2-.3; 29 CFR 778.100; 29 CFR 778.105)

Lurleen B. Wallace Community College complies with the applicable provisions of the Fair Labor Standards Act. Administration is in conformance to the policies issued by the Alabama Community College System Board of Trustees.

Overtime Request

A non-exempt employee must be requested by the President or administrator who reports directly to the President to work overtime for a given day or days or for the workweek. Work that causes the employee to exceed forty (40) hours within a workweek must be pre-approved by an administrator who reports directly to the President or by the President.

If an employee works hours beyond the normal number of hours for a given workday or workdays, the employee may choose to decrease the number of hours worked in another workday or workdays in that same workweek on an hour for hour basis, so long as such reduction does not cause an undue disruption of the normal operation of the College and so long as the total number of hours worked during the week is not less than that which would have ordinarily been worked by the employee during a workweek.

In lieu of adjusting his/her work schedule so as to use additional work hours during the same workweek as the overtime work is performed, the employee may choose to use "compensatory leave." The employee will accrue compensatory leave at one and one-half (1 1/2) times the rate of actual overtime hours worked for the workweek. For example: if an employee works four (4) hours of overtime, he/she will receive six (6) hours of compensatory leave which can be used at the employee's discretion, as long as it does not cause an undue disruption to the normal operation of the College.

An employee, who works more than the ordinary number of hours for a week, shall be granted compensatory leave. Compensatory leave must be used by the end of the month in which it is earned. Exceptions may be approved by the President. In cases where the President has approved an exception, any accrued compensatory leave earned and not taken will be paid to the employee on the August payroll or at the time of separation from employment at a rate of 1 and 1/2 times the normal hourly base rate of pay.

An employee will not be asked to work on Sunday, except under emergency conditions as approved by the President.

An employee who does not work on Saturday as a part of his/her normal workweek may request compensatory leave for hours worked on Saturday or may adjust his/her weekly work schedule in advance in order not to work more than the ordinary number of hours for that workweek (Mon.-Sat.).

Required Overtime

A nonexempt employee may be required to work more than (40) hours in any workweek if (a) the College directs the employee to do so, and (b) an "emergency condition" exists. For purposes of this procedure, an "emergency condition" exists if in the opinion of the College President one or more of the following is present:

1. A situation which endangers or potentially will endanger the physical, mental, or emotional health or safety of property for which the College is ultimately responsible, and the performance of overtime work would or reasonably may be expected to contribute to the reduction of said danger or perceived danger.
2. A situation in which the performance of necessary overtime work will increase the effectiveness of College registration, enrollment, orientation, graduation, or commencement activities, but under such circumstances that a

given employee shall not be required to work overtime unless the College has previously taken reasonable action to obtain the services of all other qualified employees who were willing and able to voluntarily perform services of the nature of the work required of the employee.

3. A situation in which the performance of overtime work will or may reasonably be expected to significantly contribute to the success of College goals or efforts to obtain College or program accreditation from recognized accreditation agencies or organizations, but under such circumstances a given employee shall not be required to work overtime unless the College has previously taken reasonable action to have the work performed during normal working hours and determined that reasonable good planning would not have ensured the timely performance of the work so as to avoid an "emergency" concerning accreditation.
4. A situation in which the performance of overtime work is reasonably necessary in order for the College to respond to the legal directives of governmental agencies or bodies which are "external" to the Alabama Community College System Board of Trustees, the Alabama Community College System office, or any Alabama state college; i.e., a situation where there is a need for assistance in retrieving court-ordered documents.

As an alternative to requiring an employee to work more than forty (40) hours during a workweek in which an emergency condition exists, the College President or his/her designee may adjust the schedule of one or more employees so as to require such employee(s) to work a greater number of work hours than normal for one or more workdays and a lesser than normal number of work hours for one or more other workdays during the workweek in which the emergency condition exists.

A non-exempt employee who is required to work more than forty (40) hours in a workweek shall be eligible for compensatory leave. For the purposes of calculating a forty (40) hour workweek, any paid leave taken during the workweek will not be counted as "physical time worked." Overtime or compensatory time accrual begins once the employee has physically worked more than forty (40) hours in a workweek.

Supplements or Extra Duty Pay

The President of a community or technical college may designate supplements as established in the Board of Trustees's approved salary schedules for extra duty pay.

The President may designate additional supplements based on unique and compelling circumstances, subject to the Chancellor's written approval. Additional supplements awarded without prior written approval from the Chancellor will be deemed invalid and subject to return.

See Alabama Community College System Board of Trustees Policy 614.01: Fair Labor Standards Act Compliance.

GRIEVANCE PROCEDURE FOR EMPLOYEES

Purpose

The purpose of the grievance procedure is to provide a vehicle for resolving legitimate grievances at the earliest possible time and at the most immediate level of supervision. This policy is intended to cover grievances between and amongst employees of an ACCS entity about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against a President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under Policy 620.02.

Procedure

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within 10 calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify HR personnel and/or the President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 45 calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within 60 calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has 5 calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final.

An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined.

The President's decision will be final.

NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

COMPLAINT PROCEDURES FOR EMPLOYEES

Purpose

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with an ACCS entity. This policy does not cover general workplace grievances,

conduct, or professionalism, which are addressed by Policy 620.01. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- sexual harassment,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the ACCS entity (other than a President), shall report the action immediately, and in no event more than ten (10) calendar days following the event, to the Title IX Coordinator, Senior Personnel Officer, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

PERMANENT EMPLOYMENT STATUS

Tenure status for a faculty member is attained at Lurleen B. Wallace Community College when a full-time faculty member (i.e., instructor, counselor, or librarian), has been employed at the College on a full-time basis for six consecutive semesters, excluding summer terms. No probationary instructor shall attain tenure during or at the completion of a summer term. Eligible employees other than instructors shall attain non-probationary status upon the completion of 36

consecutive months of employment at the same two-year institution. Non-probationary status may not be attained by a College President, Vice President, or Chief Financial Officer.

Service performed as a teacher may not be converted to, recognized or otherwise credited to the employee for the purpose of attaining non-probationary status as a classified employee. Service performed in the capacity of a classified employee may not be converted to, recognized, or otherwise credited to the employee for the purpose of attaining tenure as a teacher.

Upon resignation from his/her position at the College, an employee loses continuous service status. A resignation shall be deemed to be effective when accepted in writing by the President. An employee who without good cause fails to report for duty at the College at the beginning of any academic term for which the employee was scheduled to work shall be deemed to have resigned.

TERMINATION OF EMPLOYMENT

Dismissal

Employees of the College should take all reasonable action necessary to keep themselves fully aware at all times of, and fully abide by, all applicable rules, regulations, and procedures of the College and the Alabama Community College System Board of Trustees, regardless of whether such rules, regulations, and procedures are recorded in a faculty handbook or other College publication, stated in other written form, or stated orally to employees in general.

A violation of any lawful rule, regulation, or procedure of the College or the Alabama Community College System Board of Trustees, or a violation of any applicable state or federal law or regulation shall be cause for appropriate administrative or disciplinary action, which may include, but is not necessarily limited to, termination of employment. In the event that such administrative or disciplinary action is taken, the College shall offer to the employee such hearing procedure, including written notice and opportunity for a hearing, as is required by law and/or by the rules of the Alabama Community College System Board of Trustees as set forth under the guidelines and provisions of the *Students First Act*.

Probationary employees may be terminated at the discretion of the College President upon issuance of a written notice of termination to the employee at any time on or before 15 days prior to the end of 36 consecutive months of employment at the same college.

Tenured instructors and non-probationary employees may be terminated at any time because of:

- a. A justifiable decrease in the number of positions
- b. Incompetency
- c. Insubordination
- d. Neglect of Duty
- e. Immorality
- f. Failure to perform duties in a satisfactory manner
- g. Or other good and just cause.

Exit Interview

It is the policy of Lurleen B. Wallace Community College that fulltime and regularly employed part-time employees will meet with their immediate supervisor for an exit interview on or prior to the last day of employment. An *Exit Employment Form* will be completed, signed, and filed in the employee's personnel file in the Human Resources Office.

Resignations

All faculty and staff shall give written notice of resignation at least 14 calendar days prior to the effective date of resignation, unless the President approves a shorter notice period. Failure to do so may result in documentation being placed in the employee's personnel file about the failure to follow policy and may affect your ability to be rehired at any ACCS entity or System Office.

Reduction-in-Force

In accordance with Alabama Community College System Board of Trustees Policy 624.01, Lurleen B. Wallace Community College may implement a reduction-in-force (RIF) action under the following conditions should such an action become necessary and appropriate under Alabama's Students First Act of 2011 with the written consent of the Chancellor.

A reduction-in-force is defined as layoffs or other personnel actions that are unavoidable reductions in the workforce beyond normal attrition due to extraordinary circumstances such as but not limited to decreased student enrollment, shortage of revenues, programs or courses are impractical or economically unreasonable, or changes in academic mission, administrative or ministerial function that necessitates significant organization changes.

If the College believes that a reduction-in-force is warranted, the President may submit a written request for approval of a reduction-in-force action to the Chancellor. This request must indicate the reason for the reduction-in-force, the current employee roster of the affected organizational unit with employee classifications, how the employee roster is proposed to be affected, and the manner in which the unit and employees will be affected. Before proceeding with the reduction-in-force, the President must obtain written approval to proceed with the proposed action.

The President shall:

1. In the event of a proposed reduction-in-force, identify each organizational unit and each employee to be affected by the reduction-in-force to the Chancellor and the manner in which the unit and employees shall be affected;
2. In the event of an approved reduction-in-force action, temporary and / or part-time employee(s) performing the same duties as non-temporary full-time personnel shall be released prior to the release of any of the non-temporary full-time employee(s);
3. In the event of an approved reduction-in-force action affecting non-temporary full-time personnel, a probationary employee performing the same duties as a respective non-

- probationary employee shall be released prior to the release of the non-probationary employee;
4. In the event of an approved reduction-in-force action affecting a full-time non-probationary employee, the following factors shall be taken into consideration in the following order:
 - a. The requirements of any applicable court order or consent decree;
 - b. Seniority at the respective college in the respective job classification taking into consideration minimum qualifications for the respective position;
 - c. Seniority at the respective college in the respective organizational unit;
 - d. Seniority in general at the respective college;
 - e. Educational level.
 5. When the institution imposes a reduction-in-force action and the President determines that a non-probationary full-time employee who is not the senior person in a given job classification or occupational areas possesses a certain license, certification, or job skill that loss of which would be severely detrimental to the operation of the College, the President may request review and approval by the Chancellor of an exception to the general guidelines relating to the release of full-time personnel on continuing service status. (This exception shall not be available for part-time, temporary, or probationary employees.)

Abandonment of Position

Any employee who is absent from work for three (3) consecutive workdays without approval through the procedures established by the College shall be considered to have abandoned the position and to have resigned from the Lurleen B. Wallace Community College. *See Alabama Community College System Board of Trustees Policy 618.01: Abandonment of Position.*

Alabama Community College System

Schedule B

Deans (Plus)

2023-2024

Salary Step

0	1	2	3	4	5	6	8	10	15	20	25	27	30
98,957	101,051	103,145	105,241	107,335	109,431	111,524	113,620	115,715	121,998	128,282	134,567	136,662	140,852

Notes:

- 1 Schedule B is for Deans or Vice Presidents employed at a College.
- 2 Any proposed Schedule B employee must be approved in writing by the Chancellor prior to offering the position to the candidate.
- 3 Initial placement on the schedule which gives credit for prior experience outside of public education in Alabama must be based on the College's standard experience ratio.
- 4 Advancement in steps after the initial placement will be based on years completed in the position and as determined by the Salary Schedule Guidelines issued each year by the Chancellor.
- 5 If a Schedule B employee holds an earned doctorate from an accredited institution, add \$2,000 per annum to base salary, prorated monthly.
- 6 Colleges that employ a Vice President may pay a salary not to exceed 110% of the appropriate step on Salary Schedule B upon approval of the Chancellor.

Alabama Community College System

Schedule C

Professional Personnel

2023-2024

Rank	Salary Step	0	1	2	3	4	5	6	8	10	15	20	25	27	30
1		86,795	88,891	90,985	93,079	95,175	97,269	99,364	101,457	103,552	109,838	116,122	122,407	124,502	128,692
2		76,089	78,184	80,279	82,373	84,469	86,562	88,657	90,751	92,847	99,132	105,416	111,701	113,794	117,986
3		101,034	Maximum Salary												

Notes:

- 1 Initial placement on the schedule which gives credit for prior experience outside of public education in Alabama must be based on the College's standard experience ratio.
- 2 Advancement in steps after the initial placement will be based on years completed in the position and as determined by the Salary Schedule Guidelines issued each year by the Chancellor.
- 3 If a Schedule C employee holds an earned doctorate from an accredited institution, add \$2,000 per annum to salary prorated monthly.
- 4 Positions will be placed on the appropriate C Schedule based on level of responsibility at the institution.

Alabama Community College System
Schedule D-1
Full-time Instructors, Counselors and Librarians
2023-2024

Rank		Salary Step													
		0	1	2	3	4	5	6	8	10	15	20	25	27	30
IV	9-Month	60,501	62,104	63,702	65,302	66,905	68,504	70,107	71,706	73,306	78,109	82,911	87,712	89,313	92,513
	Summer	18,680	19,177	19,674	20,172	20,667	21,164	21,660	22,158	22,654	24,143	25,636	27,124	27,623	28,612
	12 Month	79,181	81,281	83,376	85,474	87,572	89,668	91,767	93,864	95,960	102,252	108,547	114,836	116,936	121,125
III	9-Month	54,465	56,066	57,667	59,268	60,869	62,470	64,068	65,669	67,270	71,431	75,592	79,755	81,356	83,918
	Summer	16,813	17,309	17,806	18,303	18,799	19,296	19,793	20,291	20,788	22,079	23,369	24,663	25,158	25,957
	12 Month	71,278	73,375	75,473	77,571	79,668	81,766	83,861	85,960	88,058	93,510	98,961	104,418	106,514	109,875
II	9-Month	50,071	51,671	53,273	54,873	56,472	58,073	59,673	61,275	62,876	66,077	69,278	72,479	74,079	75,680
	Summer	15,455	15,954	16,451	16,945	17,443	17,940	18,437	18,933	19,431	20,424	21,417	22,410	22,907	23,403
	12 Month	65,526	67,625	69,724	71,818	73,915	76,013	78,110	80,208	82,307	86,501	90,695	94,889	96,986	99,083
IA	9-Month	45,676	47,276	48,876	50,477	52,079	53,678	55,279	56,880	58,481	61,682	64,883	68,083	69,684	71,283
	Summer	14,102	14,598	15,095	15,592	16,088	16,587	17,083	17,580	18,077	19,069	20,063	21,055	21,553	22,047
	12 Month	59,778	61,874	63,971	66,069	68,167	70,265	72,362	74,460	76,558	80,751	84,946	89,138	91,237	93,330
IB	9-Month	41,282	42,883	44,482	46,085	47,685	49,284	50,887	52,486	54,089	57,287	60,489	63,690	65,291	66,891
	Summer	12,746	13,244	13,739	14,237	14,734	15,231	15,727	16,225	16,720	17,714	18,707	19,700	20,199	20,693
	12 Month	54,028	56,127	58,221	60,322	62,419	64,515	66,614	68,711	70,809	75,001	79,196	83,390	85,490	87,584
IC	9-Month	41,282	42,883	44,482	46,085	47,685	49,284	50,887	52,486	54,089	57,287	60,489	63,690	65,291	66,891
	Summer	12,746	13,244	13,739	14,237	14,734	15,231	15,727	16,225	16,720	17,714	18,707	19,700	20,199	20,693
	12 Month	54,028	56,127	58,221	60,322	62,419	64,515	66,614	68,711	70,809	75,001	79,196	83,390	85,490	87,584

Notes:

- 1 Schedule D1 is to be used to compensate full-time instructors at colleges using the number of instructional and non-instructional days as indicated by the college.
- 2 Initial placement on the schedule which gives credit for prior experience outside of public education in Alabama must be based on the College's standard experience ratio.
- 3 Advancement in steps after the initial placement will be based on years completed in the position and as determined by the Salary Schedule Guidelines issued each year by the Chancellor.
- 4 Effective 2023-2024 Academic Year, advancement in Rank on this Schedule can only be accomplished through a professional educational growth plan in writing signed by the President, who has discretion whether to sign based on the individual needs of the college.
- 5 A department or division chairperson shall be paid an additional \$400 per month provided that the department or division includes a minimum of three full-time faculty members, with the Chairperson being counted as one of the three (see Policy 606.05).

Alabama Community College System

Schedule D-2

Full-time Instructors, Counselors and Librarians
2023--2024

Rank		Salary Step													
		0	1	2	3	4	5	6	8	10	15	20	25	27	30
IV	9-Month	57,044	58,551	60,062	61,569	63,075	64,584	66,093	67,601	69,109	73,634	78,158	82,682	84,192	87,206
	Summer	22,135	22,724	23,310	23,898	24,485	25,072	25,662	26,250	26,838	28,603	30,364	32,127	32,717	33,890
	12 Month	79,179	81,275	83,372	85,467	87,560	89,656	91,755	93,851	95,947	102,237	108,522	114,809	116,909	121,096
III	9-Month	51,351	52,860	54,368	55,876	57,386	58,893	60,400	61,908	63,417	67,338	71,259	75,181	76,689	79,103
	Summer	19,925	20,514	21,102	21,689	22,278	22,865	23,453	24,041	24,628	26,158	27,686	29,213	29,801	30,740
	12 Month	71,276	73,374	75,470	77,565	79,664	81,758	83,853	85,949	88,045	93,496	98,945	104,394	106,490	109,843
II	9-Month	47,210	48,720	50,227	51,734	53,244	54,753	56,259	57,767	59,277	62,291	65,311	68,325	69,833	71,339
	Summer	18,317	18,905	19,493	20,081	20,668	21,258	21,843	22,432	23,020	24,195	25,373	26,548	27,136	27,723
	12 Month	65,527	67,625	69,720	71,815	73,912	76,011	78,102	80,199	82,297	86,486	90,684	94,873	96,969	99,062
IA	9-Month	43,067	44,575	46,085	47,594	49,100	50,608	52,117	53,624	55,133	58,149	61,166	64,180	65,690	67,194
	Summer	16,710	17,299	17,889	18,476	19,064	19,651	20,239	20,825	21,414	22,591	23,765	24,943	25,529	26,121
	12 Month	59,777	61,874	63,974	66,070	68,164	70,259	72,356	74,449	76,547	80,740	84,931	89,123	91,219	93,315
IB	9-Month	38,924	40,431	41,938	43,448	44,955	46,464	47,973	49,481	50,988	54,005	57,021	60,037	61,547	63,053
	Summer	15,105	15,693	16,281	16,869	17,455	18,044	18,631	19,220	19,806	20,983	22,160	23,335	23,923	24,510
	12 Month	54,029	56,124	58,219	60,317	62,410	64,508	66,604	68,701	70,794	74,988	79,181	83,372	85,470	87,563
IC	9-Month	38,924	40,431	41,938	43,448	44,955	46,464	47,973	49,481	50,988	54,005	57,021	60,037	61,547	63,053
	Summer	15,105	15,693	16,281	16,869	17,455	18,044	18,631	19,220	19,806	20,983	22,160	23,335	23,923	24,510
	12 Month	54,029	56,124	58,219	60,317	62,410	64,508	66,604	68,701	70,794	74,988	79,181	83,372	85,470	87,563

Notes:

- 1 Schedule D2 is to be used to compensate full-time instructors at colleges using the number of instructional and non-instructional days as indicated by the college.
- 2 Initial placement on the schedule which gives credit for prior experience outside of public education in Alabama must be based on the College's standard experience ratio.
- 3 Advancement in steps after the initial placement will be based on years completed in the position and as determined by the Salary Schedule Guidelines issued each year by the Chancellor.
- 4 Effective 2023-2024 Academic Year, advancement in Rank on this Schedule can only be accomplished through a professional educational growth plan in writing signed by the President, who has discretion whether to sign based on the individual needs of the college.
- 5 A department or division chairperson shall be paid an additional \$400 per month provided that the department or division includes a minimum of three full-time faculty members, with the Chairperson being counted as one of the three (see Policy 606.05).

Alabama Community College System

Schedule D-3

Full-Time Adult Education Teachers

2023-2024

Rank		Salary Step													
		0	1	2	3	4	5	6	8	10	15	20	25	27	30
II	9-Month	35,700	36,375	37,050	37,725	38,325	39,375	40,125	41,250	42,375	44,179	46,388	48,707	49,680	51,171
	3-Month	11,900	12,125	12,350	12,575	12,775	13,125	13,375	13,750	14,125	14,726	15,462	16,235	16,560	17,056
	12 Month	47,600	48,500	49,400	50,300	51,100	52,500	53,500	55,000	56,500	58,905	61,850	64,942	66,240	68,227
I	9-Month	30,675	31,125	31,800	32,475	33,075	34,125	34,875	36,000	37,125	38,929	40,875	42,919	43,777	45,090
	3-Month	10,225	10,375	10,600	10,825	11,025	11,375	11,625	12,000	12,375	12,976	13,625	14,306	14,592	15,030
	12 Month	40,900	41,500	42,400	43,300	44,100	45,500	46,500	48,000	49,500	51,905	54,500	57,225	58,369	60,120
Bachelors	9-Month	30,675	31,125	31,800	32,475	33,075	34,125	34,875	36,000	37,125	38,929	40,875	42,919	43,777	45,090
	3-Month	10,225	10,375	10,600	10,825	11,025	11,375	11,625	12,000	12,375	12,976	13,625	14,306	14,592	15,030
	12 Month	40,900	41,500	42,400	43,300	44,100	45,500	46,500	48,000	49,500	51,905	54,500	57,225	58,369	60,120

Notes:

- 1 At initial placement, D-3 instructors who hold a master's degree will be placed on Rank II and those who hold a bachelor's degree will be placed at Rank I.
- 2 There are some D-3 instructors who are grandfathered from the minimum degree qualification if they were employed from June 30, 2008, or before.
- 3 Work hours and duty days shall comply with ACCS Policy & Procedure 608.02.
- 4 Initial step placement which gives credit for prior experience outside of public education in Alabama shall be based on the College's local experience ratio.
- 5 Advancement from Rank I to Rank II on this Schedule can be accomplished only through a professional educational growth plan in writing signed by the President, who has discretion whether to allow advancement or professional plans based on the individual needs of the College.

Alabama Community College System
Schedule E1 to E5
Full-Time Support Personnel 40 Hours Per Week
2023-2024

Rank	Grade	Salary Step													
		0	1	2	3	4	5	6	8	10	15	20	25	27	30
E1	01	55,038	56,111	57,183	58,256	59,326	60,397	61,469	62,541	63,613	65,755	67,900	70,044	71,114	72,188
E1	02	49,686	50,757	51,828	52,901	53,974	55,044	56,115	57,188	58,260	60,402	62,546	64,689	65,762	66,832
E2	02	49,686	50,757	51,828	52,901	53,974	55,044	56,115	57,188	58,260	60,402	62,546	64,689	65,762	66,832
E2	03	44,333	45,404	46,477	47,549	48,620	49,692	50,763	51,836	52,907	55,051	57,194	59,337	60,410	61,480
E3	03	44,333	45,404	46,477	47,549	48,620	49,692	50,763	51,836	52,907	55,051	57,194	59,337	60,410	61,480
E3	04	38,979	40,049	41,122	42,194	43,266	44,337	45,407	46,480	47,552	49,695	51,840	53,984	55,056	56,128
E4	04	38,979	40,049	41,122	42,194	43,266	44,337	45,407	46,480	47,552	49,695	51,840	53,984	55,056	56,128
E4	05	33,625	34,696	35,769	36,841	37,914	38,985	40,056	41,127	42,199	44,343	46,487	48,632	49,703	50,777
E5	05	33,625	34,696	35,769	36,841	37,914	38,985	40,056	41,127	42,199	44,343	46,487	48,632	49,703	50,777
E5	06	28,271	29,341	30,414	31,485	32,559	33,629	34,702	35,773	36,845	38,988	41,133	43,276	44,348	45,419

Notes:

- 1 Initial placement on the appropriate schedule will be determined by the President based upon Salary Schedule Guidelines issued by the Chancellor.
- 2 Advancement in steps after the initial placement will be based on years completed in the position and as determined by the Salary Schedule Guidelines issued each year by the Chancellor.
- 3 Advancement, if any, within a level is based on local policy and practice as determined by the President.
- 4 Beginning at the 2023-2024 Academic Year, current E3-05, E4-06, and E5-07 employees shall be placed on this Schedule as follows:

E3-05 employees shall be placed at the same grade 5, specifically E4-05 on this Schedule (with President discretion to place at E4-04 or E3-04, when consistent with position in accordance with local policy or practice);

E4-06 employees shall be placed at the same grade 6, specifically E5-06 on this Schedule (with President discretion to place at E5-05 when consistent with position in accordance with local policy or practice);

E5-07 employees cannot be placed at the same grade because grade 7 was eliminated, so they shall be placed at E5-06 on this Schedule.

Alabama Community College System

Schedule H20

Part-Time Support Personnel 20-24 Hours Per Week
2023-2024

Rank	Salary Step	0	1	2	3	4	5	6	8	10	15	20	25	27	30
01		22,189	22,461	22,735	23,009	23,283	23,555	23,830	24,103	24,375	24,923	25,468	26,017	26,291	26,566
02		21,656	21,928	22,201	22,475	22,751	23,023	23,297	23,570	23,844	24,390	24,937	25,484	25,757	26,031
03		21,120	21,393	21,669	21,942	22,215	22,487	22,760	23,035	23,307	23,854	24,401	24,949	25,223	25,497
04		20,586	20,860	21,132	21,406	21,679	21,952	22,226	22,499	22,773	23,319	23,866	24,413	24,685	24,960
05		20,050	20,321	20,596	20,869	21,143	21,416	21,689	21,963	22,235	22,784	23,329	23,876	24,149	24,423
06		19,515	19,787	20,060	20,335	20,608	20,880	21,155	21,428	21,699	22,247	22,793	23,341	23,613	23,889
07		18,979	19,251	19,525	19,799	20,072	20,345	20,618	20,893	21,165	21,713	22,257	22,806	23,080	23,355
08		18,443	18,717	18,990	19,264	19,535	19,809	20,083	20,357	20,630	21,177	21,724	22,273	22,544	22,822
09		17,907	18,178	18,453	18,726	19,000	19,274	19,547	19,821	20,094	20,641	21,186	21,735	22,008	22,284
10		17,373	17,644	17,919	18,193	18,465	18,739	19,013	19,287	19,561	20,107	20,654	21,201	21,473	21,748
11		16,835	17,109	17,383	17,657	17,930	18,203	18,477	18,750	19,022	19,571	20,117	20,664	20,937	21,211
12		16,302	16,575	16,848	17,124	17,396	17,669	17,944	18,215	18,490	19,037	19,582	20,130	20,402	20,678
13		15,765	16,040	16,314	16,587	16,859	17,132	17,405	17,680	17,953	18,501	19,046	19,593	19,866	20,140
14		15,231	15,506	15,779	16,052	16,325	16,598	16,873	17,146	17,420	17,965	18,512	19,059	19,332	19,606
15		14,694	14,967	15,242	15,514	15,788	16,063	16,336	16,609	16,883	17,430	17,975	18,521	18,796	19,067
16		14,159	14,433	14,707	14,982	15,254	15,528	15,801	16,073	16,347	16,892	17,441	17,987	18,262	18,533
17		13,624	13,899	14,173	14,447	14,720	14,993	15,267	15,539	15,812	16,361	16,908	17,453	17,727	17,998
18		13,092	13,365	13,638	13,913	14,184	14,456	14,730	15,003	15,277	15,826	16,372	16,919	17,192	17,466
19		12,554	12,829	13,101	13,373	13,648	13,921	14,194	14,468	14,743	15,288	15,836	16,381	16,655	16,926
20		12,019	12,291	12,565	12,838	13,111	13,385	13,659	13,933	14,208	14,753	15,300	15,845	16,120	16,390
21		11,482	11,756	12,030	12,302	12,576	12,851	13,123	13,397	13,670	14,216	14,763	15,310	15,585	15,857
22		10,947	11,220	11,493	11,768	12,042	12,315	12,588	12,861	13,135	13,681	14,227	14,775	15,048	15,323
23		10,412	10,687	10,960	11,233	11,506	11,779	12,051	12,326	12,599	13,146	13,694	14,240	14,513	14,786
24		9,877	10,151	10,424	10,697	10,971	11,244	11,517	11,791	12,064	12,611	13,158	13,704	13,977	14,250
25		9,339	9,616	9,888	10,161	10,435	10,709	10,981	11,255	11,529	12,076	12,623	13,168	13,442	13,713
26		9,077	9,350	9,624	9,897	10,168	10,443	10,715	10,988	11,263	11,810	12,356	12,905	13,177	13,454

Notes:

- 1 Rank placement of positions shall be based on level of required training, level and extent of duties and responsibilities, and prevailing salaries for similar positions in the geographic area.
- 2 Initial placement on the appropriate schedule will be determined by the President. Advancement in steps after the initial placement will be based on years completed in the position.
- 3 Salaries shown on this schedule are base salaries for a 20-hour work week. Compensation for hours worked above 20 hours per week shall be computed by dividing the base by 1040, and then multiplying that hourly rate by the hours worked in the work week.
- 4 For purposes of the Fair Labor Standards Act, the "normal" work week is forty (40) hours per week. Any employee, regardless of hours worked, who is covered by the Fair Labor Standards Act may become eligible for overtime benefits mandated by the Act only for hours worked beyond forty (40) hours per week.

Alabama Community College System

Schedule H25

Part-Time Support Personnel 25-29 Hours Per Week
2023-2024

Rank	Salary Step	0	1	2	3	4	5	6	8	10	15	20	25	27	30
01		27,741	28,079	28,417	28,753	29,092	29,429	29,766	30,104	30,442	31,116	31,792	32,468	32,804	33,144
02		27,072	27,410	27,746	28,086	28,422	28,759	29,098	29,435	29,773	30,448	31,123	31,797	32,137	32,471
03		26,402	26,740	27,079	27,415	27,754	28,091	28,426	28,765	29,102	29,777	30,452	31,129	31,465	31,806
04		25,734	26,071	26,409	26,747	27,084	27,421	27,760	28,096	28,435	29,111	29,785	30,460	30,798	31,135
05		25,062	25,401	25,739	26,074	26,412	26,751	27,087	27,426	27,763	28,438	29,114	29,789	30,127	30,464
06		24,390	24,729	25,065	25,404	25,742	26,078	26,417	26,755	27,091	27,766	28,441	29,117	29,454	29,793
07		23,720	24,058	24,395	24,734	25,070	25,409	25,747	26,084	26,421	27,097	27,772	28,448	28,784	29,124
08		23,051	23,389	23,726	24,063	24,401	24,738	25,078	25,413	25,751	26,425	27,101	27,776	28,113	28,451
09		22,382	22,719	23,056	23,394	23,731	24,071	24,407	24,743	25,083	25,757	26,433	27,108	27,445	27,783
10		21,711	22,047	22,385	22,724	23,061	23,397	23,734	24,074	24,410	25,086	25,760	26,437	26,774	27,114
11		21,043	21,379	21,717	22,055	22,392	22,731	23,067	23,405	23,744	24,418	25,094	25,768	26,107	26,442
12		20,370	20,709	21,047	21,382	21,722	22,060	22,395	22,734	23,070	23,747	24,421	25,097	25,434	25,773
13		19,703	20,040	20,379	20,716	21,053	21,391	21,729	22,066	22,404	23,080	23,754	24,430	24,768	25,106
14		19,029	19,367	19,704	20,041	20,380	20,717	21,054	21,392	21,730	22,405	23,081	23,756	24,091	24,431
15		18,360	18,700	19,037	19,375	19,710	20,050	20,388	20,723	21,062	21,737	22,411	23,088	23,425	23,765
16		17,691	18,029	18,366	18,704	19,041	19,379	19,715	20,055	20,392	21,066	21,742	22,418	22,755	23,094
17		17,022	17,360	17,697	18,035	18,373	18,711	19,047	19,384	19,725	20,397	21,074	21,747	22,085	22,420
18		16,351	16,687	17,027	17,363	17,700	18,039	18,376	18,715	19,051	19,728	20,401	21,077	21,414	21,753
19		15,683	16,020	16,358	16,698	17,033	17,371	17,710	18,046	18,383	19,059	19,734	20,409	20,746	21,084
20		15,010	15,349	15,685	16,022	16,361	16,699	17,035	17,373	17,711	18,387	19,062	19,736	20,074	20,410
21		14,341	14,678	15,016	15,354	15,692	16,027	16,368	16,705	17,041	17,716	18,393	19,067	19,406	19,741
22		13,672	14,009	14,345	14,684	15,022	15,359	15,696	16,034	16,372	17,046	17,721	18,397	18,734	19,073
23		13,002	13,341	13,677	14,014	14,352	14,690	15,029	15,364	15,702	16,378	17,053	17,728	18,065	18,403
24		12,329	12,667	13,004	13,343	13,680	14,017	14,354	14,692	15,031	15,705	16,380	17,055	17,394	17,730
25		11,665	12,002	12,338	12,677	13,015	13,351	13,689	14,027	14,365	15,039	15,715	16,390	16,728	17,065
26		11,328	11,666	12,003	12,339	12,678	13,016	13,352	13,691	14,028	14,703	15,379	16,053	16,391	16,727

Notes:

- 1 Rank placement or positions shall be based on level or required training, level and extent of duties and responsibilities, and prevailing salaries for similar positions in the geographic area.
- 2 Initial placement on the appropriate schedule will be determined by the President. Advancement in steps after the initial placement will be based on years completed in the position.
- 3 Salaries shown on this schedule are base salaries for a 25-hour work week. Compensation for hours worked above 25 hours per week shall be computed by dividing the base by 1300, and then multiplying that hourly rate by the hours worked in the work week.
- 4 For purposes of the Fair Labor Standards Act, the "normal" work week is forty (40) hours per week. Any employee, regardless of hours worked, who is covered by the Fair Labor Standards Act may become eligible for overtime benefits mandated by the Act only for hours worked beyond forty (40) hours per week.

Alabama Community College System
Schedule H30
Part-Time Support Personnel 30-34 Hours Per Week
2023-2024

Rank	Salary Step	0	1	2	3	4	5	6	8	10	15	20	25	27	30
01		33,311	33,718	34,126	34,530	34,938	35,346	35,753	36,159	36,567	37,381	38,195	39,008	39,415	39,821
02		32,508	32,913	33,319	33,727	34,134	34,541	34,947	35,355	35,760	36,576	37,389	38,203	38,610	39,017
03		31,701	32,108	32,515	32,922	33,329	33,735	34,141	34,549	34,956	35,769	36,582	37,397	37,805	38,212
04		30,898	31,306	31,711	32,120	32,526	32,934	33,340	33,746	34,154	34,968	35,781	36,595	37,002	37,409
05		30,095	30,501	30,910	31,316	31,723	32,128	32,536	32,944	33,350	34,162	34,978	35,792	36,199	36,606
06		29,287	29,695	30,101	30,507	30,915	31,321	31,728	32,137	32,543	33,357	34,172	34,985	35,390	35,798
07		28,482	28,890	29,298	29,705	30,111	30,518	30,925	31,332	31,739	32,552	33,367	34,181	34,586	34,995
08		27,678	28,084	28,492	28,898	29,305	29,711	30,120	30,526	30,930	31,745	32,560	33,372	33,779	34,184
09		26,875	27,282	27,688	28,095	28,502	28,910	29,316	29,723	30,130	30,945	31,757	32,571	32,980	33,385
10		26,070	26,476	26,884	27,290	27,698	28,104	28,511	28,918	29,325	30,138	30,952	31,766	32,174	32,580
11		25,263	25,668	26,076	26,483	26,891	27,297	27,704	28,110	28,517	29,332	30,145	30,957	31,367	31,769
12		24,459	24,867	25,273	25,680	26,087	26,493	26,899	27,308	27,713	28,527	29,340	30,156	30,561	30,972
13		23,655	24,061	24,468	24,875	25,282	25,690	26,096	26,502	26,910	27,722	28,537	29,352	29,757	30,167
14		22,850	23,258	23,664	24,073	24,478	24,885	25,291	25,700	26,107	26,920	27,734	28,548	28,954	29,362
15		22,045	22,454	22,860	23,266	23,673	24,080	24,487	24,895	25,301	26,115	26,929	27,742	28,149	28,555
16		21,239	21,646	22,054	22,460	22,868	23,273	23,682	24,087	24,496	25,309	26,123	26,936	27,343	27,749
17		20,433	20,843	21,250	21,656	22,063	22,469	22,878	23,284	23,690	24,503	25,318	26,130	26,538	26,942
18		19,632	20,038	20,446	20,851	21,260	21,666	22,073	22,481	22,887	23,701	24,513	25,328	25,736	26,143
19		18,828	19,235	19,642	20,050	20,455	20,864	21,269	21,677	22,083	22,897	23,711	24,525	24,931	25,339
20		18,023	18,429	18,835	19,243	19,649	20,057	20,463	20,870	21,275	22,091	22,904	23,718	24,126	24,532
21		17,217	17,625	18,031	18,439	18,845	19,251	19,658	20,065	20,473	21,286	22,100	22,915	23,320	23,730
22		16,412	16,820	17,224	17,634	18,040	18,448	18,855	19,260	19,669	20,482	21,296	22,110	22,515	22,924
23		15,608	16,015	16,424	16,830	17,238	17,642	18,051	18,457	18,865	19,678	20,492	21,305	21,713	22,118
24		14,803	15,212	15,619	16,024	16,432	16,838	17,246	17,654	18,059	18,873	19,687	20,501	20,906	21,315
25		13,997	14,404	14,813	15,218	15,625	16,033	16,439	16,846	17,253	18,066	18,881	19,695	20,102	20,509
26		13,597	14,005	14,410	14,818	15,224	15,630	16,038	16,444	16,850	17,665	18,480	19,292	19,699	20,104

Notes:

- 1 Rank placement of positions shall be based on level of required training, level and extent of duties and responsibilities, and prevailing salaries for similar positions in the geographic area.
- 2 Initial placement on the appropriate schedule will be determined by the President. Advancement in steps after the initial placement will be based on years completed in the position.
- 3 Salaries shown on this schedule are base salaries for a 30-hour work week. Compensation for hours worked above 30 hours per week shall be computed by dividing the base by 1560, and then multiplying that hourly rate by the hours worked in the work week.
- 4 For purposes of the Fair Labor Standards Act, the "normal" work week is forty (40) hours per week. Any employee, regardless of hours worked, who is covered by the Fair Labor Standards Act may become eligible for overtime benefits mandated by the Act only for hours worked beyond forty (40) hours per week.

Alabama Community College System

Schedule H35

Part-Time Support Personnel 35-39 Hours Per Week
2023-2024

Rank	Salary Step	0	1	2	3	4	5	6	8	10	15	20	25	27	30
01		38,876	39,351	39,826	40,302	40,777	41,250	41,724	42,199	42,675	43,625	44,574	45,525	46,000	46,476
02		37,934	38,410	38,885	39,360	39,833	40,309	40,785	41,260	41,735	42,683	43,635	44,583	45,059	45,531
03		36,997	37,473	37,945	38,421	38,897	39,371	39,847	40,321	40,795	41,747	42,695	43,645	44,120	44,595
04		36,055	36,530	37,005	37,480	37,956	38,430	38,905	39,381	39,857	40,804	41,754	42,704	43,180	43,654
05		35,117	35,592	36,068	36,543	37,017	37,493	37,968	38,443	38,916	39,866	40,816	41,767	42,243	42,718
06		34,180	34,656	35,129	35,605	36,078	36,554	37,028	37,503	37,978	38,929	39,879	40,829	41,302	41,779
07		33,239	33,714	34,189	34,664	35,140	35,614	36,089	36,565	37,040	37,988	38,939	39,888	40,363	40,837
08		32,300	32,775	33,251	33,725	34,200	34,676	35,149	35,624	36,099	37,049	37,999	38,949	39,425	39,899
09		31,358	31,832	32,306	32,783	33,258	33,733	34,208	34,682	35,157	36,106	37,057	38,007	38,482	38,957
10		30,419	30,896	31,371	31,846	32,322	32,797	33,270	33,744	34,220	35,170	36,120	37,070	37,546	38,020
11		29,481	29,957	30,434	30,907	31,379	31,855	32,331	32,805	33,281	34,231	35,182	36,129	36,605	37,076
12		28,543	29,016	29,490	29,967	30,442	30,916	31,392	31,868	32,342	33,291	34,240	35,190	35,665	36,140
13		27,600	28,077	28,552	29,027	29,500	29,977	30,450	30,925	31,400	32,350	33,301	34,249	34,725	35,197
14		26,664	27,139	27,614	28,089	28,563	29,038	29,515	29,988	30,463	31,414	32,362	33,313	33,789	34,264
15		25,722	26,198	26,672	27,147	27,623	28,096	28,571	29,048	29,521	30,470	31,422	32,371	32,846	33,320
16		24,785	25,261	25,736	26,209	26,684	27,160	27,634	28,109	28,584	29,535	30,487	31,432	31,909	32,377
17		23,844	24,319	24,793	25,269	25,744	26,219	26,694	27,169	27,644	28,593	29,542	30,494	30,968	31,446
18		22,907	23,382	23,858	24,331	24,807	25,282	25,757	26,232	26,707	27,655	28,607	29,558	30,030	30,509
19		21,968	22,442	22,918	23,393	23,867	24,343	24,818	25,291	25,766	26,717	27,666	28,616	29,092	29,566
20		21,027	21,502	21,977	22,452	22,926	23,401	23,876	24,351	24,826	25,776	26,726	27,677	28,150	28,628
21		20,087	20,562	21,036	21,512	21,987	22,461	22,937	23,412	23,888	24,837	25,787	26,736	27,211	27,685
22		19,146	19,622	20,097	20,572	21,048	21,524	21,999	22,472	22,946	23,897	24,847	25,797	26,272	26,747
23		18,210	18,684	19,159	19,635	20,110	20,584	21,058	21,533	22,009	22,959	23,909	24,859	25,334	25,809
24		17,269	17,745	18,220	18,693	19,167	19,643	20,118	20,594	21,068	22,018	22,968	23,917	24,392	24,866
25		16,332	16,806	17,280	17,754	18,229	18,705	19,181	19,654	20,130	21,080	22,029	22,979	23,454	23,929
26		15,864	16,339	16,815	17,291	17,763	18,239	18,715	19,190	19,663	20,613	21,563	22,513	22,989	23,463

Notes:

- 1 Rank placement of positions shall be based on level of required training, level and extent of duties and responsibilities, and prevailing salaries for similar positions in the geographic area.
- 2 Initial placement on the appropriate schedule will be determined by the President. Advancement in steps after the initial placement will be based on years completed in the position.
- 3 Salaries shown on this schedule are base salaries for a 35-hour work week. Compensation for hours worked above 35 hours per week shall be computed by dividing the base by 1820, and then multiplying that hourly rate by the hours worked in the work week.
- 4 For purposes of the Fair Labor Standards Act, the "normal" work week is forty (40) hours per week. Any employee, regardless of hours worked, who is covered by the Fair Labor Standards Act may become eligible for overtime benefits mandated by the Act only for hours worked beyond forty (40) hours per week.



Lurleen B. Wallace
COMMUNITY COLLEGE

2023-2024 C3 Salary Schedule

Rank 1

Step	0	1	2	3	4	5	6	8	10	15	20	25	27	30
Salary	\$65,977	\$68,017	\$70,056	\$72,096	\$74,133	\$76,173	\$78,213	\$80,252	\$82,291	\$86,369	\$90,449	\$94,525	\$96,761	\$101,034

Rank 1.5

Step	0	1	2	3	4	5	6	8	10	15	20	25	27	30
Salary	\$59,979	\$61,599	\$63,219	\$64,837	\$66,456	\$68,076	\$69,696	\$71,314	\$72,934	\$76,173	\$79,411	\$82,652	\$87,613	\$91,481

Rank 2

Step	0	1	2	3	4	5	6	8	10	15	20	25	27	30
Salary	\$53,980	\$55,180	\$56,379	\$57,579	\$58,778	\$59,979	\$61,179	\$62,377	\$63,577	\$65,977	\$68,375	\$70,775	\$71,973	\$75,151

Rank 3

Step	0	1	2	3	4	5	6	8	10	15	20	25	27	30
Salary	\$41,984	\$43,184	\$44,384	\$45,584	\$46,783	\$47,983	\$49,182	\$50,382	\$51,581	\$53,980	\$56,379	\$58,778	\$59,979	\$62,627

8 INSTRUCTIONAL POLICIES

(Faculty Handbook)

05-25-2023 Updated Certification of Instructional Personnel/Credentials and Records
05-25-2023 Updated ADA Contact for Greenville Campus and Luverne Center
04-13-2021 Substantive Change Policy Revisions
03-16-2021 Revised Attendance Verification Procedures
10-15-2020 Revised Instructor Load and Hours
08-18-2020 Updated ADA Contact for the MacArthur Campus
05-27-2020 Updated ADA Contact MacArthur Campus
09-10-2019 Revised Instructor Load and Hours per ACCS MEMO# 2019-EXE-036 REVISED
04-30-2019 Revised Instructor Load and Hours, Employee Grievance, and Employee Complaint
03-05-2019 Revised ADA Contact for Greenville Campus
09-11-2018 Revised Prior Learning Assessment
07-10-2018 Revised Travel Policy Approved by Executive Council
06-19-2018 Multiple Revisions Approved by Executive Council
04-12-2018 Removed Uniform Guidelines and Updated Substantive Change Policy

NONDISCRIMINATION POLICY

It is the policy of Lurleen B. Wallace Community College that no individual shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law.

FACULTY EMPLOYMENT POLICIES

Faculty are an integral part of Lurleen B. Wallace Community College. The selection, development and retention of a competent faculty at all levels are of major importance to the educational quality of this institution. The commitment of faculty to the College's purposes determines to a large measure the effectiveness of its total educational program.

Assignment and Schedules

Instructor Load and Hours

The President is authorized to approve instructor load and hours for faculty.

The normal workweek of a full-time instructor, librarian, or counselor shall be a minimum of 35 hours, excluding lunch and other regularly scheduled breaks. Full-time faculty and others paid from Salary Schedule D are expected to work a minimum of 35 hours per week. They can be required to work more than the minimum.

The duties of an instructor will be determined by the President and are found in the published job description. The number of preparations, the number of students taught, total credit hours produced, complexity of grading required, and the number of direct student contact hours is considered in determining instructor loads. No distinction is made between day, extended day, weekend, evening, method of delivery, and off-campus programs. Personnel will be employed to provide education for those enrolled, regardless of the day and time of day, or campus/teaching location.

Each academic full-time instructor at any ACCS institution shall teach 15 to 16 credit hours per term or the equivalent for the academic year, fall and spring semesters. In using the contact hour method of calculation typically for full-time faculty, no single faculty member shall have a direct student contact hour assignment that is less than 24 hours or exceeds 30 or the equivalent assigned hours per week. Equivalence to a course is determined by the president and may include such assignments as Division Chairperson, Program Director of a Nursing or Health Sciences Program, Southern Association of Colleges and Schools Commission on Colleges accreditation chairperson; coaching duties and studio courses (such as athletics, drama, music); laboratory, clinical, and shop classes; student organization sponsors.) Any instructional load of more than 15 to 16 credit hours or more than 30 contact hours constitutes an overload and must be approved by the President.

If lab facilitators are employed to assist a full-time instructor with supervision of students and lab instruction, those lab courses for which facilitators are employed will not count toward faculty load.

Full-time faculty members must maintain regular office hours for student advisement and schedule from one to one-and-one-half hours weekly for each course taught. In addition to instruction and student advisement, other regular duties of all full-time faculty include, but are not limited to, committee assignments and curriculum development. The President may approve release time for full-time faculty assigned responsibility for grant writing and other appropriate projects.

A full-time instructor may be employed to teach overload(s) per term for pay. The overload course(s) must be taught outside the normal work week of the instructor, and the pay will be at the prevailing part-time salary rate. Under-enrolled classes taught as an overload by full-time faculty or by adjunct faculty will be remunerated at a reduced compensation rate as designated and approved by the President.

No full-time faculty member can be required to teach overload(s). Overloads will be at the discretion of the President, based on faculty desire, preparation required, non-instructional duties, and other considerations. The President is authorized to approve overloads for faculty.

Independent Study Course Assignments

Faculty members may teach an independent study course on a voluntary basis, but may not be required to do so. An independent study course will not count toward faculty load. However, during the summer term, credit hours generated by a student in an independent study course will apply toward total credit hours generated by students in courses assigned to an instructor. An instructor should not teach more than one independent study course in a semester and should not allow more than one to two students to be enrolled in the course without the approval of the Division Chair and Dean of Instruction.

Supervision of Clinical and Cooperative/Internship Agreements

In programs that require students to complete clinical, internship, or on-site cooperative learning situations, instructors are required to be available at the clinical work-site for supervision of student work, and to also provide necessary coordination and feedback for the improvement of the program. Faculty shall also be responsible to initiate the annual review of such agreements based on the previous year's results. In internship or cooperative agreements in which direct supervision of students is provided by employers rather than instructors, required student participation hours associated with a course (course contact hours) are not counted toward faculty load.

Certification of Instructional Personnel/Credentials and Records

Instructors are required to meet or exceed the current standards of the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC). All faculty are required to submit the following documents and/or credentials to the College Office of Human Resources:

Official college transcripts that verify the appropriate credentials for the assigned teaching discipline(s)/program(s). All employees will be required to provide the appropriate official college transcript no later than the end of the first semester of employment.

2. Specialized Certificates or Licenses
3. Letters from previous or current employers verifying that the employee meets the experience qualifications required for the position. Employees will be required to provide letters of experience verification upon initial employment when applicable.
4. Annual professional development goals (full-time faculty) as a part of the Institutional Effectiveness process.

DISTANCE EDUCATION COURSES

Lurleen B. Wallace Community College recognizes the benefit of distance education courses for its students and accepts the responsibility of assuring that its distance education courses are achieving the purpose for which they are being offered. Distance education courses may be offered in the form of internet-based courses, CD-ROM discs, and classroom arrangements at off-campus instructional sites. Students who take advantage of distance education courses do so as a matter of convenience of scheduling and access. Distance education courses are supported and measured by the same standards expected of any other course offered by Lurleen B. Wallace Community College.

Virtual Office Hours

Due to the nature of online and hybrid course instruction, faculty regularly spend time outside of regular office hours communicating with distance education students. Distance education instructors who teach these courses may be allowed to count 1.5 hours per week per online/hybrid course as a part of his/her 35 hour workload.

Virtual office hours will be granted to faculty under the following conditions:

- Faculty must have access to the following at home:
 - Computer
 - Internet Access
- Faculty members must provide documentation in the form of emails detailing days and times logged into the Canvas system when requested by the Division Chair or Dean of Instruction.
- The Dean of Instruction and Division Chairs will be allowed to approve or disapprove virtual office hours for faculty in their respective division. If the Chair has documentation of past issues with faculty members not responding or communicating with students in online or hybrid courses they can choose not to grant virtual hours.
- Once virtual office hours are approved, any of the following could cause the instructor to have the virtual office hours removed from their work schedule:
 - Documentation requested by Chair does not prove the hours are being used to communicate with students.
 - Documentation from Distance Education Survey states students are not able to communicate with instructor.

- Student complaints received by the Division Chair about an instructor not being accessible.
 - No Internet access or computer at home.
- The maximum amount of virtual office hours that can be approved for faculty during any given term is five hours per week.
- The virtual hours cannot be taken all in one day.

DEFINITION AND REMUNERATION FOR FULL-TIME, PART-TIME, AND ADJUNCT FACULTY

A full-time academic faculty member is one who is employed to teach 15 to 16 credit hours per term or the equivalent for the academic year, fall and spring semester. A full-time technical faculty member is one who is employed to teach a maximum of 30 contact hours per week for the academic year, fall and spring semester. Faculty and others on Salary Schedule D are expected to work a minimum of 35 hours per week, excluding lunch and other regularly scheduled breaks. They can be required to work more than the minimum. Full-time faculty are paid from the Alabama Community College System Board of Trustees approved full-time Salary Schedule D1 and on the appropriate salary ranks. Full-time faculty are employed on an academic year *Letter of Appointment*, fall and spring semesters, and work 175 days. Faculty employed full-time for the summer shall work 54 days. A full-time faculty position may be a regular position which is a routine (permanent) portion of the College budget. A full-time faculty position may be a grant-funded position for which employment is contingent upon the grant funding. In addition, a full-time faculty position may be for a temporary period of time due to emergency instructional needs within a department or discipline.

A part-time academic faculty member is one who is employed to teach less than 15 to 16 credit hours per term or the equivalent for the academic year, fall and spring semester, and less than 30 contact hours per week as a technical instructor for regular instructional positions. The normal work week of a part-time instructor is less than 35 clock hours, exclusive of lunch and other regularly scheduled breaks. Part-time faculty are paid on the Alabama Community College System Board of Trustees approved pro-rata, full-time Salary Schedule D1 or on a local salary schedule at a set hourly rate. A part-time faculty position may be a regular position which is a routine (permanent) portion of the College budget. A part-time faculty position may be a grant-funded position for which employment is contingent upon the grant funding. In addition, a part-time faculty position may be for a temporary period of time due to emergency instructional needs within a department or discipline.

An adjunct faculty member is one who is employed on an as-needed, semester-by-semester basis determined by course offerings and student enrollment. Adjunct faculty are remunerated from a local salary schedule at a set credit hour rate or a set hourly rate. An adjunct faculty position is not a regular position and it is not a routine (permanent) portion of the College budget. An adjunct faculty position may be a grant-funded position for which employment is contingent upon the grant funding so long as the employment is on an as-needed, semester-by-semester basis.

Adjunct, Part-time and Overload Rate

Classes taught by adjunct or part-time faculty may be remunerated on an hourly rate that varies according to the type of program or courses taught. Classes taught by adjunct faculty or part-time faculty and full-time faculty teaching overloads may be paid at a per credit hour rate. For classes determined to have adequate enrollment and remunerated on a credit hour rate, payment for a faculty member is calculated in accordance with the standards as set forth by the institution.

Teaching credit hours are calculated as follows:

- Theory (one contact hour per one teaching credit hour)
- Experimental Laboratory (two contact hours per one teaching credit hour)
- Manipulative Laboratory or Clinical Practice (three contact hours per one teaching credit hour)
- Preceptorship (three or five hours of clinical experience per week under the supervision of a currently licensed health care professional with expertise in a selected clinical area). Students enrolled in fields of study for which programmatic accreditation and/or licensing bodies require an 8:1 preceptorship must comply with discipline-specific time-to-credit criteria.
- Internship (Five hours of experiential internship per week under the control and supervision of the employer on the job with coordinated employer/institutional representative planning). Internship includes cooperative education, practicums, and sponsored work instruction. Students enrolled in fields of study for which programmatic accreditation and/or licensing bodies require a 10:1 ratio must comply with field-specific time-to-credit criteria.

The Business Office directly deposits salaries of adjunct instructors according to the College's regular payment procedures. The amount to be paid for fall semester is divided into equal payments and deposited at the end of September, October, November, and December. No payment is issued in August. The amount to be paid for spring semester is divided into equal payments and deposited in February, March, April, and May. No payment is issued in January. In some circumstances, such as mini-sessions, payments may deviate from this schedule in accordance with the beginning and ending dates of a session. The Dean of Instruction must approve any variation in the payment schedule.

Remuneration Rate for Under-Enrolled Classes for Adjunct, Part-Time or Overload

Effective Fall Semester 2003, any university-parallel/general education class or technical class taught as an overload, or on an adjunct basis with less than eight (8) revenue-generating students shall be considered as an under-enrolled class. Students enrolling in classes under tuition waiver arrangements (i.e., students with senior citizen waivers and employee/dependent waivers) are not considered revenue-generating students unless they pay tuition. This policy is subject to revision by the President depending upon external conditions affecting the ability of the College to fund enrollments.

Unless the class is required in a sequence or needed by enrolled students to graduate that or the next semester, under-enrolled classes taught by faculty on an adjunct, part-time, or overload basis will be remunerated based on the following rate:

Eight (8) students=full rate

<i>Students</i>	<i>Rate</i>	<i>Students</i>	<i>Rate</i>	<i>Students</i>	<i>Rate</i>	<i>Students</i>	<i>Rate</i>
7	7/8	6	6/8	5	5/8	4	4/8
3	3/8	2	2/8	1	1/8		

If an adjunct instructor is teaching two or more courses and one course has less than eight students while the other has a large enrollment, the Division Chair may request that the Dean of Instruction review enrollments of each course and base remuneration on the average number of students enrolled in all of the adjunct instructor's courses.

Using the above formula and definition for under-enrolled classes, the instructor cost is approximately equal to the total tuition paid by students enrolled.

Guidelines for Computing Part-Time Faculty Remuneration

Part-time faculty, paid on a salary basis, will initially be placed pro-rata on salary schedule D at the proper rank according to academic credentials. Part-time faculty teaching less than 50% of full-time will initially be placed at Step 0. Part-time faculty teaching more than 50% of full-time will be placed at the appropriate step according to their proper full-time teaching experience. After initial step placement, part-time faculty may receive appropriate step increases each year thereafter.

Letters of Appointment may be by semester or nine months, depending upon need. The percentage of full-time will be calculated based on a forty (40) hour workweek. Part-time faculty assigned 20 or more hours per week (50% or more of full-time) will be eligible for pro-rata benefits.

Part-time faculty cannot be salaried at more than 85% of full-time (34 hours per week). Courses assigned outside regular work hours will be paid at the appropriate adjunct/overload rate.

Summer Employment Policy

First priority for summer employment will be given to instructors who have administrative planning responsibilities that require continuous effort throughout the twelve-month cycle.

Full-time instructors, counselors, and/or librarians employed on nine-month appointments are not automatically guaranteed summer employment. However, in the event that summer employment is available, a full-time instructor, counselor, or librarian on Salary Schedule D who is employed by virtue of an academic year letter of appointment (fall and spring semesters) shall have the first option (over part-time or temporary employees) for employment in the summer term (three months), provided that: (1) there is sufficient student enrollment; (2) there is sufficient funding available; (3) the employee is qualified to provide the service scheduled; (4) the employee has expressed the desire for summer teaching by completing the *Intent to Teach Summer Term* form; (5) instructors may be given priority for summer teaching only in those areas in which they taught on a regular basis during the preceding academic year. The local *Summer Employment*

Policy for the College is based on a combination of the seniority principle and a rotation principle.

A full-time instructor may be employed for less than a full teaching load for summer term. Such instructor, however, must be paid a pro rata amount of salary Schedule D compensation based on: (1) qualifications and experience; and (2) a full teaching load. A full teaching load for an academic instructor is twelve (12) to thirteen (13) credit hours for the full summer or the equivalent, as determined by the president. (System institutions may consider the equivalence to a course to be an assignment of a faculty member as: Department or Division Chairperson; Southern Association of Colleges and Schools Commission on Colleges accreditation chairperson; coaching duties and studio courses (such as athletics, drama, music); laboratory, clinical, and shop classes; student organization sponsors.) Using the contact hour calculation for summer term for technical faculty, a full-time member should not exceed 30 direct contact hours per week. Any other equivalence for faculty load not included in these guidelines must be approved by the Chancellor. The course equivalence exception approved by the Chancellor will not alter the salary schedule or salary schedule placement granted to the faculty member by the institution.

Enrollment Requirement

Sufficient enrollment for the summer term shall be defined as follows: any class will be considered to have met the minimum enrollment if the full-time load enrollment for the instructor of the class averages ten (10) students. A full-time load during the summer term for an instructor teaching academic courses shall be 12-13 credit hours. A full time load during the summer term for an instructor teaching technical courses shall be 30 direct contact hours per week.

All classes assigned to full-time faculty may be averaged to compute the students enrolled (e.g., if an instructor has two classes with 8 students and two classes with 12 students, the average is 10.)

Assignment of Instructors to Classes

The Summer Class Schedule will be prepared each fall by the Instructional Council after review of course enrollment patterns of previous terms as well as course requests by transient and dual enrollment students received by faculty and staff. Courses for summer may be scheduled in a variety of formats including a full 10-week term, or in two five-week mini-terms. Online courses are generally scheduled for the full 10-week term. Hybrid or online courses must be approved by the Distance Education Committee. After courses have been identified for inclusion in the *Summer Class Schedule*, classes will be chosen by instructors. If a department or program has more than one full-time instructor, classes will be assigned to instructors on a rotating basis, one class per instructor with classes assigned in seniority order. The following criteria must be met:

1. Instructors may be given priority for summer teaching only in those areas in which they taught on a regular basis during the preceding academic year.

2. Desire for summer teaching has been expressed by completing the *Intent to Teach Summer Term* form.
3. Instructors of online courses must follow the *Distance Education Policy*.

Seniority rotation will be followed per available class (the faculty member with highest seniority will be offered the first class and the faculty member with the next highest seniority will be offered the second class and so on until all classes are assigned.)

A faculty member with a full course load and teaching courses which generate 120 or more student credit hours will receive a full summer salary.

The decision to cancel or prorate a class will be made prior to the first meeting of that class, unless there are exceptional circumstances.

The Dean of Instruction may make the decision to cancel any class based on insufficient enrollment, insufficient funding, or lack of availability of qualified faculty.

The following procedure will be followed to prorate courses that have not been canceled. If the average class enrollment, does not equal ten (10) students for any given instructor, the appropriate Division Chair will consult with faculty to determine whether or not the instructor wishes to teach for prorated pay.

The following examples include calculations that will be used to determine prorated salary amounts for a variety of course loads. These calculations will not apply to every situation, such as a faculty member teaching both three-credit-hour courses and four-credit-hour courses within the summer semester.

- A faculty member teaching 12 credit hours:
of credit hours generated/120 (10 students x 12 credit hours) x summer salary
- A faculty member teaching 9 credit hours:
of credit hours generated/90 (10 students x 9 credit hours) x $\frac{3}{4}$ summer salary
- A faculty member teaching 6 credit hours:
of credit hours generated/60 (10 students x 6 credit hours) x $\frac{1}{2}$ summer salary
- A faculty member teaching 3 credit hours:
of credit hours generated/30 (10 students x 3 credit hours) x $\frac{1}{4}$ summer salary

Faculty teaching a course load comprised of four-credit-hour classes will carry a three-course-load of 12 credit hours in the summer. Salary for these courses will be prorated as follows:

- A faculty member teaching 12 credit hours:
of credit hours generated/120(10 students x 12 credit hours) x summer salary
- A faculty member teaching 8 credit hours:

of credit hours generated/80 (10 students x 8 credit hours) x 2/3 summer salary

- A faculty member teaching 4 credit hours
of credit hours generated/40 (10 students x 4 credit hours) x 1/3 summer salary

Should an instructor not wish to teach for prorated remuneration, the under-enrolled classes will be offered to other full-time faculty without a full load based on seniority rotation and then will be offered as an overload to full-time faculty based on seniority rotation. If there are no full-time faculty who can teach a course, it will be offered to adjunct faculty or cancelled if adjunct instructors are not available. Exceptions to this process may be made in extenuating circumstances upon recommendation of the Dean of Instruction and approval of the President.

Determination of Seniority

Faculty seniority is defined as faculty with the longest employment within the regularly assigned teaching field or fields at their home base.

Seniority will be established on salary schedule D beginning with the employment date entered on payroll records.

1. The accrual of seniority is interrupted by a leave of absence. Upon an officially sanctioned leave of absence, seniority is frozen for the time of absence and resumed at the date of return to full-time duties.
2. Seniority is lost upon termination of employment (whether voluntary or involuntary) and must be newly established with re-employment.
3. An instructor, librarian, or counselor cannot begin to accrue seniority in a position until fully qualified in that position.

If a tie exists in seniority, the tie shall be broken by:

1. Greater number of graduate hours in qualifying course work calculated from the official personnel file located in the Office of Human Resources. If equal,
2. Greater total number of graduate hours calculated from the official personnel file located in the Office of Human Resources. If equal,
3. Higher rank held on salary schedule D. If equal,
4. Greater length of service as a full-time qualified employee of the institution on any salary schedule. If equal,
5. Greater length of service as a full- or part-time employee of the institution on any salary schedule.
6. Only items 3, 4, and 5 will be considered where a tie in seniority exists for a teaching position in a technical program.

Summer Employment Remuneration

Summer employment letters of appointment for teaching will be offered from 100% of a full summer load and pro-rated downward according to the student credit hours generated and the teaching credit hours assigned as stated in the paragraphs above.

Faculty letters of appointment are issued according to courses taught within a payment period. For example, an instructor could be assigned two courses in Mini Term One, an online course meeting full term, and one course in Mini Term Two. The instructor will receive a letter of appointment for Mini Term One, a letter of appointment for Mini Term Two, and a letter of appointment for the full term.

Overload Remuneration

Overload remuneration equates to the adjunct payment rate for one course. Overload remuneration will be based on the approved overload credit hours beyond a summer credit load of 12-13 credit hours for academic classes or an approved contact hour load based on 30 contact hours for technical classes. Full-time instructors with less than a full load or with a full load generating less than 120 student credit hours will not be eligible for overload remuneration. The President is authorized to approve overloads for faculty.

GRIEVANCE PROCEDURE FOR EMPLOYEES

LBWCC's Grievance Procedure for Employees can be found in Section 7 of the LBWCC Policies and Procedures Manual.

COMPLAINT PROCEDURE FOR EMPLOYEES

LBWCC's Complaint Procedure for Employees can be found in Section 7 of the LBWCC Policies and Procedures Manual.

INSTRUCTIONAL SERVICES PERSONNEL DUTIES AND RESPONSIBILITIES

The role of the faculty is to develop curriculum, instruct students, evaluate students, advise students, assist in recruitment of students, and provide input to the administration in all College matters that affect faculty including student-faculty ratios. The Office of Institutional Effectiveness and Quality provides data which details the ratio of students to full-time faculty and the ratio of students to adjunct faculty for the overall College, for each instructional site, for each instructional division, and for each discipline. Within each category, the ratio of students to full-time faculty and the ratio of students to adjunct faculty are separately detailed for traditional, on-line, and dual enrollment courses.

Performance Evaluations

Performance evaluations are designed to measure job-related performance according to the terms of the evaluation instrument and in accordance with the evaluation schedule and process described in the Section 5 of this manual.

The College routinely evaluates the performance of all employees to:

- Raise the quality of instructional and educational service to the citizens of the community
- Raise the standards of the College as a whole
- Aid employment growth and development
- Determine employee's career development with the College

The Division Chair will conduct an annual evaluation for both full and part-time faculty in conjunction with the individual instructor's professional development plan and student evaluations.

INTELLECTUAL PROPERTY POLICY

The College defines intellectual property as works, discoveries, or findings that are intellectual or creative in nature.

Employees

The following policy applies to all full-time and part-time faculty and staff, as well as to individuals who have contracted with the College to perform services:

LBWCC owns all intellectual property, including but not limited to any copyrighted, trademarked, or patented works that are fully or partially created by employees on institution time or with the institution's resources, such as equipment, facilities, and supplies. Revenue generated from the sale or distribution of such intellectual property belongs to the College.

The employee retains the rights to any copyrighted, trademarked, or patented works that are not created on institution time or with the institution's resources. Employees who anticipate creating a piece of intellectual property on their own time shall submit a completed *Notification of Secondary Employment* form prior to beginning work in order to avoid potential conflicts over ownership rights of that material.

Students

The following policy applies to all full-time and part-time students:

Ownership of any intellectual property created by a student enrolled at the College such as written compositions, musical scores, sculptures, paintings, photographs, films, audio or video recordings, and computer software, shall be vested in the student unless the student has created this intellectual property in the course of employment by the College. Students who are employed by the College (e.g., tutors, work study students) are subject to the employee policy noted above.

When a student submits work as a course requirement, the College is granted a perpetual, royalty-free license by the submitting student to make copies of the work and to distribute copies to faculty, staff, or students for administrative and educational purposes.

The College and its students recognize that some intellectual property may arise or be developed by students from interaction with the instructor and other students. Under those circumstances, the intellectual property may not be the exclusive property of the student.

When a student's work has been accepted for publication by a journal or a publisher, absent an agreement to the contrary, the work becomes the property of the publisher.

Resolution of Disputes

In cases where ownership of intellectual property is uncertain, the President will establish an *ad hoc* committee to review the details of the case and make a final determination regarding rights to the material.

LEAVE

Please see Section 6 of the LBWCC Policies and Procedures Manual for information on leave policies and types of leave available for College employees.

PROFESSIONAL DEVELOPMENT PLANS

Please see Section 5 of the LBWCC Policies and Procedures Manual for information regarding Professional Development Plans for employees.

TUITION ASSISTANCE

LBWCC's Tuition Waiver policy can be found in Section 9 of the LBWCC Policies and Procedures Manual.

PROFESSIONAL DEVELOPMENT

The College provides travel funds to assist with the cost of approved professional development initiatives. Faculty and staff must first have identified the need for specific professional development such as seminars and workshops in the annual *Professional Development Plan*.

Procedure for Approval of Professional Development Activities

Faculty must complete the *Professional Development Plan* with their supervisor, with the approval to pursue professional development activities documented by the signature of all appropriate administrators. The following professional development activities are priorities for the College. Travel will be approved based on these priorities.

1. New Program Development
2. Licensure or Certification Requirements
3. Accreditation Requirements, etc.
4. Travel associated with faculty/staff roles in professional associations

5. Registration and/or other expenses for faculty presentations at national education workshops

FACULTY ORIENTATION AND MENTORING

As part of the employment process the Division Chairs will provide orientation sessions for new instructors including full-time, part-time, adjunct, dual enrollment, and distance education instructors. A full-time faculty member will be assigned by the Division Chair to serve as a mentor in order to provide information about College publications and procedures, classroom management and activities, and ongoing guidance. A *Mentoring Checklist* form will be completed during this period, and upon completion, will be submitted to the Office of Human Resources for placement in the new instructor's personnel file.

TRAVEL AUTHORIZATION AND REIMBURSEMENT

Please see Section 6 of the LBWCC Policies and Procedures Manual for information regarding Travel Authorization and Reimbursement Procedures.

SEXUAL MISCONDUCT POLICY

LBWCC's Sexual Misconduct Policy can be found in Section 9 of the LBWCC Policies and Procedures Manual.

SUBSTANTIVE CHANGE POLICY AND PROCEDURES

It is the responsibility of Lurleen B. Wallace Community College to follow the *Substantive Change Policy and Procedures of the Southern Association of Colleges and Schools Commission on Colleges* and to inform the Commission of such changes in accordance with those procedures. The purpose of the *Substantive Change Policy and Procedures* is to ensure that all substantive changes are reported to the Commission in a timely fashion. If an employee is unclear as to whether a change is substantive, he or she should contact the institution's Accreditation Liaison who may contact the institution's assigned Commission Vice President for consultation.

Scope: The College has established this policy using the Commission's definition of substantive change as posted on its website at:

[SubstantiveChange.pdf \(sacscoc.org\)](http://sacscoc.org/SubstantiveChange.pdf)

Definition: Substantive change is a significant modification or expansion of the nature and scope of an accredited institution. Under federal regulations, substantive change includes:

- Substantially changing the established mission or objectives of an institution or its programs.
- Changing the legal status, form of control, or ownership of an institution.
- Changing the governance of an institution.
- Merging/consolidating two or more institutions or entities.
- Acquiring another institution or any program or location of another institution.
- Relocating an institution or an off-campus instructional site of an institution (including a branch campus).
- Offering courses or programs at a higher or lower degree level than currently authorized.
- Adding graduate programs at an institution previously offering only undergraduate programs (including degrees, diplomas, certificates, and other for-credit credentials).
- Changing the way an institution measures student progress, whether in clock hours or credit-hours; semesters, trimesters, or quarters; or time-based or non-time-based methods or measures.
- Adding a program that is a significant departure from the existing programs, or method of delivery, from those offered when the institution was last evaluated.
- Initiating programs by distance education or correspondence courses.
- Adding an additional method of delivery to a currently offered program.
- Entering into a cooperative academic arrangement.
- Entering into a written arrangement under 34 C.F.R. § 668.5 under which an institution or organization not certified to participate in the title IV Higher Education Act (HEA) programs offers less than 25% (notification) or 25-50% (approval) of one or more of the accredited institution's educational programs. An agreement offering more than 50% of one or more of an institution's programs is prohibited by federal regulation.
- Substantially increase or decreasing the number of clock hours or credit hours awarded or competencies demonstrated, or an increase in the level of credential awarded, for successful completion of one or more programs.
- Adding competency-based education programs.
- Adding each competency-based education program by direct assessment.
- Adding programs with completion pathways that recognize and accommodate a student's prior or existing knowledge or competency.
- Awarding dual or joint academic awards.
- Re-opening a previously closed program or off-campus instructional site.
- Adding a new off-campus instructional site/additional location including a branch campus.
- Adding a permanent location at a site at which an institution is conducting a teach-out program for students of another institution that has ceased operating before all students have completed their program of study.
- Closing an institution, a program, a method of delivery, an off-campus instructional site, or a program at an off-campus instructional site.

Other substantive changes, including those required by federal regulations, include:

- An institution is required to notify or secure SACSCOC approval prior to implementing a substantive change.
- An institution is responsible for maintaining compliance at all times with Standard 14.2 (Substantive change) of the *Principles of Accreditation* and with the *Substantive Change Policy and Procedures* and related policies, viz.,
 - *Agreements Involving Joint and Dual Academic Awards*;
 - *Credit Hours*;
 - *Direct Assessment Competency-based Educational Programs*;
 - *Distance and Correspondence Education*;
 - *Dual Enrollment*;
 - *Merger/Consolidation, Acquisition, Change of Ownership, and Change of Governance, Control, Form, or Legal Status*; and
 - *Seeking Accreditation at a Higher or Lower Degree Level*.
- An institution is required to have a written substantive change policy and procedure. It must be approved through institutional processes and published in institutional documents accessible to those affected. The purpose of the institution's substantive change policy and procedure is to ensure all substantive changes are reported to SACSCOC in a timely fashion as required by *Substantive Change Policy and Procedures*. Institutions are responsible for implementing and enforcing their substantive change policy and procedure.
- An institution's fiscal and administrative capability to operate off-campus instructional sites is assessed when a new site is reviewed for approval and as part of decennial and fifth-year interim reviews.
- A new off-campus instructional site is subject to a substantive change committee visit. A committee visit, when necessary, is authorized when a site is approved. The committee visit ensures the site has the personnel, facilities, and resources identified by an institution in its application or prospectus and ensures the quality of instructional and support services offered at the site.
- Different or additional requirements apply to an institution on SUBSTANTIVE CHANGE RESTRICTION. Restriction applies if an institution has been placed on Warning, Probation, or Probation for Good Cause over the prior three academic years, or if an institution is under provisional certification for participation in federal financial aid programs.
- An institution placed or continued on Probation or Probation for Good Cause must submit to SACSCOC an institutional contingency teach-out plan within 30 days of the notification of the Board of Trustees action.

Procedures for Implementation and Review of the Policy

The Executive Council is responsible for planning and making decisions regarding the overall operation of the College which includes approval of College policies. The Instructional Council is responsible for recommending new or revised policies, procedures, or processes related to instruction and instructional services. The *Substantive Change Policy and Procedures* were initially approved by the Executive Council on November 8, 2011. The institutional policy is updated regularly in accordance with changes made to the SACSCOC policy.

Means to Inform Institutional Constituents

In order to keep employees informed about the *Substantive Change Policy and Procedures*, the Accreditation Liaison will make presentations regarding the *Substantive Change Policy and Procedures* to all employees at College-wide meetings scheduled each fall semester. Upon any amendments to the policy and procedures by the Executive Council, the President's Administrative Assistant will ensure that the *Substantive Change Policy and Procedures* are revised in the printed and online versions of the *College Policies and Procedures Manual and Faculty Handbook*. The President's Administrative Assistant will send an e-mail to all employees notifying them of the revisions and providing directions to access the revised policy and appropriate substantive change forms on the LBW Employee Intranet.

Responsible Personnel

In academic areas, the Accreditation Liaison is responsible for implementing this policy and the related policies for course and program changes described in *Section 8 of the Lurleen B. Wallace Community College Policies and Procedures Manual and Faculty Handbook*.

The Accreditation Liaison is responsible for implementing this policy in non-academic areas. The Accreditation Liaison is available to assist all employees with questions regarding substantive change issues and will seek guidance from the institution's assigned Commission Vice President as needed.

Methodology for Monitoring Compliance and Reporting Results

At each meeting of the Executive Council and Instructional Council, the Accreditation Liaison will report any substantive changes which have been submitted to SACSCOC for notification and approval since the last meeting and will report responses from SACSCOC. The Executive Council will evaluate the effectiveness of the *Substantive Change Policy and Procedure* each November.

Substantive changes arise in many academic and non-academic areas and may be initiated by faculty members and administrators at various levels. The procedures to monitor academic substantive change and administrative substantive change involve several levels of review.

Academic Substantive Changes

The traditional process to request course or program changes as described in Section 8 of the *College Policies and Procedures Manual* is used to alert Division Chairs and the Dean of Instruction of possible academic substantive changes. The *Request for Course Change Form* and the *Request for Program Change Form* will be used by faculty or administrators to initiate a review process which requires input by discipline faculty, Division Chairs, the Instructional Council, and the Dean of Instruction.

Course changes include new courses, course deletions, or course revisions which may be required by updates in the Alabama College System State Course Directory. The *Request for Course Change Form* is used by faculty to propose course changes that will take effect fall semester of the next academic year. This form will be submitted to the appropriate division chair in April. If the course change results in a change in credit hours, the *Request for Program Change Form* must be completed as well. The division chair reviews and approves the changes before submitting the form to the Instructional Council for review and approval. After approval by the Instructional Council, the Dean of Instruction signs the form and provides updated course information to the Dean of Student Affairs for catalog course changes and to the Director of Admissions and Records for changes in degree plans. The Accreditation Liaison uses the form as a source document to update reports of credit hours available at each College site.

Although most course changes are not substantive changes, the form provides documentation of any plans to provide a course at a different location for the first time. In consultation with the Director of Admissions and Records, the Accreditation Liaison will use the *Request for Course Change* forms to update the *Report of Credit Hours offered Per Location* at the end of each semester. The report will show the percentage of required courses for each degree, short certificate, and certificate program that a student may complete at each site in which students can obtain 24% or less of credits toward a program. The report will reflect a three-year, current as of the prior academic semester. This report will ensure that the College notifies SACSCOC of programs that are offered in part at locations, particularly at the thresholds of 25% and 50% of required coursework. If a program has intentionally or unintentionally approached these levels at any additional locations than those previously approved by SACSCOC, the Accreditation Liaison will notify the Division Chair and President and will send notice to SACSCOC in a timely fashion. If a prospectus is required, the department or Division Chair will be contacted to initiate the document. The Accreditation Liaison will work with the Director of Admissions and Records to update the report query to reflect changes in program plans at the end of each semester.

Proposed academic program changes will be recorded on the *Request for Program Change Form* which also requires review by discipline faculty, Division Chairs, the Instructional Council, and Dean of Instruction. Some program changes will be substantive changes; therefore, the *Request for Program Change Form* will be attached to the *Academic Substantive Change Form* along with complete documentation regarding needs assessment. The person requesting the change will be assisted by the Accreditation Liaison in completing the *Academic Substantive Change Form*. After the Instructional Council has reviewed the documents and provided any recommendations, the Dean of Instruction will submit the *Request for Program Change Form* and *Academic Substantive Change Form*, if applicable, to the President. Upon review by the Executive Council and approval by the President, the Accreditation Liaison will receive copies of the approved forms for documentation and will submit to SACSCOC the notifications of academic substantive changes and/or requests for approval.

Administrative Substantive Changes

Requests for administrative substantive changes are proposed in writing to the Accreditation Liaison, who will complete an *Administrative Substantive Change Checklist*. The Accreditation

Liaison will provide the proposal and checklist to the President for his review. The President or the Accreditation Liaison will present the proposal at a meeting of the Executive Council as an action item. If approved by the Executive Council and President, the individual proposing the non-academic change will initiate SACSCOC notification paperwork. Assistance is available from the Accreditation Liaison who will send notification and/or request for approval to the Commission.

These review and reporting procedures ensure that the College adheres to the SACSCOC timeline for reporting substantive changes outlined below.

Reporting the Various Types of Substantive Change

Depending on the type of change proposed, notification and approval requirements vary. The chart in the Commission's Policy Statement regarding Substantive Change clearly outlines the different types of substantive change, the specific procedure to be used for each, their respective approval/notification requirements, and their reporting timelines. Specific substantive change requirements are listed in the following chart.

Type of Substantive Change	Requirement and Due Dates	Reviewed By	Committee Visit Required	Subject to Substantive Change Restriction
Institutional Changes				
Change in Measure of Student Progress to Completion	Approval, January 1 or July 1	Executive Council of the Board	No	No
Competency-based Education by Course/Credit-based Approach-Institutional-level Approval	Approval, January 1 or July 1	Executive Council of the Board	No	No
Distance Education-Institutional-level Approval	Approval, January 1 or July 1	Executive Council of the Board	No	No
Governance Change	Notification and Approval, March 15 or September 1	Full Board of Trustees	Yes	No

Institution Closure	Approval, January 1 or July 1	Executive Council of the Board	No	No
Institution Relocation	Approval, January 1 or July 1	Executive Council of the Board	No	No
Institution, Program, or Location Acquisition	Notification and Approval, March 15 or September 1	Full Board of Trustees	Yes	No
Institutional Contingency Teach-out Plan	Approval, January 1 or July 1	Executive Council of the Board	No	No
Level Change	Approval, March 15 or September 1	Full Board of Trustees	Yes	No
Merger/ Consolidation	Notification and Approval, March 15 or September 1	Full Board of Trustees	Yes	No
Mission Change	Approval, January 1 or July 1	Executive Council of the Board	No	No
Ownership, Means of Control, or Legal Status Change	Notification and Approval, March 15 or September 1	Full Board of Trustees	Yes	No
Program Changes				
Clock-Credit Hour Conversion	Approval, January 1 or July 1	Executive Council of the Board	No	No
Competency-based Education by Direct Assessment—Approval	Approval, March 15 or September 1	Full Board of Trustees	Yes	No
Competency-based Education by Direct Assessment—Notification	Notification, prior to implementation	N/A	No	No
Cooperative Academic Arrangement	Notification, prior to implementation	N/A	No	No

Cooperative Academic Arrangement with Non-Title IV Entities—Approval	Approval, January 1 or July 1	Executive Council of the Board	No	Yes
Cooperative Academic Arrangement with Non-Title IV Entities—Notification	Notification, prior to implementation	N/A	No	Yes
Correspondence Education	Approval, January 1 or July 1	Executive Council of the Board	No	No
Dual Academic Award	Notification, prior to implementation	N/A	No	No
Joint Academic Award with non-SACSCOC Institution(s) or Entity(ies)	Approval, January 1 or July 1	Executive Council of the Board	No	No
Joint Academic Award with SACSCOC Institution(s)	Notification, prior to implementation	N/A	No	No
Method of Delivery—Approval	Approval, January 1 or July 1	Executive Council of the Board	No	Yes
Method of Delivery—Notification	Notification, prior to implementation	N/A	No	Yes
New Program—Approval (50-100% new content)	Approval, January 1 or July 1	Executive Council of the Board	No	Yes
New Program—Notification (25-49% new content)	Notification, prior to implementation	N/A	No	Yes
Program Closure (includes ending a completion option)	Approval, January 1 or July 1	Executive Council of the Board	No	No

Program Designed for Prior Learning—Approval	Approval, January 1 or July 1	Executive Council of the Board	No	Yes
Program Designed for Prior Learning—Notification	Notification, prior to implementation	N/A	No	Yes
Program Length Change (25% increase or decrease plus time to completion increases or decreases more than one term)	Approval, January 1 or July 1	Executive Council of the Board	No	Yes
Program Re-open (within 5 years of closure date)	Notification, prior to implementation	N/A	No	No
Off-campus Instructional Site/Additional Location Changes				
Off-campus Instructional Site Notification (25-49% of a program)	Notification, prior to implementation	N/A	No	No
Off-campus Instructional Site Approval (50% or more of a program), Extensive Review	Approval, March 15 or September 1	Full Board of Trustees	Contingent	Yes
Off-campus Instructional Site Approval (50% or more of a program), Limited Review	Approval, January 1 or July 1	Executive Council of the Board	Contingent	Yes
Off-campus Instructional Site Approval (50% or more of a program), Committee Visit	Approval	Substantive Change Committee	Yes	Yes

Off-campus Instructional Site Relocation—Non-Branch Campus	Notification, prior to implementation	N/A	No	No
Off-campus Instructional Site Relocation—Branch Campus	Approval, January 1 or July 1	Executive Council of the Board	No	No
Off-campus Instructional Site Name or Address Change	Notification, prior to implementation	N/A	No	No
Off-campus Instructional Site Closure	Approval, January 1 or July 1	Executive Council of the Board	No	No
Off-campus Instructional Site Re-open	Notification, prior to implementation	N/A	No	No

Copies of the following forms related to Substantive Change Policy and Procedure can be found in Section 11 of this Policies and Procedures Manual.

- *Academic Substantive Change Form*
- *Administrative Substantive Change Checklist*
- *Request for Course Change*
- *Report of Credit Hours*
- *Request for Program Change*

VACATION AND HOLIDAYS

A listing of the official holidays for LBWCC can be found in Section 1 of the LBWCC Policies and Procedures Manual.

ACADEMIC FREEDOM

Lurleen B. Wallace Community College faculty are free to conduct independent research and to publish the results so long as such activity does not interfere with their assigned duties; however, research for pecuniary gain should not be undertaken without approval by the President.

Although Lurleen B. Wallace Community College is a teaching institution, not a research institution, faculty and staff have the option to engage in research and other academic activities. Investigation, reporting, and publishing findings or results must not diminish or detract from their primary responsibilities as specified in their employment contracts.

Grant applications and employee contracts will specify the time and effort required of College employees for grant activities. Any consultative service outside the employee's regular duties as specified in the College employment contract must be detailed in a separate consultant contract and signed by the employee, grant project director, and President. Employees must follow the policy and procedures for Secondary Employment as detailed in *Section 7 of the Lurleen B. Wallace Community College Policies and Procedures Manual*.

In the classroom, instructors have full freedom to discuss their academic subjects. The College protects the right of both the students and instructors to a "free search for the truth and its free exposition."

Academic freedom allows faculty the opportunity to explore a diverse repertoire of teaching methods in order to maximize student learning. With this opportunity comes the responsibility to use good common sense in selecting teaching materials and methods that are effective but that are non-offensive to students.

It is the right and responsibility of students to bring to the attention of the College any class activity or material that offends, embarrasses, or is non-relevant to the subject being taught. This can be accomplished anonymously through the evaluation process or by notifying the faculty teaching the class, the faculty member's supervisor, the Dean of Student Affairs, or the President's office.

The College respects the rights and privileges of its faculty as citizens, but believes that their position imposes special obligations. Hence, the faculty is free from institutional censorship or discipline when they speak, write, or act as citizens. Faculty should therefore be accurate, exercise restraint, respect the opinions of others, and speak for the institution only with appropriate authorization.

ADA GUIDELINES

Americans with Disabilities Act – Students

All programs and facilities are available for eligible students with disabilities. If a student needs any special accommodations, please contact the appropriate ADA campus coordinator or the Dean of Student Affairs.

Ms. Latrece Hall – ADA Coordinator, Andalusia Campus (334) 881-2271

Ms. Latrece Hall – ADA Coordinator, Greenville Campus (334) 881-2271

Ms. Wendy Johnson – ADA Coordinator, Luverne Center (334) 493-5333

Ms. Wendy Johnson – ADA Coordinator, MacArthur Campus (334) 493-5333

Documentation of a disability may be required. If so, such documentation will be maintained in a separate file from either the employee personnel file, or the academic student record.

ADMINISTRATIVE SUPPORT

Faculty who require assistance regarding instructional needs should first contact their immediate supervisor or Division Chair. The Office of the Dean of Instruction is located in the Administrative Building on the MacArthur Campus, and can be reached by calling (334) 493-5337.

ALTERNATIVE FORMAT COURSES

Alternative instructional formats include on-line courses and hybrid courses (a combination of distance and classroom instruction). These courses are comparable in content and degree of difficulty to the same courses offered in the traditional classroom setting.

All students taking a distance education course for the first time must preview the Screencast-O-Matic recording *Introduction to Canvas*. To access the recording, students may click on the link to <http://screencast-o-matic.com/u/nMh1/canvasOrientation>. All students should review the recording before classes begin.

All students enrolled in distance education courses must submit a working email address to the instructor via Canvas and inform the instructor that the *Introduction to Canvas* recording has been reviewed. Books and/or access codes for on-line courses may be purchased during normal bookstore hours.

Students not attending the first day of a hybrid class will be dropped unless the instructor grants prior approval for the absence.

Students not completing the “Start Here” module in online courses by the time of attendance verification will be dropped unless the instructor grants prior approval for the absence.

For more information about accessing courses through Canvas, students may go to the *Distance Education – Student Resources* page on the LBWCC website and view all of the links. Students may view the Canvas and recorded session. The link for this session is listed below:

Introduction to Canvas: <http://screencast-o-matic.com/u/nMh1/canvasOrientation>

Suggestions for additional instructional formats may be made to the Associate Dean of Instructional and Information Technology or to the Distance Education Advisory Committee.

ASSIGNMENTS AND SCHEDULES - OFFICE HOURS

Faculty Office Hours

All faculty are required to be available to respond to student requests, and to provide assistance that may be needed with class assignments and/or advising. Faculty should provide the appropriate Division Chair and Dean of Instruction with a current copy of their weekly schedule and also post scheduled hours on their office door.

Adjunct Faculty

Adjunct faculty members must be accessible to students at times other than scheduled class meeting times in order to respond to student questions and concerns.

Virtual Office Hours

Due to the nature of online and hybrid course instruction, faculty regularly spend time outside of regular office hours communicating with distance education students. For this reason, distance education instructors who teach these courses may be allowed to count 1.5 hours per week per online/hybrid course as a part of his/her 35 hour workload.

Virtual office hours will be granted to faculty who teach online/hybrid courses under the following conditions:

- Faculty must have access to the following at home:
 - Computer
 - Internet Access
- Faculty members must provide documentation in the form of emails detailing days and times logged into the Canvas system when requested by the Division Chair or Dean of Instruction.
- The Dean of Instruction and Division Chairs will be allowed to approve or disapprove virtual office hours for faculty in their respective division. If the Chair has documentation of past issues with faculty members not responding or communicating with students in online or hybrid courses they can choose not to grant virtual hours.
- Once virtual office hours are approved, any of the following could cause the instructor to have the virtual office hours removed from their work schedule:
 - Documentation requested by Chair does not prove the hours are being used to communicate with students.

- Documentation from Distance Education Survey states students are not able to communicate with instructor.
- Student complaints received by the Division Chair about an instructor not being accessible.
- No Internet access or computer at home.
- The maximum amount of virtual office hours that can be approved for faculty during any given term is five hours per week.

Instructional Services and Other Administrative Office Hours

The schedule of Instructional, Administrative, and Student Services office hours are as follows:

Instructional Services-----	7:30 a.m. - 5:00 p.m. M-Th 8:00 a.m. - 12:00 p.m. F
Student Services-----	7:30 a.m. - 5:30 p.m. M-Th 8:00 a.m. - 12:00 p.m. F
Business Office-----	7:30 a.m. - 5:00 p.m. M-Th 7:30 a.m. - 12:00 p.m. F
Bookstore-----	As Posted
Learning Resource Center----	Andalusia Campus 7:45 a.m. - 8:00 p.m. M-Th 8:00 a.m. - 12:00 p.m. F Greenville Campus 8:00 a.m. - 5:00 p.m. M-Th Luverne Center 7:30 a.m. - 5:00 p.m. M-Th MacArthur Campus 7:30 a.m. - 5:00 p.m. M-Th 7:30 a.m. - 12:00 p.m. F
Division Chairs/Faculty-----	Posted on office door

ATTENDANCE OF CLASSES

Attendance Policy (Effective Summer Semester, 2012)

Class attendance is considered an essential part of the educational process at Lurleen B. Wallace Community College. The College subscribes to the philosophy that academic success derived by students is dependent on class participation. Students are expected to punctually attend all classes in which they are registered. ***Attendance will be verified as required by federal and state regulations.*** Class attendance may not be used as a factor in determining a student's course grade. However, instructors may require student participation in specific activities in the

classroom or laboratory. Failure to participate in these activities may result in a “0” grade for those particular activities.

1. Each instructor should **discuss attendance policies** during the first class meeting, and each course syllabus must include information pertaining to each of the following items
 - a. through e.viii.
 - a. If administrative withdrawal is to be used, the number of absences allowed for the class.
 - b. Handling of late arrivals and early departures.
 - i. Instructors may not prevent students from entering the classroom after class has started. However, the instructor may implement a policy that requires tardy students to enter the classroom quietly to prevent interruption of any lecture or activity in progress. In such occasions, the instructor is not obligated to repeat information already provided to the class.
 - ii. If a test is in progress, it is the instructor’s discretion whether to allow that student to participate in the test. If any student has already completed the test and left the classroom, it is recommended that the instructor not allow the tardy student to take the test.
 - c. Policy for course makeup work, if allowed.
 - i. Each instructor documents the policy for makeup work in the syllabus for each class.
 - ii. If the examination schedule for any course contains a minimal number of exams (e.g. three or less), it is recommended that the instructor consider a makeup opportunity since failure to attend a class may have a significant impact on the final grade.
 - d. Students on financial aid programs are responsible for knowing attendance requirements of their programs. Those students must contact the Financial Aid Office to receive information regarding attendance requirements.
 - e. Students are responsible for the knowledge, skills, and abilities not acquired due to absences and for assignments made or due from the first day of the class.
 - i. Students are expected to attend each class session, to arrive on time, and to remain for the entire class session.
 - ii. Faculty will verify attendance as required by federal and state regulations.
 - iii. Excessive absences, regardless of the reason or circumstance, may interfere with the student’s ability to successfully complete the requirements of the course.
 - iv. In such cases, the student should withdraw from the class before the last day to withdraw with a grade of “W.” Withdrawal from class may affect eligibility for Federal Financial Aid. Students should contact the Financial Aid Office for information.
 - v. When a student is absent from class, the student is responsible for all material covered in the class and for any assignments made in class.
 - vi. The instructor is not required to review with the student any material missed as a result of the student being absent, nor is the instructor required

- to notify a student if the student is in danger of a lowered grade due to any graded work missed.
 - vii. The instructor is not required to provide an opportunity for makeup work. The instructor's policies regarding makeup work shall be clearly defined in the syllabus to be available on the first day of class.
 - viii. Attendance requirements in programs that lead to board licensure or certification may differ from this policy.
2. Before the published withdrawal date (last day to withdraw with a "W"), a student may be administratively withdrawn from any course for excessive absences when the student has missed more than 20% of the total number of hours that the class meets, as a result of excused and/or unexcused absences. However, no student may be administratively withdrawn after the last day to withdraw with a "W" as published in the College calendar, except for extenuating circumstances. The number of absences resulting in administrative withdrawal may differ in programs that lead to board licensure or certification but must be clearly stated in the course syllabus. The form to be used to request a student be withdrawn from a class can be found in *Section 11 of the Policies and Procedures Manual*, along with a notification letter to be signed by the instructor. Instructors who plan to administratively withdraw students due to excessive absences must include that policy in their syllabus.
 3. Federal regulations require each instructor to submit to the Financial Aid Office by the designated deadline the names of students who have never attended a class session.
 4. Instructors must verify attendance as required by federal and state regulations. Faculty must maintain student attendance verification and grade records for a period of at least two years. Adjunct instructors must provide their student attendance verification and grade records to their respective Division Chairs at the end of each semester.
 - a. Instructors' absences or administrative class dismissals will not be counted as student absences.
 - b. No club or organization shall interfere or support interference with the regular academic pursuit of any student by causing or encouraging non-attendance at classes or College activities without prior consent of proper College officials or by any action that might cause disruption to a student, instructor, or College activity. Sponsors of College activities must provide a list of students at least two days in advance of the activity.
 - c. Grades must be based solely on the demonstration of the understanding of principles and concepts, or the successful application and performance of skills and competencies related to course content. However, instructors are not required to provide make-up opportunities for scheduled assessment activities and instructors may assign class participation grades, provided that these do not penalize students with excused absences.
 - d. An absence shall be excused due to College sponsored activities or extenuating circumstances. College sponsored activities include approved schedules for College teams, performing arts groups, field trips, and ambassadors. Excused absences are subject to verification and may include but may not be limited to the following:

- i. Active military duty
- ii. Jury duty/court appearance
- iii. Illness of student or illness/death in the immediate family- This includes husband, wife, father, mother, son, daughter, brother, sister, or an individual with a close personal tie to the student. For purposes of application of this policy, an individual with a close personal tie to the student is limited to the following: a person standing *in loco parentis*; where unusually strong personal ties exist due to a student having been supported or educated by a person; father-in-law; mother-in-law; son-in-law; daughter-in-law; brother-in-law; sister-in-law; nephew; niece; grandson; granddaughter; grandfather; grandmother; uncle; aunt.
- e. Absences that occur because of emergencies may be excused with proper notification to the instructor. Proper notification requires documentation as determined by the instructor. Recommended examples include copy of accident report, hospital admittance form, doctor's excuse, death announcement, or notification to the instructor by the student prior to the class that is missed where the circumstances discussed during that notification are deemed acceptable by the instructor. Such notifications may be by the student or appropriate representative of the student considering the circumstances involved (doctor, lawyer, hospital official, parent, spouse, etc.).
- f. When excused absences make it impossible to reasonably make up class work, the instructor may assign an "I" grade in accordance with the *College's Grading System Policy in the College Catalog*, or the student may withdraw according to the *College's Withdrawal Policy*.

Attendance requirements in programs that lead to board licensure or certification may differ from this policy.

5. Appeal Process:

- Students who have been administratively withdrawn for failure to attend and wish to be readmitted into the class, must submit, in writing, an appeal to the course faculty member.
- The faculty member will evaluate the appeal for extenuating circumstances and will notify the student within five working days as to the outcome of the appeal. Once a written appeal is received by the faculty member, the student is allowed to return to class until the faculty member has decided on the appeal.
- If a student is to be allowed to return to class, the faculty member must submit a request to the Director of Admissions and Records for the student to be re-enrolled.
- If a student's appeal is denied, the instructor must inform the student of the *Academic Appeal Policy in the College Catalog*.

6. Hybrid and on-line course syllabi are required to contain the same attendance guidelines as other courses.

Attendance Verification Procedures

The Department of Education requires that all students receiving Federal Financial Aid attend at least one class session of each class in which they are enrolled before they are eligible to receive Pell Grant. This is verified through a process called Attendance Verification. However, our policy is to verify attendance for all students in the same manner as we verify financial aid students.

All instructors are required to complete the Attendance Verification at the beginning of each semester/term. The Attendance Verification is generated by the Director of Admissions and Records after the last day of Drop and Add of each semester and mini-term. The Director of Admissions and Records sends an electronic notice to all Full-time Faculty and Adjunct Faculty advising them that the Attendance Verification is ready to be submitted online and will include the deadline date and time. A valid email address for each instructor is required. (See instructions below). Instructors failing to complete the verification in a timely manner may be reported to their Division Chair and the Dean of Instruction.

After the Attendance Verification has been completed by all instructors, the Director of Admissions and Records runs a process to drop all students who do not have a last date of attendance reported.

If a student is mistakenly reported as a “No Show” and needs to be reinstated in the class, the instructor must complete the *No Show Re-Enrollment* form and return the form to the Director of Admissions and Records at jriley@lbwcc.edu. Once the email is received, then the student is re-enrolled in that class and their charges/financial aid is readjusted accordingly.

At the end of the semester/term, each instructor is responsible for updating the last date of attendance for any student receiving a non-passing grade when they are submitting their grades. This last date of attendance is used to calculate a Return of Title IV Funds if necessary. The date used should be the last date the student attended class or the last documented class participation (i.e., exam or submitted homework). Records of students who received Federal Financial Aid and earned all W's or non-passing grades will be reviewed by the Director of Financial Aid to ensure if a return of funds is required.

NOTE: Incorrectly reporting the attendance of a student receiving financial aid (i.e., attending when they are actually “no shows”) may result in a financial aid overpayment. If an instructor incorrectly reports attendance verification which creates a financial aid overpayment, the student and instructor will be notified by the Business Office of the overpayment amount. The student will have 30 days to return the overpayment to the College. If after 30 days, the student has not returned the overpayment, the instructor will be notified and will be liable for the overpayment.

Instructions for Entry of Verification of Attendance Via Banner Self Service:

The Alabama Community College System has a “No-Show and Attendance Verification” procedure which aids in compliance with Federal Financial Aid regulations. The established no-

show and attendance verification procedure will allow us to verify that students receiving Financial Aid are actually attending class before awards are disbursed (thereby eliminating liability for both the College and the student).

Faculty members must report attendance for all courses they are teaching during the current semester/term. If the student was not in attendance during the reporting period, they must be reported as a “NO SHOW” (**INDICATE “NO SHOW” BY NOT RECORDING A LAST DATE OF ATTENDANCE**) on the final grade roster.

Only the primary instructor will be able to enter attendance data for a class. Follow the steps below to report attendance for each of your classes.

HOW TO REPORT ATTENDANCE

1. Login to Banner Self Service
2. From the Main Menu, select **Faculty Services**.
3. From the Faculty Services menu, select **Final Grades**.
4. Select the desired term from the drop-down list and select **Submit**.
5. Select the **CRN** of the course you wish to view.
6. After selecting the CRN, your class roster will appear.
7. Under **Last Attend Date**, please enter the first date of attendance for each student as **MM/DD/YYYY**. Do not enter any additional information.
NOTE: If your course does not appear in the list, it is because you are not listed as the primary instructor in the system. Please contact the appropriate individual on your campus for further assistance.
8. **Enter a last attend date for each student on the roster that has attended class.**

Attendance Hours are not required.
9. When finished entering attendance, select **Submit**.

If you see a STOP warning, check the error message, make any necessary corrections and select the **Submit** button again.
10. To record attendance for additional courses, click on Faculty Services at the top of the page and repeat the same steps for a different course.

11. When you are done using Self Service, select **EXIT** in the upper right-hand corner of the page. You should also close your internet browser to ensure security.

END OF TERM NOTES:

- If the student *attended* and grades of A, B, C, or D are entered, you **do not** have to change the initial Last Attend Date.
- If the student *attended* and *received* an F or I (Incomplete) grade, the Last Attend Date should be changed to the **actual** last date of attendance.
- If the last date of attendance is not known, leave the initial No Show attendance verification date in the LDA field.

TARDINESS

Instructors may not prevent students from entering the classroom after class has started. However, the instructor may implement a policy that requires tardy students to enter the classroom quietly to prevent interruption of any lecture or activity in progress. In such occasions, the instructor is not obligated to repeat information already provided to the class. If a test is in progress, it is the instructor's discretion whether to allow that student to participate in the test. If any student has already completed the test and left the classroom, it is recommended that the instructor not allow the tardy student to take the test.

CHANGES IN SCHEDULE FOR STUDENTS (DROP/ADD PROCEDURE)

Additions or changes to schedules must be made during the official drop/add period, subject to the approval of the student's advisor. The advisor must follow the procedure below:

- Obtain a *Drop and Add* form in the Office of Student Services.
- Verify that any course to be added is part of the student's degree plan.
- Complete the *Drop and Add* form and have it signed by the advisor.
- Return the form to the Office of Student Services for processing.

CREDIT HOUR DEFINITION AND POLICY

Lurleen B. Wallace Community College (LBWCC) defines a credit hour as follows.

A credit hour is an amount of work represented in intended learning outcomes and verified by evidence of student achievement that is an institutionally established equivalency that reasonably approximates the following:

1. Not less than one hour of classroom or direct faculty instruction and a minimum of two hours out of class student work each week for approximately fifteen weeks for one

semester or trimester hour of credit, or ten to twelve weeks for one quarter hour of credit, or the equivalent amount of work over a different amount of time, or

2. At least an equivalent amount of work as required outlined in item 1 above for other academic activities as established by the institution including laboratory work, internships, practica, studio work, and other academic work leading to the award of credit hours.

Semester Hour Credit

The Alabama Community College System Board of Trustees requires institutions in the Alabama Community College System to operate on a semester system. Semester hours of credit are then based upon the average number of hours of instruction taught weekly during a 15-week period, with an hour of instruction defined as not less than 50 minutes of instructor/student contact. A semester system is defined as a fall semester, spring semester, and a summer term. A variety of class meeting schedules that occur within this structure may be present within the College. The *College's Academic Calendar* which requires that the fall and spring semesters each contain a minimum of 78 instructional days. Instructional days include examination days, and a minimum of three examination days must be scheduled fall and spring. The summer term must have a minimum of 50 instructional days with a minimum of two examination days. The *College Academic Calendar* is approved by the Executive Council and submitted to the Alabama Community College System for approval each spring semester.

Credit Hour Equivalencies

The credit hour is based upon the average number of hours of instruction taught weekly. The ratio of weekly contact hours to credit hours varies with the type of instruction being used. There are six general categories of types of instruction: (1) Theory, (2) Experimental Laboratory, (3) Practical Application Laboratory, (4) Clinical Practice, (5) Preceptorship, and (6) Internship.

1. Theory. Instruction focused on principles, concepts, or ideas. Generally requires extensive out-of-class preparation prior to class each week as well as follow-up assignments. Theory instruction is the term which is used to include lecture, recitation, discussion, demonstration, seminar, and other standard classroom instruction. Theory instruction is under the direct supervision of an instructor. Theory instruction has a ratio of 1:1 (one hour of credit for one hour of theory instruction as defined).
2. Experimental Laboratory. Instruction focused on experimentation in a classroom, laboratory, or studio through teacher-assisted, hands-on learning experiences. An experimental laboratory is generally required in conjunction with the theory of an academic course. Work is normally completed in the learning environment, but may include out-of-class assignments such as practice and/or laboratory report writing. Experimental laboratory instruction is generally under the direct supervision of an instructor. The ratio for experimental laboratory may be either 2:1 (one hour of credit for

two hours of experimental instruction as defined) or 3:1 (one hour of credit for three hours of experimental instruction as defined).

3. **Practical Application Laboratory.** Experience-based instruction focused on “real world” activities, albeit in a simulated environment for the purpose of developing occupational competencies related to the use of equipment, tools, machines, and other program-specific work products. A practical application laboratory is generally required in career technical programs; requires limited out-of-class assignments per week; emphasis is in the use of equipment, tools, machines, etc. found within the lab environment. Practical application laboratory involves the development of manual skills and job proficiency and is under the direct supervision of an instructor. Depending on the program of study, the ratio is 2:1 or 3:1 (one hour of credit for two or three hours of practical application instruction as defined).
4. **Clinical Practice.** Experience-based instruction focused on “real world” activities, generally in healthcare or service occupation programs, offered in a real world environment, for the purpose of developing skills related to the discipline. A clinical practice laboratory is generally required in healthcare related fields. Work is normally completed in the learning environment, but may include out-of-class assignments. Clinical Practice is under the direct supervision of an instructor. Out-of-class assignments each week are used to prepare the student for the clinical experience. The ratio is 3:1 (one hour of credit for three hours of clinical practice instruction as defined).
5. **Preceptorship.** Advanced experience-based instruction, under the supervision of a licensed healthcare professional, for the purpose of enhancing occupational competencies. The course instructor works with the healthcare professional to determine the clinical assignments for students. The instructor must be readily available for consultation with the healthcare professionals. The preceptorship ratio may be either 5:1 (one hour of credit for five hours of preceptorship instruction as defined) or 3:1 (one hour of credit for three hours of Preceptorship) or as required by program accreditation and/or licensing bodies with different discipline-specific time-to-credit criteria.
6. **Internship.** Internship is the term which will be used to include cooperative education, apprenticeships, practicums, and sponsored work instruction. Internship involves the development of job skills by providing the student with a structured employment situation that is directly related to, and coordinated with, the education program. Student activity in internship is planned and coordinated jointly by an institutional representative and the employer, with the employer having the responsibility for control and supervision of the student on the job. Work is normally completed in the learning environment, but may include out-of-class assignments. The internship ratio is 5:1 (one hour of credit for five hours of internship instruction as defined) or as required by program accreditation and/or licensing bodies with different discipline-specific time-to-credit criteria.

Distance Education

Of the instructional categories listed above, distance education courses may include theory instruction as well as experimental laboratory instruction with out-of-class assignments such as practice and/or laboratory report writing.

The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) defines distance education as a formal educational process in which the majority of the instruction (interaction between students and instructors and among students) in a course occurs when students and instructors are not in the same place. Instruction may be synchronous or asynchronous. A distance education course may use the internet; one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices; audio conferencing; or video cassettes, DVDs, and CD-ROMs if used as part of the distance education course or program.

The College has been approved to offer up to 100 percent of the Associate in Arts, Associate in Science, and Associate in Applied Science Degrees in Office Administration and Computer Science through distance education since August 21, 2006. In December 2012, the SACSCOC Board of Trustees revised the *Substantive Change Policy* and eliminated the requirement for prior notification to add approved programs to the institution's electronically delivered offerings. The majority of distance education instruction will be provided through the internet.

An on-line or hybrid course providing 50 to 100 percent of theory instruction through the internet must be approved according to procedures in the *College's Distance Education Policy and Procedures Manual* which require faculty review and administrative approval to ensure quality and equivalence to a traditional course. The amount of faculty instruction and the amount of required student work for on-line and hybrid courses must be equivalent to that of a traditional lecture class. Instruction may be provided through Screen-Cast-O-Matic lecture capture recordings presented in timed segments or notes which are at least the same length as lecture notes presented by the instructor during the traditional class setting.

COURSE AUDITING

Students who audit courses must pay tuition and fees and will be listed on the official class rolls, but are not required to take tests, a final examination, or make reports. No credit will be awarded for audited courses; however, the grade report will indicate "AU". The attendance policy does not apply for audited courses.

PRIOR LEARNING ASSESSMENT

Lurleen B. Wallace Community College recognizes that learning occurs in a variety of ways. As such, college credit may be awarded for learning obtained through non-traditional means, including, but not limited to nationally recognized examinations, credit awarded for prior

learning, military training credit, and local and state-wide articulation agreements. Credit awarded through non-traditional means shall not be included in the 25 percent of total credit hours that must be completed at the college granting the degree.

1. Nontraditional Credit: Academic

Credit Awarded for Examination – College credit may be awarded through nationally recognized examinations such as: Advanced Placement (AP); College Level Examination Program (CLEP); United States Armed Forces Institute (USAFI); Defense Activity for Non-traditional Education Support (DANTES/DSST); or through examinations (challenge exams) developed by the College.

2. Credit awarded for transcribed military training

A. Credit may be awarded for academic and technical courses based on equivalent transcribed military training as shown on an ACE Joint Service Transcript or an official transcript from the Community College of the Air Force.

B. Evaluation of military transcripts will be conducted by the College's registrar in cooperation with the subject matter expert for the credit under consideration.

3. Nontraditional Credit: Career and Technical Education Credit Awarded for Articulation

A. Students completing courses in the approved Statewide Career and Technical Education Articulation Agreement will receive articulated credit to the Alabama Community College System institution of their choice offering the corresponding program of study. Performance or knowledge testing of secondary program graduates is not required as part of the articulation process.

4. Awarding Credit Through Prior Learning Assessment

A. Prior Learning Assessment (PLA) is a means for a student to receive college level credit for experiential learning that took place in a non-traditional learning environment, such as on-the-job training, military training, professional development seminars, volunteerism, and experience in-field. Awarding of credit through PLA relies heavily on aligning knowledge and skills gained through experience with learning outcomes found in traditional courses of higher education. To facilitate the awarding of credit, the College has developed a series of Prior Learning Inventories for applicable technical programs. These inventories provide a detailed list of course learning objectives for each program and align those with relevant industry credentials and experiences, identified by LBWCC technical faculty members, that will be accepted for prior learning credit. Inventories are updated regularly and kept on file with the Director of Admissions and Records.

B. Course credit earned from prior learning shall be noted on the student's transcript as having been awarded through PLA.

SCHOLARSHIPS

Institutional Scholarships

The following scholarships are awarded:

Ambassadors

Ms. LBWCC

Athletic
Covington County Junior Miss
Cultural Diversity
GED Commencement
Honors Program

Performing Arts
Presidential Academic
Presidential Technical
Technical Waivers

The following scholarships can be awarded for the summer term only to students who have received the same scholarship in the fall and/or spring semesters. Additionally, these performance/work scholarships shall never be awarded to non-participants:

Ambassadors
Presidential Technical

Exceptions to this policy must be approved by the Dean of Instruction or the Dean of Student Affairs.

Policy on Using Institutional Scholarship to Cover Expenses Related to a Repeated Class

Institutional Scholarships will not cover the costs of a repeated course except in extraordinary circumstances (e.g., previous withdrawal from a required course due to circumstances beyond the control of the student). This policy will not apply to a student who received an “IP” grade in a developmental course.

In order to use an Institutional Scholarship for a repeated course, a student must request in writing, a review of his/her special circumstances. This request must be submitted to the Director of Financial Aid prior to the first day of class for the semester in which the repeated course will commence.

CHILDREN ON CAMPUS

The College is committed to maintaining an environment that contributes to its educational mission as well as the safety, health, and well-being of all students and other persons on the campus. Therefore, to minimize distractions in the classroom and ensure safety, children are only permitted on campus to attend specific programs (e.g., Day Care Program) or athletic events accompanied by adults. LBWCC students must not bring children to classes or leave them unsupervised on campus while attending classes.

DRINKS OR FOOD IN THE CLASSROOM OR LAB

Where drinks or food may cause damage to equipment or endanger the safety of students and faculty, the instructor may implement a prohibition of food and drink. Signs posting this prohibition must be placed at the entrance to any such facility prohibiting food or drink. The prohibition should also be stated in the syllabus of any course utilizing the designated classroom or lab. If food or drinks are allowed, the instructor must inform students that food or drink containers cannot be left in the classroom. Instructors are responsible for ensuring that students leave the classroom in a clean and neat condition.

SAFETY AND EMERGENCY PROCEDURES

LBWCC's Safety and Emergency Procedures can be found in Section 10 of the LBWCC Policies and Procedures Manual.

EVALUATION OF FACULTY

LBWCC's Faculty Evaluation policy can be found in Section 5 of the LBWCC Policies and Procedures Manual.

INSTRUCTOR RESPONSIBILITIES

Each instructor has a responsibility to manage and conduct his or her classroom in a consistent manner that provides a positive learning environment. In order to provide students with realistic expectations of course and program requirements, a syllabus must be provided to each student, and discussed in each class taught. Instructors are required to teach the subject matter of assigned courses as outlined in the syllabus. The syllabus should also identify learning objectives, teaching methods, and evaluation criteria for each course.

Each instructor is responsible for following all policies and procedures of the College.

Each instructor must meet her/his class as scheduled. If for any reason, the classroom location, or meeting time of class must be changed, the instructor must first obtain Division Chair approval.

If for any reason, an instructor is not able to meet the class as assigned, or must be absent from class, the instructor is responsible for notifying the Division Chair as soon as possible, so that other arrangements may be confirmed prior to the class meeting time.

Instructors must notify the Division Chair of any change in class meeting time or substitution of instructor for any class meeting.

Record keeping responsibilities for the instructional program are detailed more specifically in this section of the Handbook and require individual faculty to complete and submit the following documents to the appropriate administrative staff:

First of Semester/Term:

- Course Syllabi (submit to Division Chair)
- Schedule and Office Hours (submit to Division Chair)
- Verify class attendance via LBWCC website upon request from Financial Aid Office
- Verify course rolls via LBWCC website upon request from Director of Admissions and Records
- *Registration* forms (to be filed by advisor)
- *Drop/Add* forms (submit to Student Services)

- *Student Web Registration Agreement* forms (to be filed by advisor)

Instructors may also be given assessment responsibilities, which include the following: collaborating with other instructors in their program or discipline to create program and student learning outcomes; working with the Office of Institutional Effectiveness and Quality to gather the necessary data to determine the extent to which outcomes have been met; and entering planning and assessment information into the online *Outcomes Management System*.

GROUP/FIELD TRIPS

The appropriate Division Chair/Supervisor must be notified in advance of any group/field trip plans. It is necessary to complete a *Request for Travel* form, a *Group/Field Trip Information* form, and a *Liability Release* form for any group trip such as athletics, performing groups, or field trips. The person in charge of the activity should prepare the *Request for Travel* form and the *Group/Field Trip Information* form. These two forms should be submitted to the Business Office to follow the same routing process as an employee's *Request for Travel* form. Attach to the form any requisitions such as those for lodging. Be sure to identify the driver of the College vehicle used for the trip on the *Group/Field Trip Information* form. The driver must be included on the LBWCC Eligible Drivers List. Students traveling should submit a *Liability Release* form to the person in charge of the activity. If a student is under the age of nineteen years, then the parent/legal guardian having custody of the student should also sign and date the *Liability Release* form.

FINAL EXAMINATIONS

Final Examinations are to be given according to the published examination schedule. In the event an instructor finds it necessary to deviate from the published schedule, approvals of the Division Chair and Dean of Instruction are required.

GRADES

Final Grades

Faculty log on to www.lbwcc.edu and through the Faculty Information Center access their rolls, input the final grades, post the grades, and print a paper copy for their records by the deadline announced each term by the Director of Admissions and Records. If an instructor assigned any "I" (incomplete) grades from the previous term, the Director of Admissions and Records will print the "I" grade sheets and disperse these to the appropriate faculty who will write in the correct final grade, sign, and return the grade sheet. "I" grade sheets are due before final exams begin the following term.

Grade Records

Grade books may be obtained from the Business Office. Grades recorded in grade books or computer printouts must be kept by the instructor for a period of two years. Based on the date of

the last grading period entered in the grade book, the instructor will destroy records over two years old. Grade books or computer printouts less than two years old must be turned in to the Division Chair by instructors who complete an *Exit Employment Form*. Examination materials (including, but not limited to, graded examinations, academic papers, and other student work) must be retained until the closure of the grade appeal period. Adjunct instructors must turn in grade book or computer records to their Division Chairs at the end of each semester.

Incomplete (I) Grade

A grade of *Incomplete* (I) may be assigned when the quality of work has been passing but the student has been prevented by illness or other justifiable cause from completing the required work or taking the final examinations. A student who must miss a final examination has the responsibility of notifying the instructor prior to the examination or as soon thereafter as possible and of furnishing acceptable evidence concerning the cause of the absence upon return. If the cause is personal illness, the student should present the instructor a statement signed by the appropriate health care professional.

A grade of Incomplete (I) must be cleared by the last class day of the following term or the grade automatically becomes an "F." It is the student's responsibility to contact the instructor and to make up missed course assignments and/or examinations.

Grade Changes

All grade changes must be initiated by the instructor on a *Change of Grade* form, and must be made immediately following the semester during which the grade was earned. It is the responsibility of the student to check his/her grade report at the end of each semester/term and to immediately notify the instructor regarding a potential grading error. Grade appeals are handled through the chain of command with the final decision residing with the Dean of Instruction.

Academic Complaint/Appeal

An academic complaint is defined as a concern about a strictly academic matter such as grades, work assignments, quality of instruction, and fairness of instructor and/or examinations. Academic appeals, with the exception of grades, must be initiated within ten (10) business days of their occurrence. Grade appeals must be initiated prior to the last day of classes of the following term.

The following procedure should be followed in filing an academic complaint/appeal:

1. The student should first contact the instructor and discuss the problem.
2. If the student does not receive satisfaction from the instructor, he/she should contact the Chair of the Division who will confer with the student and the faculty member to reach closure.
3. If closure is not reached by using this approach, the student may file a formal academic appeal to the Dean of Instruction. This must be done in writing and dated prior to the time limit stated above. The appeal must state the problem, the name of the instructor who is involved and previous attempts at resolving the situation.

4. The Dean of Instruction will review the information, prepare a written recommendation, and notify the student, instructor, and the Division Chair of the decision within two (2) weeks after the written appeal is received.
5. The decision of the Dean of Instruction is final.

GRADING SYSTEM

Semester grade point averages are computed on a 4.0 system. A grade of **A** equals 4.0 quality points per credit hour, **B** equals 3.0 quality points per credit hour, **C** equals 2.0 quality points per credit hour, and **D** equals 1.0 quality points per credit hour.

Grades of **I** and **F** equal 0 points. The grade point average is determined by dividing the total of quality points earned by the total number of credit hours attempted during the semester.

Meaning of Grades Relative to Academic Achievement:

A	Excellent
B	Good
C	Average
D	Poor
F	Failure
W	Withdrawal
I	Incomplete
AU	Audit

POLICY FOR MAKE-UP EXAMINATIONS

Make-up examinations may be given at the instructor's discretion when the instructor is convinced that extenuating circumstances prevented the student from taking the examination during the regularly scheduled time. The instructor's make-up policy must be included in the course syllabus. (*See the Policy on Attendance, in Section 8.*)

It is the student's responsibility to report to the instructor any conditions that cause an absence. If the instructor accepts the report as just cause for an absence, a time and place may be established for the make-up work.

In cases where the instructor determines that a student's reasons for absence seem irresponsible or negligent, opportunity to make-up work does not have to be given. In such cases, the instructor shall advise the Division Chair of the circumstances. The student has the right to appeal through the chain of command.

POLICY ON ROOM ASSIGNMENTS FOR OVERNIGHT STUDENT TRAVEL

Lurleen B. Wallace Community College (LBW) is committed to enhancing students' learning opportunities through a variety of activities that may require travel away from the College and possible overnight stay. This policy establishes the guidelines and responsibilities for room assignments for overnight travel that involves LBW students.

Employees responsible for student groups that will be traveling should follow the established *Authorization for Group/Field Trips* procedure prior to travel. If the event or activity will require overnight stay, the responsible employee must assign students to rooms prior to departure. Students shall share rooms only with students of the same biological sex. In exceptional circumstances, individuals may request single accommodations.

An itinerary and room assignment list must be submitted to the Dean of Student Affairs prior to departure from campus.

POLICY ON STUDENT NAME CHANGE

Students are required to provide their official legal name at the time of application to Lurleen B. Wallace Community College. Name change requests must be submitted in writing to the Office of Admissions and Records and will require documentation of the change. Requests may be made in person, via fax, or by mail. Mailed requests should be sent to: Admissions and Records, Lurleen B. Wallace Community College, P.O. Drawer 1418, Andalusia, AL 36420.

Current or former students may submit a *Change of Student Information* form along with appropriate legal documentation. Acceptable documentation generally consists of new driver's license, official state ID card, Social Security card, certified copy of marriage license, court order, dissolution decree, or current passport.

PROGRAMS OF STUDY

Course/Program Revision

The addition of courses or programs that represent a significant departure, either in content or method of delivery, from those that were offered when the College was last evaluated by SACSCOC are substantive changes, and SACSCOC must be notified of substantive changes. The College will follow its *Substantive Change Policy* and utilize the *Academic Substantive Change Form* to identify and report all substantive changes.

The procedure for initiating a new course or a change in a course, or program changes is as follows:

Process for Proposals of Course and Program Revisions

1. Ideas for course and program revisions may come from such sources as the program advisory committees, Division Chairs, departmental coordinators and directors, Lurleen B. Wallace Community College faculty, business, industry, or others affiliated with the

College. These ideas may be referred to the specific division/program instructor for further review.

2. The program instructor will propose the specific revision and submit it to the appropriate Division Chair for further processing.
 - a. The *Request for Course Change* form is used by faculty to propose course changes that will take effect fall semester of the next academic year. The form should be submitted to the appropriate Division Chair and reviewed by the Instructional Council. Approved changes will be provided in May to the Dean of Student Affairs, the Director of Admissions and Records, and the Associate Dean of Institutional Effectiveness and Quality and the Luverne Center to annually update the catalog and degree plans, and update reports of credit hours available at each College site. If the course change results in a change in credit hours, the *Request for Program Change Form* must be completed. Unless there is a significant change in content, changes which do not affect total credit hours do not constitute substantive change and a *Substantive Change Form* does not have to be completed.
 - b. The *Request for Program Change Form* is used to propose a new program, delete a program, expand a program to an off-campus site not previously approved to offer 50 percent or more of a program or increase program length by 20 percent or more. The individual requesting a program change will complete Section A of the form, attach the form to the *Academic Substantive Change Form*, and submit forms to the Accreditation Liaison (Dean of Instruction) who will provide assistance in completing the *Academic Substantive Change Form*.
3. The Division Chair and discipline faculty will be notified by the Dean of Instruction to review the proposal, document their ideas, and to provide their advice and support for the proposal.
4. The Dean of Instruction will review the proposal for budget implications, course transfer issues, influence of faculty assignments, and class scheduling and will provide the *Academic Substantive Change Form* and documentation to the Instructional Council for review and recommendations.
5. The Instructional Council will review the proposal after individual input and refer it to the President. The President may forward it to the Executive Council prior to approval.
6. The President will review and approve all curriculum requests prior to implementation or referral to the Alabama Community College System.

New Program Development

New programs of study are initiated through the *Strategic Planning Process* following the application procedures as outlined by the Alabama Community College System. Completed program applications are submitted to ACCS through the President's office. New programs of study are listed in the Institutional Management Plan and included in the *College Strategic Planning Process*.

A new program is a substantive change and SACSCOC must be notified of the change. In accordance with the *College's Substantive Change Policy and Procedure*, the *Request for Program Change* and the *Academic Substantive Change Form* must be submitted by the person or committee requesting new program development to the Dean of Instruction, who will determine the required notification and submit to the Department Director or Division Chair for approval. Upon approval by the Department Director or Division Chair and the Dean of Instruction, the form will be submitted by the Dean of Instruction to the President for approval prior to SACSCOC notification.

Program Review Information

Each program will be reviewed at least once every five years and reported in the *Institutional Management Plan* as well as in the *Strategic Plan for Institutional Effectiveness of the College*. Faculty members in each program shall work with the Division Chair and the Dean of Instruction to ensure comprehensive program reviews are conducted in a complete and timely manner. The rotation schedule for program review is outlined in the *Institutional Management Plan*.

USE OF STATE PROPERTY FOR POLITICAL PURPOSES

LBWCC's policy on the Use of State Property for Political Purposes can be found in Section 9 of the LBWCC Policies and Procedures Manual.

RECORD KEEPING

Class Rosters and Confirmation

1. Through the Faculty Information Center via the LBWCC website, instructors have access to preliminary class rosters the first day of the semester before classes begin. Each student attending class must appear on the class roster.
2. Upon notification by the Office of Financial Aid, instructors will verify class attendance via the LBWCC website after the close of the drop/add period.
3. Upon notification by the Office of Student Services, instructors will verify class rolls via the LBWCC website.
4. Any student attending who is not listed on your class roster should be sent to the Admissions Office to complete their registration. Any student whose name does not appear on the official roster must clear all records with the Business Office before returning to class; **students who have not cleared the Business Office will not be eligible to receive a final grade for any work attempted or completed.**
5. Updated rosters, which reflect any revisions or withdrawals, are available at any time to verify student enrollment. Instructors should log onto the LBWCC website to access these through the Faculty Information Center.

Class Syllabus

Instructors are expected to prepare and follow a course syllabus for each course. Specific course syllabi should be filed with the Division Chair and Dean of Instruction each term or semester that the class is taught. In order to provide students with realistic expectations of course and program requirements, a syllabus **must** be made accessible to each student, and discussed in class during the first week in each class taught. A copy of the College adopted syllabi format is available from your Division Chair.

ROLE OF FACULTY IN GOVERNANCE OF THE INSTITUTION

Lurleen B. Wallace Community College recognizes the central role of instruction in the College's mission and therefore incorporates faculty participation in the governance of the institution in a variety of ways, as follows:

1. Through participation in standing committees—standing committees facilitate day-to-day operations and ensure input into the decision-making process of the College;
2. Through participation in ad hoc committees—ad hoc committees are temporary committees formed from time-to-time to address an immediate need by making recommendations or conducting work as assigned by the President;
3. Through participation on the Instructional Council—the Instructional Council is a regularly functioning committee comprised of Division Chairs, the Director of the Learning Resource Center, and others and is chaired by the Dean of Instruction. The purpose of the Instructional Council is to resolve instructional issues, recommend curriculum additions and changes, discuss faculty compensation and class loads, develop semester schedules, recommend professional development activities for faculty, and to communicate other business of the College to faculty and faculty issues to College administrators;
4. Through representation on the Executive Council—the Executive Council meets regularly to discuss College matters, make decisions on policy and procedure issues, and communicate College information. The Council is chaired by the President;
5. Through participation in strategic planning activities—the College reviews and revises its *Strategic Plan* on a five year cycle. Faculty members participate in the planning activities through division meetings, College-wide in-service activities, and directly by providing strategic analysis input on forms provided to all members of the College community. Faculty define the expected educational outcomes for their departments and programs, document outcomes, and submit documentation to the Associate Dean of Institutional Effectiveness and Quality and the Luverne Center;
6. Through participation in annual budget planning—during the annual budget planning cycle in the spring of each year, faculty members meet with their departments to identify their needs, formulate their budget requests, and set their priorities and objectives for the

following year. This information is forwarded to the College administration for incorporation into the College's operating plan for the following fiscal year;

7. Through annual in-service activities—College-wide in-service activities are scheduled to occur on a day and time when no classes are scheduled. These activities include workshops and focus group activities covering institutional policies and procedures. Faculty input on all issues pertaining to institutional governance are actively solicited during these in-service activities and incorporated into the agenda of the Executive Council for approval of appropriate revisions recommended to the President.

The faculty role in governance is also spelled out in the job descriptions for faculty members and Division Chairs. Elements of the faculty job description that pertain to governance of the institution are itemized below:

1. Review and recommend appropriate revision of curriculum periodically.
2. Assist in the development of course offerings.
3. Participate in the College committees as assigned.
4. Participate in the planning and budgeting processes of the division.
5. Dispense and submit necessary reports and plans in a timely manner.
6. Assist in enforcing all College policies.
7. Assist in the coordination of the Institutional Effectiveness Plan.

Elements of the Division Chair job description that pertain to governance of the institution are itemized below:

1. Supervise all faculty and staff within the division.
2. Coordinate and monitor the work schedules of faculty and staff assigned to the division.
3. Coordinate the day-to-day operations of the division by memos, individual faculty contacts, regular meetings, and telephone conversations.
4. Assist in planning and conducting faculty meetings.
5. Coordinate with division faculty to prepare budget requests and manage budgets for the division.
6. Coordinate the preparation of class offerings.
7. Evaluate faculty and staff throughout the division in accordance with the Institutional Effectiveness Plan to include student evaluation of faculty and Division Chair observation of classes taught.
8. Perform liaison functions as appropriate between the College and the external community.
9. Coordinate the planning and development of goals, objectives, and expected educational outcomes for the division.
10. Assist in securing adequate facilities, equipment, personnel, funding, and opportunities to support the mission of the institution.
11. Conduct division meetings as necessary and appropriate.
12. Assist in coordination and implementation of curricular reviews and viability reports.
13. Assist in the coordination and implementation of new programs.

SMOKING/TOBACCO POLICY

LBWCC's Smoking/Tobacco Policy can be found in Section 9 of the LBWCC Policies and Procedures Manual.

SOLICITATIONS POLICY

LBWCC's Solicitations Policy can be found in Section 9 of the LBWCC Policies and Procedures Manual.

STUDENT ADVISING

Entering students will be assigned advisors by Student Affairs personnel at the time of placement assessment, or by admissions staff at the time of application for students for whom the placement assessment is not required. Entering students will be encouraged at the time of placement assessment advising and /or next application to meet with their assigned academic advisor prior to the next scheduled registration.

Transfer students who have completed prior academic work at another institution of higher education should follow the instructions for the Admission of Transfer Students according to the *College Catalog* to assure proper credit is awarded.

STUDENT COMPLETION - REQUEST FOR GRADUATION

Faculty who serve as program advisors must certify students in their program have completed their program of study. Students, who complete the program of study required for a diploma, certificate, or degree, must submit an *Application for Graduation* form to verify official record data and clear all fees with the Business Office during their last term or semester of study.

STUDENT ACADEMIC INTEGRITY

The College expects all students to be honest in their academic activities and to abide by rules of the Student Code of Conduct as stated in the official catalog. The College expects the conduct of each student and organization to be in conformity with standards of common decency and decorum, with recognition of and respect for personal and property rights of others and the educational mission of the College. A student or organization found in violation of the *Student Code of Conduct* may be disciplined.

Examples of academic dishonesty are:

- Giving or receiving unauthorized help during an examination.

- Using any source of unauthorized information or assistance (notes, books, spoken words, electronic devices, etc.) during examination.
- Submitting for credit any theme, report, speech, outlines, laboratory paper, notebook or similar item without appropriate acknowledgment (plagiarism) of the whole or part, if it has been obtained or copied from another source.

NOTE: The *Code of Conduct* is printed in the *College Catalog* and *Student Handbook* and lists 41 examples of misconduct which render a student subject to disciplinary action under procedures that provide for adequate notice and a fair hearing. The first ten examples of misconduct relate to student dishonesty. Faculty may establish specific requirements and penalties and provide more detailed clarification of the application of the conduct policy within their respective classroom, including the guarantee of procedural and substantive due process in all cases involving formal discipline charges. No disciplinary action is taken on grounds that are not supported by substantial evidence.

STUDENT WITHDRAWALS (Effective Summer Term 2018)

A student may withdraw from a course or all courses without a grade penalty until 14 days prior to the first day of final exams for the fall and spring terms. For the fall and spring mini-terms, students may withdraw from classes until 7 days prior to the first day of final exams. For the summer full term, a student may withdraw from classes until **9 days** prior to the first day of full-session final exams. For summer mini-terms, a student may withdraw from classes until **4 days** prior to the first day of mini-session final exams. The final date for official withdrawal is printed in the college calendar and published in each class schedule. To officially withdraw, a **Withdrawal Form** must be obtained from the Office of Student Services, completed and signed by all persons indicated on the form and returned to the Office of Student Services.

NOTE: All withdrawal forms must be completed and returned to the Office of Student Services for processing before a student is officially withdrawn from a course or courses. It is the student's responsibility to follow these withdrawal procedures.

Students may be administratively withdrawn from all courses for excessive absences or for other administrative reasons (such as student discipline leading to suspension or expulsion). Withdrawal may impact a student's ability to qualify for financial aid and may result in the need to repay financial aid already received. Any exceptions to the administrative withdrawal policy must be authorized by the Dean of Instruction or the Dean of Student Affairs.

ADVISING STUDENT ORGANIZATIONS

All student organizations must have a qualified club sponsor/advisor and a co-sponsor approved by the Dean of Student Affairs. A faculty member who agrees to serve as a club sponsor/advisor accepts the responsibility for encouraging the organization in its purpose and activities, within the limits of College policy and the goals and objectives of the organization as set forth in the

statement of purpose and constitution. Policies governing clubs and organizations are published in the Student Handbook. Any group wishing to organize on campus must submit a written request to the Dean of Student Affairs.

No meeting is authorized or recognized unless attended by the sponsor/advisor or a substitute duly approved by the Dean of Student Affairs. The proceedings of meetings held with a substitute must be reviewed by the sponsor/advisor.

Speakers, special programs, activities, and program topics must have the formal approval of the club sponsor/advisor and the Dean of Student Affairs or his/her designees. Requests for activities other than normal meetings must be made in writing at least seven days prior to the activity. A request for outside speakers must be made, in writing, a minimum of seven days prior to the issuance of an invitation. Student organizations must hold meetings on campus unless special permission is obtained from the Dean of Student Affairs or his/her designee.

All fund-raising activities for student organizations and clubs must be supervised by the faculty/staff sponsor(s). College fund-raising activities for student organizations and clubs must be approved by the Dean of Student Affairs.

LIBRARIES/LEARNING RESOURCE CENTERS

Introduction

Library Services are available on the Andalusia, MacArthur, and Greenville Campuses, and at the Luverne Center. Services are provided to all students, and faculty, and staff. The library's web page can be accessed at <http://www.lbwcc.edu/library.aspx>.

Contacts:

Hugh Carter, Director

334-881-2265 - hcarter@lbwcc.edu

Rebecca Brannon, Library Technical Assistant-MacArthur

334-493-5370 - rbrannon@lbwcc.edu

Virginia Compton, Librarian-Greenville/Luverne,

334-881-2265 - vcompton@lbwcc.edu

Jennifer Bennett, Learning Resources Assistant- Andalusia

334-881-2269 – jbennett@lbwcc.edu

The mission of the LBWCC Libraries/Learning Resource Center is threefold:

- (1) To acquire and organize informational and educational resources in support of instruction;
- (2) To provide expert LBWCC Libraries/Learning Resource Center staff;
- (3) To integrate LBWCC Libraries/Learning Resource Center use into the curriculum.

Services

The Library has several strategies and activities to support faculty and student information and research needs. Please sign up for participation in some of the following:

Curriculum Design—Library staff will be glad to suggest and research ways to integrate the use of information into your particular curriculum. Assistance with student assignments, distance education projects and faculty research is available and encouraged. Evaluation of web sites and recommendations are available.

Reserves—Library staff will place materials on reserve. Notify the library staff in advance about books, videos, and/or other resources that are needed for use by several students during the same time period. These materials will be kept near the service desk for “IN HOUSE USE ONLY” unless other instructions are provided by the instructor.

Selective Dissemination of Information—Library staff will notify you by e-mail of new resources (print and electronic, in the library, by subscription and on the Web) that match your teaching interests.

Alabama Virtual Library (AVL) Access—Library staff issues Alabama Virtual Library cards for community college students, faculty, and staff.

Orientation Sessions—Library staff will hold orientation sessions to introduce students to the library. Day classes requesting library orientations or bibliographic instruction should try to schedule appointments at least 24 hours in advance.

Equipment—The libraries not only order audiovisual materials in support of the curricula but also provide the needed equipment for use in the library or in the classroom. The libraries order equipment, maintain equipment, and check out equipment, such as VCR/DVD players, laptops and projectors, for extended periods of time. Requests need to be made early so equipment will be available. A photocopier is available for photocopying materials.

Speaking Engagements—The librarian is available to reach out to the community through speaking engagements.

Community Commons—(1) The libraries provide students, faculty, and staff with comfortable, functional spaces for lounging and studying. Facilities are available for individual or small group use. (2) Since many inquiries about events and College offerings come to the Libraries via telephone calls or visits, it is important that the libraries be given the most current and accurate information possible.

Loan Services—Faculty are encouraged to request resources held on different LBWCC campuses. A courier service is in place to get requested materials from one campus to another. Faculty are also encouraged to ask for resources that cannot be located on any of the LBWCC campuses. Since LBWCC libraries are members of the WorldShare InterLibrary Loan System, resources may be borrowed from other libraries.

Users with Disabilities—The libraries are accessible for patrons with wheelchairs and maintain at least one computer workstation for wheelchair access. Wheelchair-accessible study carrels are provided. For special needs, contact the respective library.

Resources

LBWCC libraries provide paper and electronic resources in support of programs, career-oriented associate degrees and certificates. Resource collections include books, videos, DVDs and other formats.

Faculty input into the acquisitions of materials is imperative. Requests and suggestions are welcomed.

Alabama Virtual Library

The Alabama Virtual Library provides all students, teachers, and citizens of the State of Alabama with online access to essential library and information resources. It is primarily a group of online databases that have magazine, journal, and newspaper articles for research. Through the AVL, an equitable core of information sources is available to every student and citizen in Alabama, raising the level of excellence in schools and communities across the state.

- AVL provides access to databases that are not free on the internet
- AVL provides advertisement-free information
- AVL guarantees personal privacy
- Users can limit searches to scholarly journals
- The AVL uses this geolocation technology to determine if a user is located in Alabama. If the user can be authenticated (using geolocation), then they are automatically logged in to the AVL.
 - Users that are not automatically logged in can come to an LBWCC Library and get an AVL card.

General Campus Information

All of the libraries provide materials, services, and facilities necessary to support the College's instructional programs, career-oriented associate degrees and certificates. Students have access to books, encyclopedias, audio-visual materials, computers, printers, and copiers. Online resources allow users access to resources on and off campus including the library catalog, the Alabama Virtual Library, and databases purchased by the College including CREDO Reference, Films On Demand, Statista, StatRef, and ProQuest. The libraries provide services such as reference, interlibrary loan, bibliographic/library instruction, and one-on-one research assistance.

Library Hours

Andalusia Campus: Mon-Thu 7:45 a.m. - 8:00 p.m., Fri 7:30 a.m. - 12:00 p.m.

Greenville Campus: Mon-Thu 8:00 a.m. - 5:00 p.m.

MacArthur Campus: Mon-Thu 7:30 a.m. - 5:00 p.m., Fri 7:30 a.m. – 12:00 p.m.

Luverne Center: Mon-Thu 8:00 a.m. - 5:00 p.m.

INSTRUCTIONAL RESOURCES AND SUPPORT SERVICES

Bookstore

The College Bookstore on the Andalusia Campus is located in the Student Center and operates from 9:00 a.m. to 1:00 p.m. Monday through Thursday. The bookstore on the MacArthur Campus is located behind the Student Center and is open from 7:30 a.m. 3:30 p.m. Monday through Thursday. The bookstore on the Greenville Campus is open for the first week of each semester, during book buyback, and then on an as-needed basis. Extended bookstore hours will be posted for official Registration periods. The bookstore stocks textbooks for student purchase as well as reference books.

Business Office

The Business Office handles functions such as payroll, purchasing, cash receipts, and disbursements.

Copy Machines

On the Andalusia campus, copy machines are located in the Administration Building and in the William H. McWhorter Learning Resource Center. On the Greenville Campus, copy machines are located in the student services building and in the Technology Building. On the MacArthur campus, copy machines are located in the Student Center and the Health Sciences Building. A copy machine is located outside the Business Office at the Luverne Center.

Copyright Regulations

Subject to certain exceptions, only the owner of a copyright has the exclusive rights to reproduce, distribute, perform or display the copyrighted work, or authorize such reproduction, distribution, performance, or display by others (*17 U.S.C.A. 106*).

Parking

All employees and students are subject to parking rules and regulations of the College. Parking is permitted in designated parking areas. Loading zones are provided for each campus building to accommodate faculty transporting heavy books, materials, and equipment.

Payroll Distribution Schedule

Payroll direct deposit is issued on the last working day of the month. Full-time faculty members have the option of being paid their nine month salary in nine months (September – May) or twelve months (September through August). Full time faculty payments for summer classes will be paid based on the combination of evening, mini-session, or full-term classes determined by the summer contract.

The adjunct and overload contract amount for Fall Semester payroll is divided into four equal payments and paid at the end of September, October, November, and December. No payment is

issued in August. The adjunct contract amount for Spring Semester payroll is divided into four equal payments and paid at the end of February, March, April, and May. No payment is issued in January. Adjunct and overload payments for summer classes will be paid based on the combination of evening, mini-session, or full-term classes determined by the summer contract. (For information about the remuneration rate for under-enrolled classes for adjunct, part-time, or overload faculty, see *Definition and Remuneration for Full-time, Part-time, and Adjunct Faculty*.)

Purchasing

Requests to purchase supplies and instructional materials must be made through the Division Chair using the standardized *Requisition* form. The form is submitted to the Business Office through the appropriate supervisor/budget manager for final approval.

Once approvals are complete, the Business Office assigns a purchase order number and a copy of the purchase order is returned to the requester. The order is to be placed in accordance with the order process indicated on the requisition form at the time of approval. When the order is received, the requester will sign and date the invoice to indicate the order has been received and is in good condition. The requester has the responsibility to return the signed invoice to the Business Office to be processed for payment.

Campus Security

The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) requires that the College "provide a healthful, safe, and secure environment for all members of the campus community." To promote safety and comply with SACSCOC requirements, each faculty member should:

1. Review emergency evacuation procedures with each class at the beginning of each semester.
2. Review medical emergency procedures with each class at the beginning of each semester.
3. Point out to each class at the beginning of each semester potential hazards that may be present in the classroom or lab.
 - a. Chemical hazards
 - b. Electrical hazards
 - c. Physical hazards (saws, etc.)
 - d. Other applicable hazards
4. Become familiar with provisions of the *LBWCC Emergency Management Plan*.
5. If an accident or incident should occur in the classroom, lab, or anywhere on the campus, notify the appropriate security and administrative staff on duty and complete an *Accident/Incident/Medical Emergency Report* form in accordance with College safety and security procedures.

Publications

All College publications are reviewed by the Marketing Department for consistency of message and accuracy of images.

Textbooks and Supplies

Contact the Division Chair regarding textbook requisitions and supplies needed for your class or for copies of textbooks needed for office use. To request a new textbook, instructors complete an *Instructor's Recommendation for Required Textbooks* form and include information about the proposed textbook, as well as current textbook information including the title, author, publication date and reasons for replacing the textbook. The form is then submitted to the Bookstore Manager who records information in the boxes and forwards the form to the Division Chair. Upon approval, the Division Chair submits the form to the Dean of Instruction. The dean forwards the approved form to the bookstore and a copy to the instructor.

The *Instructor's Recommendation for Required Textbooks* form must be submitted by the instructor to the Bookstore Manager according to the following schedule:

Adoption Term	Submittal Date
Fall	March
Spring	July
Summer	October

All textbooks, once adopted, must be used a minimum of three years unless technology requirements out-date the text, the publisher terminates publication, or the Alabama Department of Education mandates a curriculum change. All other exceptions must be approved by the Dean of Instruction. As soon as instructors realize that a change in textbooks is required, they should notify the Bookstore Manager. This notification will allow adequate time for the bookstore to process changes with the least financial hardship on students reselling books.

Sample textbooks are the property of the College. Any faculty wishing to dispose of unneeded textbooks should do so by delivering the unwanted copies to the College Bookstore for the purposes of becoming part of the library inventory. Any textbook not incorporated into library inventory will be disposed of by library staff through the normal process.

USE OF FACILITIES AND SERVICES

LBWCC's Use of Facilities and Services policy can be found in Section 9 of the LBWCC Policies and Procedures Manual.

COMPUTER AND INFORMATION SERVICES**Computer and Network Use Policy**

The *Alabama Research and Education Network* (AREN), the College's computers and networks, and the Internet are available for use at the discretion of Lurleen B. Wallace Community College, by all faculty, staff, and students affiliated with the College. Lurleen B. Wallace Community College reserves the right to deny computer access to any individual, as it deems appropriate.

The advent of the Internet presents unprecedented opportunities to obtain, exchange, and manipulate data. Users of Lurleen B. Wallace Community College's computing facilities are responsible for using them in an ethical, legal, efficient, and effective manner consistent with the mission of the College and its policies governing such usage. The purpose of providing access to the computers and the Internet is to extend the primary functions of Lurleen B. Wallace Community College (i.e., instruction, community service, and the accompanying administrative support functions).

The Internet is not a secure network. Information that is transmitted over these networks is not encrypted or made private between the sender and the addressee.

Information Technology Resources

LBW Community College provides access to computer equipment and resources necessary to support the educational mission of the College. Access to College information systems is granted to students and employees as a privilege and, as such, imposes certain responsibilities and obligations. The purpose of information technology resources is to provide educational resources for the College's students and employees.

ACCEPTABLE USE POLICY

LBWCC's Acceptable Use Policy can be found in Section 9 of the LBWCC Policies and Procedures Manual.

STUDENT EMAIL POLICY

College Use of Email

Email is a mechanism for official communication within Lurleen B. Wallace Community College. The College has the right to expect that such communications will be received and read in a timely fashion. Official email communications are intended only to meet the academic and administrative needs of the campus community. As steward of this process, the Office of the Associate Dean of Instructional and Information Technology is responsible for directing the use of the official student email. See, Guidelines for the Use of Official Student Email for details.

Assignment of Student Email

College email accounts are available for all enrolled students. The addresses are all of the form [Name]@se.lbwcc.edu. These accounts must be activated before the College can correspond with its students using the official email accounts. The student can log in and manage their account through the LBWCC website.

Redirecting of Email

If a student wishes to have email redirected from their official @se.lbwcc.edu address to another email address (e.g., @aol.com, @hotmail.com, or an address on a departmental server), they may do so, but at their own risk. The College will not be responsible for the handling of email by outside vendors or by departmental servers. Having email redirected does not absolve a student from the responsibilities associated with official communication sent to his or her @se.lbwcc.edu account.

Expectations About Student Use of Email

Students are expected to check their email on a frequent and consistent basis in order to stay current with College related communications. Students have the responsibility to recognize that certain communications may be time-critical. "I didn't check my email", error in forwarding mail, or email returned to the College with "Mailbox Full" or "User Unknown" are not acceptable excuses for missing official College communications via email.

Authentication for Confidential Information

It is a violation of College policies, including the Student Code of Conduct, for any user of official email addresses to impersonate a College office, faculty/staff member, or student. To minimize this risk, some confidential information may be made available only through myLBWCC portal which is password protected. In these cases, students will receive email correspondence directing them to myLBWCC, where they can access the confidential information only by supplying their login credentials. The confidential information will not be available in the email message.

Privacy

Users should exercise extreme caution in using email to communicate confidential or sensitive matters, and should not assume that email is private and confidential. It is especially important that users are careful to send messages only to the intended recipient(s). Particular care should be taken when using the "reply" command during email correspondence.

Educational Uses of Email

Faculty will determine how electronic forms of communication (e.g., email) will be used in their classes, and will specify their requirements in the course syllabus. This "Official Student Email Policy" will ensure that all students will be able to comply with email-based course requirements specified by faculty. Faculty can therefore make the assumption that students' official @se.lbwcc.edu accounts are being accessed, and faculty can use email for their classes accordingly.

General Use

LBW Community College provides access to computer equipment and resources necessary to support the educational mission of the College. Access to College information systems is

granted to students and employees as a privilege and, as such, imposes certain responsibilities and obligations. The purpose of information technology resources is to provide educational resources for the College's students and employees. All students using official student email addresses must adhere to the Information Technology Acceptable Use Policies.

GUIDELINES FOR THE USE OF OFFICIAL STUDENT EMAIL ADDRESSES

In the Spring of 2018, The College will establish official student email addresses to enable faculty, staff, and administrators to communicate more effectively and efficiently with students. Please view the *LBWCC Official Student Email Policy* for policies governing the use of student email addresses.

Appropriate use of email addresses is essential to the success of this mode for contacting students. On one hand, if the address is used to communicate too much information too often, particularly if the information is perceived to be unimportant, students will abandon the system. This document is intended to help guide the appropriate usage of student email, in particular those messages sent from College administrators, faculty and staff to students. Students may choose to use their email accounts more broadly than prescribed by these guidelines.

General guidelines

- Keep messages simple and direct.
- Use plain text in messages--do not include HTML or formatted content.
- Format messages so that lines wrap at 80 characters or less.
- When possible, send email messages only to the specific group of students for whom the message is pertinent.
- When a message is to be sent to many recipients, use an email program that will not list all the recipients in the message; alternatively, include all recipients' addresses as "Bcc:" instead of "To:"
- When a message is to be sent to more than 1,000 students, send separate mailings in groups of no more than 1,000 email addresses.
- The only email group or distribution list to email all LBWCC students is Allstudents@se.lbwcc.edu. Only specific individuals will be authorized to send emails to this group.
- Email size, message plus attachments, should not exceed 5Mb when sending messages to groups of students.
- A "From:" or "Reply-to:" name and email address of the sender is required.
- Encourage students to check their email accounts regularly or to forward their account to an address that they will check regularly.

Examples of appropriate uses

- Communicating commencement and convocation information

- Degree check information
- Notification concerning students' change of course schedules (drop/adds), general petitions, withdrawals, and residency
- Notification of cancellation of registration
- Student aid processing issues and deadlines
- Academic departmental information such as class changes, registration issues, new courses, job-opening lists, and events
- Math and English placement information
- Information about academic support services and academic policies
- Advising appointments
- Notices about student internships and workshops
- Payment deadlines and other Business Office information
- General education program information

Examples of inappropriate uses

- Information unrelated to College business
- Solicitation
- Promoting political viewpoints
- Personal information
- Surveys that do not serve sanctioned College purposes.
- Messages containing confidential information such as course grades, financial aid award amounts, or tuition/fee payment amounts
- Emails that violate the LBWCC - Official Student Email Policy

As steward of the official student email address, the Dean of Student Affairs is responsible for directing its use.

LAB USAGE POLICY

Computer laboratories will be closed on all state holidays and breaks between semesters.

Labs will have a schedule on the door listing the posted hours of operation. These hours will vary from lab to lab and semester to semester. These labs will only be open during the posted hours.

After hours students may use the Library for computer access.

Instructors may have to unlock the lab for your class and will be expected to lock the lab back unless a class is scheduled to follow yours.

Maintenance staff and instructors should lock any lab found open outside of the posted hours of operation.

During class time instructors should only allow students enrolled in class to access the lab.

If the lab usage policy conflicts with student needs and access, students should see the Associate Dean of Instructional and Information Technology.

Labs will only be opened outside of the posted hours on a case by case basis. For example:

If a student must complete an assignment the instructor could open the lab as long as the instructor locks the lab once the student is finished.

Request for Information

Requests for institutional data or reports may be made by submitting an e-mail to the Office of Institutional Effectiveness and Quality.

Requests for Computer Services

In the event there are maintenance problems with an office or lab computer, submit a *Computer Problem/Work Order Request* form to the Office of the Associate Dean of Instructional and Information Technology. If immediate assistance is required for computer related services, you may contact the Office of the Associate Dean of Instructional and Information Technology directly.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

POLICY 3.5: HARASSMENT AND DISCRIMINATION

1. Marion Military Institute is committed to providing both employment and educational environments free of harassment or discrimination related to an individual's race, color, gender, religion, national origin, age, disability, or any other protected class. Such activity is a violation of MMI policy, ACCS Board of Trustees policy, as well as relevant state or federal law. Employees shall adhere to the highest ethical standards and professionalism and refrain from any form of harassment. Both employees and students shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is respected. Any practice or behavior that constitutes harassment shall not be tolerated.
2. Harassment can be defined as but is not limited to:
 - Disturbing conduct which is repetitive;
 - Threatening conduct;
 - Intimidating conduct
 - Inappropriate or offensive slurs, jokes, language, or other verbal, graphic, or other like conduct;
 - Unwelcome sexual advances, requests for sexual favors, or sexual-based offenses;
 - Assault;
 - Repeated contact solicited during non-traditional business hours may be perceived as harassment by the recipient unless it is specifically associated with work-related duties.
3. Employees and students who are found in violation of this policy shall be disciplined as deemed appropriate by the investigating authority.
4. Harassment of employees or students by non-employees is also a violation of this policy.
5. This Policy encourages faculty, students and employees who believe that they have been the victims of harassment to contact the Title IX Coordinator, Human Resources Director/Coordinator or President at the institution within ten days of when the alleged incident occurred. Any reprisals shall be reported immediately to the Title IX Coordinator, Human Resources Director/Coordinator or President. Any employee or student who becomes aware of any harassment shall report the incident to the Title IX Coordinator, Human Resources Director/Coordinator or President. Failure to act, which includes initial investigation, shall be deemed in direct violation of this policy.

6. This policy shall be distributed, communicated, and implemented in a manner which provides all interested parties the opportunity to be informed of this policy. A system-wide educational program shall be utilized to assist all members of the community to understand, prevent and combat harassment. Each community and technical college is required to provide annual training related to harassment, including sexual harassment.
7. Complaints or Reports concerning sexual harassment should be made, processed and addressed according to Policy 620.03-ACCS Sexual Harassment Complaint Procedures.

Reference Alabama Community College System Policy 601.04 Harassment

within the next month). Supervisors are responsible for ensuring that compensatory time is being taken by non-exempt full-time employees so that overtime is not required to be paid. Non-exempt full-time employees may not accrue more than 80 hours of compensatory time, and any time over and above 80 hours in compensatory time will be required to be paid as overtime. Compensatory time for full-time non-exempt employees will be converted to overtime and paid at the time of separation at the College.

Reference Alabama Community College System 610.01: Leave with Pay

POLICY 4.17: STUDENTS FIRST ACT

The Students First Act was recently adopted by the State of Alabama to replace the Fair Dismissal Act. The Students First Act is available online at <http://alisondb.legislature.state.al.us/acas/ACASLoginie.asp>

Once you access the page, follow these instructions to reach the Act.

1. Click Resources on the right of the screen.
2. Click "Code of Alabama" under Law.
3. Then, click view the "Code of Alabama".
4. Scroll down and click on Title 16, EDUCATION.
5. Scroll down and click on Chapter 24C, STUDENTS FIRST ACT.

POLICY 4.18: GRIEVANCE PROCEDURE

The purpose of the Marion Military Institute (MMI) Employee Grievance Policy is to cover grievances between employees about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against the President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters. This policy is to provide means for resolving grievances at the earliest possible time and at the most immediate level of supervision. All MMI employees have a right to file grievances without fear of censure or reprisal. All complaints will be handled in an impartial and timely manner.

"Grievance," as used in this context, is limited to a complaint of an employee that involves the interpretation of, application of, or compliance with a college policy, procedure, rule or regulation pertaining to the employee's employment conditions. The steps in the MMI Grievance Procedure are as follows:

1. Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within ten (10) calendar days from the date of the

alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or person receiving a written grievance) will notify Human Resources personnel and/or the President as appropriate.

2. The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within forty-five (45) calendar days (or otherwise agreed), and then make a written report of findings with recommendations with sixty (60) calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or person whom the grievance is lodged has five (5) calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. The decision shall be final.
3. Any employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined.
4. The President's decision will be final.

NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

Reference Alabama Community College System Policy 620.01 Employee Grievance

POLICY 4.19: STUDENT COMPLAINTS AGAINST FACULTY AND STAFF

The purpose of this procedure is to provide a means for resolving legitimate complaints. A complaint is defined as a grievance that cannot be resolved informally. A student may file a complaint against a member of the MMI faculty or staff. Prior to a formal written complaint, students are encouraged to discuss the matter with the faculty or staff member's direct supervisor to attempt to resolve the grievance informally. If the grievance cannot be resolved informally or to the student's satisfaction, the student may file a formal written complaint. All formal complaints must be filed with the MMI Director of Human Resources, located in the

Administrative Building, within five (5) business days from the date the incident occurred. A written formal complaint must include the following:

1. Student name, physical campus address, cell phone number, and email address;
2. The name of the faculty or staff member against whom the complaint is being filed;
3. The facts on which the complaint is based, including dates, times, and witnesses;
4. A summary of what has been done in an attempt to resolve the situation;
5. The resolution requested.

Written complaints will be received by the Director of Human Resources, who will review the complaint and discuss it with the student and appropriate department(s). The Director of Human Resources may designate a college official to respond to the student. Absent extenuating circumstances, the Director of Human Resources, or designee, will provide a written response to the student within fourteen (14) calendar days from the time the written formal complaint is received.

POLICY 4.20: EMPLOYEE COMPLAINT

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with MMI. This policy does not cover general workplace grievances, conduct, professionalism, or sexual harassment. This policy does not apply and cannot be used against the President.

1. Any employee who believes he/she has been subjected to or observed:
 - Discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
 - Harassment in forms other than sexual,
 - Hostile work environment,
 - Ethical violations or similar concerns,
 - Criminal acts,
 - MMI policy or procedure violations,
 - Or other legal-related issues.

by any person associated with MMI (other than President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

Title IX Sexual Harassment Complaint Procedures

A. INTRODUCTION

Marion Military Institute is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Marion Military Institute does not tolerate or condone retaliation. Individuals wishing to report sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Mrs. Carmon Fields (Employees)
Director of Human Resources and Compliance
1101 Washington Street
Marion, Alabama 36756
Phone: 334-683-2368
Email: cfields@marionmilitary.edu

Mrs. Carmon Fields (Students)
Title IX Coordinator
1101 Washington Street
Marion, Alabama 36756
Phone: 334-683-2368
Email: cfields@marionmilitary.edu

and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: [OCT@ed.gov](mailto:OCR@ed.gov) (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at www.marionmilitary.edu under the Title IX webpage.

POLICY

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or

directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.-

Definitions of Sexually Based Offenses

(a) Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship will be determined based on a consideration of the following factors:

- ☐ The length of the relationship,
- ☐ The type of relationship,
- ☐ The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v). (**NOTE:** Additional definitions of sex-based offenses under Alabama law may be included in this section.)

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Family Sunshine Center or any other victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEP

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator www.marionmilitary.edu . An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of

the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility.

Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not. (**NOTE:** In the alternative the College may adopt the clear and convincing evidence standard.)

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DIMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint and the Complainant's right to Appeal, if applicable.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations,

including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complaint and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of

the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon completion of the final investigative report, the Hearing Decision Maker(s) will schedule a live hearing. The Hearing Decision Maker(s) will have completed Decision Maker training during the current academic year. If there are multiple Hearing Decision Maker(s), one shall be designated as the Primary Decision Maker. The Hearing Decision Maker(s) will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, and witnesses named in the final report of the live hearing date. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence. (NOTE: A Hearing Officer may be utilized in addition to the Hearing Decision Maker(s)).

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Maker(s), are able to see and hear the party or witness answering questions in real-time.

The Hearing Decision Maker(s), Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Hearing Decision Maker(s), parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney. Neither party may dismiss a College appointed advisor.

The hearing process will consist of:

- Opening statement by Hearing Decision Maker (or Primary Decision Maker)
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Decision Maker (or Primary Decision Maker)
- Review of potential hearing outcomes and sanctions by Hearing Decision Maker (or Primary Decision Maker)
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony

- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Decision Maker (or Primary Decision Maker)
- Closing statement by Hearing Decision Maker (or Primary Decision Maker)
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Decision Maker (or Primary Decision Maker) shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Decision Maker (or Primary Decision Maker) concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint.

Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Maker(s) may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Maker(s) may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Hearing Decision Maker(s). The Hearing Decision Maker (or Primary Decision Maker) will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Hearing Decision Maker (or Primary Decision Maker) determines that the question is not relevant, the Hearing Decision Maker(s) (or Primary Decision Maker) will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant

questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged

misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or otherwise refuses to attend the hearing or attends but declines cross-examination, the statements of that witness or party, whether given during the investigation or the hearing may be considered by the Hearing Decision Maker(s) in reaching a determination regarding responsibility. The Hearing Decision Maker(s) shall not draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Decision Maker (or Primary Decision Maker) shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Hearing Decision Maker(s) will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Hearing Decision Maker (or Primary Decision Maker) will submit the hearing report to the Title IX Coordinator within ten (10) business days of the live hearing.

The Title IX Coordinator will submit the hearing report simultaneously to the Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Marion Military Institute or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Hearing Decision Maker(s). The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Hearing Decision Maker(s), but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President (or his/her designee) review the decision of the Hearing Decision Maker(s). The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;

- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Complainant is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- (i) provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (ii) obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

(NOTE: Adopting an Informal Resolution is optional.)

L. RETALIATION PROHIBITED.

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints

alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

M. Range of Possible Sanctions – On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

Category III Offenses – Commandant Adjudicated. These offenses are considered extremely serious and will generally warrant dismissal consideration.

- i. Assault (of a sexual nature or otherwise)
- ii. Breaking into another cadet's room
- iii. Harassment (of a sexual nature, stalking, or otherwise)
- iv. Hazing (or failure to report such)
- v. Possession of drug paraphernalia including synthetic urine
- vi. Possession of firearms, weapons, or explosives
- vii. Use of racial slurs including drawings and gestures
- viii. Use, possession, or sale of illegal drugs or controlled substances
- ix. Use, possession, or sale of an intoxicant
- x. Vandalism/theft of school property. Will also include a fine of at least the cost of replacing/repairing the damage, to include labor.
- xi. Theft of personal or public property
- xii. Pattern of misconduct (4 or more Delinquency Orders)
- xiii. Honor Code Violations

Category III penalties for infractions will include a delinquency order plus any of the following as deemed appropriate:

1. Counseling
2. Reduction in rank
3. Penalty Hours (10-20 PH) **
4. Restriction to campus
5. Referral to local law enforcement authorities
6. Dismissal or expulsion
7. Any combination of the above

For Employees:

Employees who are found in violation of this policy shall be disciplined as deemed appropriate by the investigating authority and College President, to include suspension or possible termination.

For Individuals other than employees or student:

1. A no trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
2. A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under

a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at www.marionmilitary.edu.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

Complaint Process

Northeast Alabama Community College Complaint Processes for Title IX Violations; Violations of the College's Anti-Harassment, Physical Assault, and Anti-Discrimination Policy; Violations of the College's Code of Conduct; and General Complaints *Updated June 1, 2023*

Introduction

NACC has adopted policies regarding violations of Title IX, violations of NACC's anti-harassment, physical assault, and anti-discrimination policies, and violations of NACC's Code of Conduct. Those policies govern all members of the NACC community and are available to any member who believes that he or she has been the victim of a violation of those policies. Each policy is described in summary form, with the policies in entirety following.

Anti-Harassment, Physical Assault, and Anti-Discrimination Policies

NACC's Anti-Harassment, Physical Assault, and Anti-Discrimination policies prohibit harassment and or discrimination on the basis of an individual's race, color, national origin, religion, marital status, disability, gender, age, or other protected class as defined by federal and state law. Discrimination on the basis of race, color, religion, sex, sexual orientation, and national origin is illegal under Title VII of the Civil Rights Act of 1964. Discrimination on the basis of sex is illegal under Title IX of the Educational Amendments of 1972. Discrimination on the basis of age is illegal under the Age Discrimination Act of 1975. Violations related to non-sexual harassment or physical assault should be reported to the Dean of Student Services. Violations related to sexual harassment, sexual discrimination, or sexual assault should be reported to the Title IX Coordinator.

Code of Conduct

NACC has adopted a Code of Conduct that governs the conduct of NACC students and student organizations. The Code of Conduct is intended to ensure that NACC students conduct themselves in a manner compatible with the educational objectives of NACC. The Code of Conduct applies to all students and student organizations. By enrollment and affiliation with NACC, a student or organization neither relinquishes the right nor escapes responsibilities of local, state, or federal laws and regulations. NACC is committed to maintaining an environment that contributes to its educational mission, as well as the safety, health, and well-being of all students and other persons on campus. Therefore, students and organizations are obligated to abide by the rules and policies established by NACC. Violations of NACC's Code of Conduct should be reported to the Dean of Student Services (or other appointed administrator).

General Complaint Policy

NACC has general complaint policies for employees to file complaints against students and for students to file complaints against employees or the College in general for reasons that are not covered under the Title IX Sexual Harassment Policy or Anti-Harassment, Physical Assault, or Anti-Discrimination Policy.

Title IX Sexual Harassment Policy

NACC has adopted a Title IX Sexual Harassment Policy. Pursuant to Title IX of the Educational Amendments of 1972, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. Acts that constitute violations of NACC's Title IX Sexual Harassment Policy are described in detail within the policy and should be reported to the Title IX Coordinator immediately.

Anti-Harassment, Physical Assault, and Anti-Discrimination Policy

Northeast Alabama Community College (NACC) is committed to providing both employment and educational environments free of harassment, physical assault, or discrimination related to an individual's race, color, national origin, religion, marital status, disability, gender, age, sex, sexual orientation, or other protected class as defined by federal and state law. Such harassment, discrimination, and assault are violations of NACC and the Alabama Community College System policies. Discrimination on the basis of race, color, religion, sex, sexual orientation, and

national origin is illegal under Title VII of the Civil Rights Act of 1964. Discrimination on the basis of sex is illegal under Title IX of the Educational Amendments of 1972. Discrimination on the basis of age is illegal under the Age Discrimination Act of 1975.

A nondiscriminatory environment is essential to the mission of the College. Any practice or behavior that constitutes harassment, physical assault, or discrimination shall not be tolerated on campus, at any off-campus site, or in any division or department by any employee, student, agent, or non-employee on the institution's property and while engaged in any institutionally-sponsored activities. It is within this commitment of providing a harassment-free environment and in keeping with the efforts to establish an employment and educational environment in which the dignity and worth of members of the college community are respected that harassment, physical assault, and discrimination of students and employees is unacceptable conduct and shall not be tolerated at the College.

For these purposes, the term "harassment" includes, but is not necessarily limited to, the following: slurs, jokes, or other verbal, graphic, or physical conduct relating to an individual's race, color, religion, creed, sex, gender identity, transgender status, pregnancy, national origin, disability, sexual orientation, military or veteran's status, genetic information, age or any other characteristic that is protected by applicable state or federal law or the Alabama Community College System policies. Harassment also includes Sexual Harassment, which is forbidden by the NACC Code of Conduct and the College's Title IX Sexual Harassment Policy. Complaints of Title IX sexual harassment can be made according to the procedures outlined in the College's Title IX Sexual Harassment Policy. Complaints for harassment that fall outside the purview of Title IX sexual harassment will be governed by the Code of Conduct and general complaint policies.

Employees and students of the College shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is realized, where democratic principles are promoted, and where efforts are made to assist colleagues and students to realize their full potential as worthy and effective members of society. Administrators, professional staff, faculty, and support staff shall adhere to the highest ethical standards to ensure a professional environment and to guarantee equal educational opportunities for all students.

The employees of the College determine the ethical and moral tone for the College through both their personal conduct and their job performance. Therefore, each employee must be dedicated to the ideals of honor and integrity in all public and personal relationships. Relationships between College personnel of different ranks, including that of instructors and students, which involve partiality, preferential treatment, or the improper use of position shall be avoided. Further, such relationships may have the effect of undermining the atmosphere of trust on which the educational process depends. Implicit in the idea of professionalism is the recognition by those in positions of authority that in their relationships with students or employees there is always an element of power. It is incumbent on those with authority not to abuse the power with which they are entrusted.

All personnel shall be aware that any romantic relationship (consensual or otherwise) or any other inappropriate involvement with another employee or student makes them liable for formal action against them if a complaint is initiated by the aggrieved party in the relationship. Even when both parties have consented to the development of such a relationship, it is the supervisor in a supervisor-employee relationship, the faculty member in a faculty-student relationship, or the employee in an employee-student relationship who shall be held accountable for unprofessional behavior.

Harassment of employees or students by non-employees on the institution's property and while engaged in any institutionally-sponsored activities is also a violation of this policy. Any employee or student who becomes aware of any such harassment shall report the incident(s) to the Dean of Student Services, Campus Police, or Title IX Coordinator. Intimidation and retaliation against complainants, respondents, and witnesses are forbidden under this policy, Title IX, and by the College's Code of Conduct.

NACC Code of Conduct

NACC'S Code of Conduct is intended to ensure that NACC students conduct themselves in a manner compatible with the educational objectives of NACC. The Code of Conduct applies to all students and student organizations. By enrollment and affiliation with NACC, a student or organization neither relinquishes the right nor escapes responsibilities of local, state, or federal laws and regulations. NACC is committed to maintaining an environment that contributes to its educational mission, as well as the safety, health, and well-being of all students and other persons on campus. Therefore, students and organizations are obligated to abide by the rules and policies established by NACC. It is assumed that students enrolling in NACC are mature and have a desire for constructive learning. Common courtesy and cooperation are expected of all students. Interference, injury, or the intentional attempt to injure or interfere with the personal or property rights of any person - whether a student, visitor, faculty or staff member or NACC itself is strictly prohibited. NACC does not permit in any way the consumption or possession of alcoholic beverages, narcotics, and/or other hallucinogenic drugs on campus or at college-sponsored functions. Possession of firearms is

prohibited. Littering is also prohibited. Students who are observed littering on campus will be fined \$10.00 per incident. Students on probation due to a violation of the Code of Conduct may not represent the school in interscholastic contests.

Other specific forms of prohibited conduct include but are not limited to:

1. Dishonesty, including cheating, plagiarism, or furnishing incomplete or false information to the College. Any student found guilty of cheating may be dropped from the course with a grade of "F."
2. Destruction or theft of property;
3. Failure to comply with directions of College officials acting in the performance of their duties;
4. Forgery, alteration, or misuse of College documents, exams, records, or identification;
5. Disorderly or disruptive conduct, including classroom disruptions, reckless endangerment, harassment, assault, bullying, cyberbullying, and discrimination;
6. Obstruction or disruption of the College's academic program or operations;
7. Unauthorized entry to College facilities;
8. Unauthorized possession of a key to College facilities;
9. Violation of traffic regulations;
10. Violation of library regulations; and/or
11. Violation of any federal, state, or local law or ordinance.

Any practice or behavior that constitutes harassment, physical assault, or discrimination shall not be tolerated on campus, at any off-campus site, or in any division or department by any employee, student, agent, or non-employee on the institution's property and while engaged in any institutionally-sponsored activities. Examples of sexually harassing verbal or physical conduct prohibited by NACC's Conduct policies, include, but are not limited to, the following:

1. Direct propositions of a sexual nature;
2. Subtle pressure for sexual activity;
3. Repeated conduct intended to cause discomfort or humiliation, or both, that includes one or more of the following:
 1. comments of a sexual nature; or
 2. sexually explicit statements, questions, jokes, or anecdotes;
4. Repeated conduct that would cause discomfort and/or humiliate a reasonable person toward whom the conduct was directed that includes one or more of the following:
 1. Touching, patting, pinching, hugging, or brushing against another's body;
 2. Commentary of a sexual nature about an individual's body or clothing;
 3. Remarks about sexual activity or speculations about previous sexual experience(s);
 5. Intimidating or demeaning comments to persons of a particular sex, whether sexual or not;
 6. Displaying objects or pictures which are sexual in nature that would create a hostile or offensive employment or educational environment, and serve no educational purpose related to the subject matter being addressed; and/or
 7. Gender stereotyping.

Violation of the College's Code of Conduct may lead to disciplinary action up to and including suspension, expulsion, and arrest for any criminal acts.

Any student or employee who feels that he or she has been the victim of a violation of the Code of Conduct can make a report to the Dean of Student Services (reports of non-sexual harassment or physical assault) or the Title IX Coordinator (reports of sexual harassment, sexual discrimination, or sexual assault), who will attempt to find a prompt and equitable resolution.

General Complaint Policy

Any student who feels that he or she has been the victim of a violation of college policies can make a report to the Dean of Student Services, or other appointed administrator, including reports of non-sexual harassment or physical assault. (For reports of sexual harassment or sexual assault, see the Title IX Sexual Harassment Policy). If the Dean of Student Services (or other appointed administrator) is not available, the matter may be brought to the attention of any division director, dean, director, supervisor, advisor, or Campus Police Officer. Employees who believe that they have been the victim of a violation of this policy can make a report to the Human Resources Director. Employees and students who are found in violation of College policy shall be disciplined as deemed appropriate to the severity of the offense, with final approval by the President. If the allegations against a student are sufficiently grave, the President or designee has the authority and responsibility to suspend the student at any time pending further disciplinary proceedings.

General Complaint Policy (Against Students for Reasons not Related to Title IX Sexual Harassment/Sexual Assault)

A general complaint can be lodged against any student by any affected party (student or employee) or any party with information or knowledge concerning the subject of the complaint. General complaints for reasons other than sexual harassment, sexual discrimination, or sexual assault should be reported to the Dean of Student Services (or other appointed administrator). All records of the proceedings will be kept confidential, unless it is deemed necessary to release information for the safety of the campus and/or community.

Procedures for Filing a General Informal Complaint Against a Student

1. The complainant shall meet with the Dean of Student Services (or other appointed administrator) to lodge an informal complaint.
2. After receiving a complaint, the College shall make every reasonable effort to attain an informal resolution. The informal complaint investigation record may include informal statements from the complainant, the respondent, witnesses, and/or others deemed by the investigator to have pertinent knowledge of the facts involved in the complaint. The investigation will afford the respondent a full opportunity to respond to the allegations.
3. If an informal resolution of the complaint is accepted by the complainant, and he or she desires no further action against the respondent, the complainant will sign a statement requesting that no further action be taken and that the informal resolution is accepted by him or her. The respondent will sign a statement attesting to his or her acceptance of the informal resolution.

Procedures for Filing a General Formal Complaint Against a Student

1. If the complainant does not accept the informal resolution to the complaint or desires to make an immediate formal complaint, he or she may file a formal, written complaint with the Dean of Student Services (or other appointed administrator). The complainant must provide a written statement that clearly and specifically states the alleged violations, names the person(s) whom the complaint is against, and provides the date of the alleged violation. The complainant is advised to keep a copy of all written statements.
2. The Dean of Student Services (or other appointed administrator) will immediately notify the President of receipt of the complaint.
3. The Dean of Student Services (or other appointed administrator) shall investigate the complaint and make a preliminary decision. If the Dean of Student Services (or other appointed administrator) finds that there is no probable cause for the complaint, the Dean of Student Services (or other appointed administrator) shall take no further action and will notify the respondent and complainant of the findings. If there is probable cause to believe that the complaint is well-founded, the Dean of Student Services (or other appointed administrator) will compose a written complaint, submit the written complaint to the Disciplinary Committee, and notify the complainant that the complaint has been filed with the Disciplinary Committee. The Disciplinary Committee is composed of faculty and staff members appointed by the President.

4. Upon receipt of a written complaint from the Dean of Student Services (or other appointed administrator), the Disciplinary Committee shall convene a hearing and shall give reasonable notice of the date, time, and place of the hearing, together with a copy of the written complaint, to the respondent and the complainant. Before the hearing, the Dean of Student Services (or other appointed administrator) and the respondent may provide supporting documentation and the names of witnesses to the Disciplinary Committee to aid in the hearing.
5. The hearing shall consist of informal fact finding by the Committee. The respondent may present facts and may also present witnesses; the Dean of Student Services (or other appointed administrator) shall present facts and witnesses. Those present at the hearing may only consist of the respondent, complainant, witnesses, Dean of Student Services (or other appointed administrator), and Committee members. After the hearing, the Disciplinary Committee, by majority vote, shall make a written recommendation to the President if the Committee finds that the complaint is supported by the facts. The Disciplinary Committee shall recommend an appropriate sanction in its written findings, if appropriate. If the Disciplinary Committee finds that the complaint is not supported by the facts, the Disciplinary Committee will take no further action and will notify the respondent, the complainant, the Dean of Student Services (or other appointed administrator), and the President of the findings.
6. The President of the institution shall approve or disapprove the suggested sanction, or the President may further alter or amend the suggested sanction.
7. The President shall, within ten (10) business days after receipt of the Disciplinary Committee's finding, notify the respondent, complainant, and the Dean of Student Services (or other appointed administrator) in writing of the sanction(s) to be imposed.
8. If the complainant and/or respondent is not satisfied with the decision of the President, he or she may file a written appeal with the President specifically stating the objections to the decision within five (5) business days after receipt of the notice of sanction. Copies of the appeal must be provided to the Dean of Student Services (or other appointed administrator). The appeal will be reviewed by an Appeals Committee made up of college administrators appointed by the President. The Appeals Committee will review the appeal solely on the following grounds, and none other:
- a. to determine if there was substantial evidence to support the decision;
 - b. to determine if the student had a fair and impartial hearing; and
 - c. to determine if there is new evidence which would affect either the guilt or innocence of the student or the degree of sanctions.
9. The findings of the Appeals Committee are presented to the President for approval and notification of the results are provided to the respondent, complainant, and Dean of Student Services (or other appointed administrator).
10. If, after exhausting all available institutional processes, a student complaint remains unresolved, the complainant may appeal to the Alabama Community College System (ACCS) using the System's official Student Complaint Form, which is available on the ACCS website (www.accs.cc). Students may submit completed complaint forms by electronically submitting the form or printing the form, signing it, and then either (1) scanning it and e-mailing it to complaints@accs.edu or (2) mailing it to:

Alabama Community College System
Attention: Division of Academic and Student Affairs
P.O. Box 302130

Montgomery, AL 36130-2130

The Division of Academic and Student Affairs will investigate the complaint. The institution which is the subject of the complaint has 15 days to provide a written response to questions and/or concerns raised during the investigation. Such response may or may not contain a resolution. The Division of Academic and Student Affairs will adjudicate the matter within 30 business days of receipt of complaint and write a report or letter to the institution and student detailing corrective action, if any is necessary, or stating that the school has no violation of policies. If corrective action is needed the institution will have 30 days to comply or develop a plan to comply with the corrective action. The System Office will monitor the institution's compliance to ensure the completion of any required corrective action. The decision made by the Alabama Community College System is final and cannot be appealed.

Each complainant has the right to proceed with or withdraw from the formal complaint process once it has been submitted. The issues involved in the complaint should not be changed from the information provided when the charge was originally made. However, these procedures may be revised to accommodate issues arising during the investigation which were not known to the complainant or to the institution when the initial complaint was filed. The investigation will afford the respondent a full opportunity to respond to the allegations.

General Complaint Policy (Against Employees for Reasons not Related to Title IX Sexual Harassment/Sexual Assault)

A student who has a difference or dispute with a college employee with respect to the application of the rules, policies, procedures, and regulations of the College which has affected the student may file a complaint. These processes do not apply to the contesting of disciplinary decisions, ADA concerns, or Title IX sexual harassment complaints since separate complaint processes exist to address these issues. The purpose of the general complaint policy is to provide fair and orderly processes to resolve these issues. Procedures for complaints made by students against college employees will be based on the procedures as set forth in Alabama Community College System Board of Trustees Policy 620.01 for employee-related complaints.

Procedures for Filing an Informal General Complaint Against an Employee

1. The complainant shall meet with the College employee who would be best able to handle the complaint (i.e., the person with whom the student has a difference or a dispute) to lodge an informal complaint. The employee will evaluate the complaint and let the complainant know if an informal resolution can be achieved.
2. The complainant can appeal to the employee's immediate supervisor if the complainant is not satisfied with the informal resolution. The supervisor will determine if another informal resolution can or cannot be achieved.
3. If the complainant is not satisfied with the determination and/or informal resolution of the supervisor of the employee involved, he or she may appeal to the appropriate dean who will make a final determination regarding the original complaint and any proposed informal resolutions.

After receiving a complaint, the College shall make every reasonable effort to attain an informal resolution. The informal complaint investigation record may include informal statements from the complainant, the person or subject of the complaint, witnesses, and/or others deemed by the investigator to have pertinent knowledge of the facts involved in the complaint. The investigation will afford the respondent a full opportunity to respond to the allegations. If an informal resolution of the complaint is accepted by the complainant, and he or she desires no further action against the person or subject of the complaint, the complainant will sign a statement requesting that no further action be taken and that the informal resolution is accepted by him or her. The respondent will sign a statement attesting to his or her acceptance of the informal resolution.

Procedures for Filing a Formal General Complaint Against an Employee

If the complainant does not accept the informal resolution to the complaint, he or she may file a formal, written complaint. All formal general complaints should be reported to the College employee's immediate supervisor. Each complainant has the right to proceed with or withdraw from the formal complaint process once it has been submitted. The issues involved in the complaint should not be changed from the information provided when the charge was originally made. However, these procedures may be revised to accommodate issues arising during the investigation which were not known to the complainant or the institution when the initial complaint was filed. The investigation will afford the respondent a full opportunity to respond to the allegations.

1. Students should make every effort to pursue an informal resolution before filing a formal complaint. If the complainant does not accept the informal resolution to the complaint, he or she may file a formal, written complaint stating the objections and requesting a meeting with the immediate supervisor of the employee involved within five (5) business days of receipt of the decision of the informal resolution. Within five (5) business days of the supervisor's receipt of the formal complaint from the complainant, the supervisor shall notify the employee involved in the complaint. The supervisor shall also set a date for a meeting and notify the complainant where and when the meeting shall take place. The meeting date shall not be later than 14 business days after the supervisor's receipt of the formal complaint. At this point, the College employee involved may respond in writing to the complaint. The supervisor must make a written report of findings/decisions and provide it to the parties involved within 10 business days of the meeting date.
2. If the complainant is not satisfied with the decision by the supervisor of the employee involved, he or she may file a written appeal specifically stating the objections to the decision and request a meeting with the appropriate dean(s), if applicable, within five (5) business days after the receipt of the decision of the employee's immediate supervisor. If the employee does not answer to a dean, the complainant will file the appeal with the president. The dean (or president)

will render a decision to address the complaint or if, in the administrator's judgment, the appeal and record of previous actions have addressed the complaint or do not warrant further action, no further action will occur. The involved administrator must make a written report of findings/decisions and provide it to the complainant, employee, and supervisor within 14 business days after receipt of the appeal of the decision.

3. If the complainant is not satisfied with the decisions by the dean(s) involved, he or she may file a written appeal specifically stating objections to the decision and request a meeting with the president within five (5) business days after receipt of the decision of the dean. If in the president's judgment the appeal and record of previous actions have addressed the complaint or do not warrant further action, the president shall notify the complainant, employee, supervisor, and dean(s) within 10 business days after receipt of the appeal. If the president grants the appeal, the president may either hear the appeal or appoint a hearing committee to hear the appeal. Such hearing committee will include student representation. The president will notify the complainant, employee, supervisor and dean(s) of this decision within ten (10) business days after the conclusion of the meeting. If the hearing committee is to hear the appeal, the chairman shall within five (5) business days after the appointment of the committee set a time and place for the hearing and notify the complainant, the employee, the employee's supervisor, the appropriate dean (if applicable), and the president. The committee shall review the appeal and determine the facts. The committee may also choose to meet with the complainant, witnesses and the employee. The committee will communicate its recommendation in writing to the president within five (5) business days after the hearing is completed. Within 14 business days of the president's receipt of the recommendation, the president shall make the decision and notify the complainant, the employee involved, the employee's supervisor, and the appropriate dean (if applicable). If the president hears the appeal, the president will make his decision and notify the complainant, the employee involved, the employee's supervisor, and the appropriate dean (if applicable) within 14 business days of receipt of the appeal. The decision of the president shall be final under the provision of this complaint process.

4. If, after exhausting all available institutional processes, a student complaint remains unresolved, the complainant may appeal to the Alabama Community College System (ACCS) using the System's official Student Complaint Form, which is available on the ACCS website (www.accs.cc). Students may submit completed complaint forms by electronically submitting the form or printing the form, signing it, and then either (1) scanning it and e-mailing it to complaints@accs.edu or (2) mailing it to:

Alabama Community College System
Attention: Division of Academic and Student Affairs
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The Division of Academic and Student Affairs will investigate the complaint. The institution which is the subject of the complaint has 15 days to provide a written response to questions and/or concerns raised during the investigation. Such response may or may not contain a resolution. The Division of Academic and Student Affairs will adjudicate the matter within 30 business days of receipt of complaint and write a report or letter to the institution and student detailing corrective action, if any is necessary, or stating that the school has no violation of policies. If corrective action is needed the institution will have 30 days to comply or develop a plan to comply with the corrective action. The System Office will monitor the institution's compliance to ensure the completion of any required corrective action. The decision made by the Alabama Community College System is final and cannot be appealed.

General Complaint Policy (Against the College in General for Reasons not Related to Title IX Sexual Harassment/ Sexual Assault)

A student who has a difference or dispute with the College with respect to the application of the rules, policies, procedures, and regulations of the College which has affected the student may file a complaint. These processes do not apply to general complaints against a student or employee, to the contesting of disciplinary decisions, ADA concerns, or Title IX sexual harassment complaints since separate complaint processes exist to address these issues.

Procedures for Filing an Informal General Complaint Against the College

1. The complainant shall meet with the Dean of Instruction to lodge an informal complaint. The Dean will evaluate the complaint and let the complainant know if an informal resolution can be achieved.

2. The complainant can appeal to the President if the complainant is not satisfied with the informal resolution. The President will make a final determination regarding the original complaint and any proposed informal resolutions.

After receiving a complaint, the College shall make every reasonable effort to attain an informal resolution. The informal complaint investigation record may include informal statements from the complainant, witnesses, and/or others deemed by the investigator to have pertinent knowledge of the facts involved in the complaint. If an informal resolution of the complaint is accepted by the complainant, and he or she desires no further action, the complainant will sign a statement requesting that no further action be taken and that the informal resolution is accepted by him or her.

Procedures for Filing a Formal General Complaint Against the College

If the complainant does not accept the informal resolution to the complaint, he or she may file a formal, written complaint with the Dean of Instruction. Each complainant has the right to proceed with or withdraw from the formal complaint process once it has been submitted. The issues involved in the complaint should not be changed from the information provided when the charge was originally made. However, these procedures may be revised to accommodate issues arising during the investigation which were not known to the complainant or the institution when the initial complaint was filed.

1. Students should make every effort to pursue an informal resolution before filing a formal complaint. If the complainant does not accept the informal resolution to the complaint, he or she may file a formal, written complaint stating the objections and requesting a meeting with the Dean of Instruction within five (5) business days of receipt of the decision of the informal resolution. Within five (5) business days of the Dean of Instruction's receipt of the formal complaint from the complainant, the Dean shall notify parties involved in the complaint (if necessary), set a date for a meeting, and notify the complainant and any involved College personnel where and when the meeting shall take place. The meeting date shall not be later than 14 business days after the Dean's receipt of the formal complaint. At this point, the College employee(s) (if any) involved may respond in writing to the complaint. The Dean of Instruction must make a written report of findings/decisions and provide it to the parties involved within 10 business days of the meeting date.
2. If the complainant is not satisfied with the decision by the Dean, he or she may file a written appeal specifically stating objections to the decision and request a meeting with the president within five (5) business days after receipt of the decision of the Dean. If in the president's judgment the record of previous actions have addressed the complaint or do not warrant further action, the president shall notify the complainant, dean(s), and any other appropriate College personnel within 10 business days after receipt of the appeal that the decision stands. If the president grants the appeal, the president may either hear the appeal or appoint a hearing committee to hear the appeal. Such hearing committee will include student representation. The president will notify the complainant, dean, and other appropriate College personnel of this decision within ten (10) business days after the conclusion of the meeting. If the hearing committee is to hear the appeal, the chairperson shall within five (5) business days after the appointment of the committee set a time and place for the hearing and notify the complainant, the dean, other appropriate College personnel, and the president. The committee shall review the appeal and determine the facts. The committee may also choose to meet with the complainant, witnesses, and appropriate College personnel. The committee will communicate its recommendation in writing to the president within five (5) business days after the hearing is completed. Within 14 business days of the president's receipt of the recommendation, the president shall review the committee's recommendation, make the final decision, and notify the complainant, the dean, and any other appropriate College personnel. The decision of the president shall be final under the provision of this complaint process.
4. If, after exhausting all available institutional processes, a student complaint remains unresolved, the complainant may appeal to the Alabama Community College System (ACCS) using the System's official Student Complaint Form, which is available on the ACCS website (www.accs.cc). Students may submit completed complaint forms by electronically submitting the form or printing the form, signing it, and then either (1) scanning it and e-mailing it to complaints@accs.edu or (2) mailing it to:

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The Division of Academic and Student Affairs will investigate the complaint. The institution which is the subject of the complaint has 15 days to provide a written response to questions and/or concerns raised during the investigation. Such response may or may not contain a resolution. The Division of Academic and Student Affairs will adjudicate the matter within 30 business days of receipt of complaint and write a report or letter to the institution and student detailing

corrective action, if any is necessary, or stating that the school has no violation of policies. If corrective action is needed the institution will have 30 days to comply or develop a plan to comply with the corrective action. The System Office will monitor the institution's compliance to ensure the completion of any required corrective action. The decision made by the Alabama Community College System is final and cannot be appealed.

Title IX Sexual Harassment Policy and Complaint Process

1. Title IX Sexual Harassment Policy Introduction
2. Title IX Sexual Harassment Policy
3. Sexual Harassment Complaints Against a Student – Complaint Process
4. Student Sexual Harassment Complaints Against an Employee – Complaint Process
5. General Provisions for Sexual Harassment Complaints

1. Title IX Sexual Harassment Policy Introduction

The Title IX Sexual Harassment Policy applies to any student; student organization; employee; individual seeking employment or admissions; or individual participating in or attempting to participate in the educational programs or activities of the College. Northeast Alabama Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the College and applicants for employment; students and applicants for admission; or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on College premises or at any College-owned off campus location and while participating in an educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the student and employee handbooks, both published on the College website, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students and employees, the College has partnerships with local advocacy organizations who can provide counseling and assistance.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to

- a resolution of their complaint;
- have the College conduct a prompt, thorough, and impartial investigation; and
- receive supportive measures to ensure the safety and wellbeing of the individuals involved and the College community.

When allegations of sexual harassment and/or violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Northeast Alabama Community College does not tolerate or condone retaliation. Individuals wishing to report sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Lynde Wheeler, Human Resources Director/Title IX Coordinator

P.O. Box 159
Rainsville, AL 35986
Telephone: 256.228.6001/256.638.4418, ext. 2230

Email: wheelerl@nacc.edu

Office: PA 116

and/or

Assistant Secretary
U.S. Department of Education

Office for Civil Rights

Lyndon Baines Johnson Department of Education Building

400 Maryland Avenue, SW
Washington, DC 2002-1100

Telephone: 800.421.3481
Fax: 202.453.6012; TDD: 800.877.8339
Email: OCR@ed.gov

Information regarding the Title IX Coordinator and this role is made available to all faculty, staff, students, applicants for admission, and applicants for employment on the College website under the Title IX webpage. (Search Title IX Coordinator)

2. Title IX Sexual Harassment Policy

The U.S. Department of Education's Office of Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

This policy encourages any student; employee; individual seeking employment or admissions; or individual participating in or attempting to participate in the educational programs or activities of the College who believes that he or she has been the victims of sexual harassment to contact the Title IX Coordinator. Complaints may also be lodged by these parties if they have knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned or controlled by the College. Complaints should be reported to the Title IX Coordinator. Title IX sexual harassment complaints are generally investigated by the Dean of Student Services (for complaints against students) and the Senior Personnel Officer (for complaints against employees). However, other investigators may be assigned by the President. Sexual harassment that does not fit the definition under this section may be punishable as a violation of the College's Code of Conduct or other College policies.

Definitions relating to terms used throughout this policy are defined as follows:

1. **Educational Program/Activity:** The educational programs and activities of the College include, but are not limited to, locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.
2. **Actual knowledge:** The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.
3. **Complainant:** An individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure, a complainant may be an individual applying for admission or employment; an employee; or a student or an individual otherwise participating in or attempting to participate in the College's educational programs and activities.
4. **Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
5. **Formal Complaint:** A written document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. The document must include the names of the complainant(s) and respondent(s), the approximate

date(s) of the incident(s), facts of the incident(s), and contact information for the person submitting the complaint. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity at the College.

6. **Consent:** Consent is informed, voluntary, and mutual agreement to sexual activity and can be withdrawn at any time. Consent is not present in situations where there is force – expressed or implied – or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing, future consent with that person or consent to the same sexual activity with another person.
7. **Incapacitation:** An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation includes sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntary consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not able to give consent to sexual contact.
8. **Sexual Misconduct:** The act of committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined in this policy or under Alabama State Law. Sexual harassment includes acts of sexual misconduct.
9. **Harassment:** The striking, shoving, kicking, or otherwise touching or making physical contact in regards to another for the purpose of harassing, annoying, or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

The following actions and behaviors constitute Sexual Harassment as defined in Title IX, 34 C.F.R. §106.30(a):

1. Unwelcome conduct, on the basis of sex, that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access.
2. Behavior by employees that constitutes quid pro quo harassment, defined as unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature, when perceived by the recipient that submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational opportunities, or as the basis for employment or academic decisions affecting that individual, or as a condition of any aid, benefit, or service to the individual.
3. Sexual assault, defined as any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent. It is an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C. 1092 (f)(6)(A)(v).
4. Dating violence, defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on a consideration of the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship [34 U.S.C. 12291(1)(10)]. In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.
5. Domestic violence, defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. This includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or who has cohabitated with the victims as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction [34 U.S.C. 12291(1)(8)]. In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).
6. Stalking, defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress [34 u.s.D. 12291(a)(30)]. In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another

person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90: Stalking in the First Degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91: Stalking in the Second Degree).

3. Sexual Harassment Complaints Against a Student – Complaint Process

A complaint for sexual harassment under Title IX can be lodged against any student by any affected party or by the NACC Title IX Coordinator. If the NACC Title IX Coordinator is not available, the matter may be brought to the attention of any division director, dean, director, supervisor, advisor, Campus Police, or Campus Security Authority. All complaints for sexual harassment or discrimination should be reported to the NACC Title IX Coordinator for prompt and equitable investigation and resolution, but only complaints for Sexual Harassment under Title IX will be subject to the procedures in this section.

1. Filing an Informal Title IX Sexual Harassment Complaint Against a Student

1. The complainant shall contact the NACC Title IX Coordinator to lodge an informal, written complaint. The Title IX Coordinator will provide Title IX Sexual Harassment complaints and concerns to the Dean of Student Services (or other appointed administrator), who will conduct an informal review into the matter unless more formal action is deemed necessary by the Title IX Coordinator.
2. Upon initiation of an informal complaint, the NACC Title IX Coordinator will discuss with the complainant the availability of supportive measures with or without the filing of a formal complaint; will consider the complainant's wishes regarding supportive and other corrective measures; will explain the process for filing a formal complaint; and will explain the processes for reaching informal resolutions and formal resolutions.
3. After receiving a complaint, the College shall make every reasonable effort to attain a resolution by working with the complainant and respondent if appropriate under the circumstances. No investigation or imposition of sanctions on the respondent may take place until the filing of a formal complaint.

2. Filing a Formal Title IX Sexual Harassment Complaint Against a Student

1. If the complainant does not accept the informal resolution to the complaint or desires to make an immediate formal complaint, he or she may meet with the Title IX Coordinator to file a formal, written complaint. The complainant must provide a written statement that clearly and specifically states the alleged violations, names the person(s) whom the complaint is against, provides the date(s) of the alleged violation, and lists requests for supportive and corrective measures. If the complainant needs assistance in writing a complaint, he or she may also request such assistance from the Title IX Coordinator.
2. The Title IX Coordinator will immediately notify the NACC President of receipt of the complaint. Any Title IX complaints will be provided to the NACC Dean of Student Services (or other appointed Title IX investigator) within ten (10) business days following the date the formal complaint was filed. All Title IX investigators have received annual investigator training.
3. Within five (5) business days of receipt of the formal complaint, the Dean of Student Services (or other appointed administrator) will notify both the complainant and the respondent of its receipt and the intent to investigate in order to provide sufficient time for the party to prepare to participate in the investigation. The investigation will commence within ten (10) business days of receipt of the formal complaint by the Dean of Student Services (or other appointed administrator).

This notice will include the following information about the complaint:

1. the identities of the parties involved in the incident, if known;
2. the conduct allegedly constituting sexual harassment under Title IX;
3. the date(s) and location of the alleged incident, if known;

4. the supportive measures that may be available to both parties; and
5. a list of individuals intended to be interviewed, if known.

This notice will describe the College's policies and procedures for responding to complaints, including the following:

1. A description of interim supportive measures available to the parties;
 2. A description of the College's formal complaint and resolution procedures, including time frames;
 3. A description of any optional voluntary informal resolution process, if the College determines that an informal resolution process may be appropriate;
 4. A statement that a determination regarding responsibility is made at the conclusion of the complaint process, and that the College will presume the respondent not responsible for the alleged conduct;
 5. The right of parties to have an advisor of their choice, who may be, but is not required to be, an attorney, and the College's responsibility to provide an advisor to either party and how the student can request such an advisor;
 6. Any restrictions regarding the extent to which an advisor may participate in proceedings;
 7. The right of both parties to present evidence and witnesses;
 8. The right of parties to inspect and review evidence collected in the investigation, subject to applicable privacy laws;
 9. The College's use of a "preponderance of the evidence" standard of evidence in Title IX investigations;
 10. A description of the range of remedies and disciplinary sanctions available;
 11. A reminder that dishonesty and providing false information are forbidden by the College's Code of Conduct and employment policy;
 12. A reminder that intimidation and retaliation against complainants, respondents, and witnesses are forbidden under Title IX and by the College's Code of Conduct.
4. The NACC Dean of Student Services (or other appointed administrator) shall investigate the complaint by gathering and objectively evaluating all relevant evidence and make a preliminary decision. The investigation will be factual and all applicable statutes, regulations, and/or policies will be researched. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not on the parties. The Dean of Student Services (or other appointed administrator) must provide written notice at least five (5) business days in advance of any interviews or meetings to any party expected or invited to attend. Such notice will also be provided to the party's advisor, if any, and must allow adequate time to prepare. The notice will include the participants, date, place, purpose, and time of the interview or meeting. Either party may identify and present other witnesses, including fact and expert witnesses, with relevant information for interview or other evidence for review by the investigator. Additionally, either party may present other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness.

Prior to the completion of the investigative report, the Dean of Student Services (or other appointed Title IX investigator) will submit all reviewed evidence to the Title IX Coordinator, who will in turn make the evidence available to the complainant, respondent, and their advisors for additional review. The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The parties will have five (5) business days to review the evidence and to respond in writing to the Title IX Coordinator. These responses will be forwarded to the Dean of Student Services (or other appointed Title IX investigator). The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

If the Dean of Student Services (or other appointed Title IX investigator) finds that there is no probable cause for the complaint, the Dean of Student Services (or other appointed administrator) shall dismiss the complaint and will provide written notice to the respondent, complainant and the Title IX Coordinator of the dismissal stating the reasons for and right to appeal the dismissal. If there is probable cause to believe that the complaint is well-founded, but that the matter is not Sexual Harassment under Title IX, the Dean of Student Services (or other appointed administrator) will dismiss the formal complaint, treat the matter as a violation of the College's Code of Conduct, and provide written notice to the respondent, complainant, and the Title IX Coordinator of the dismissal stating the reasons for and right to appeal the dismissal.

If there is probable cause to believe that the complaint is well-founded and that the matter is under the purview of Title IX, the Dean of Student Services (or other appointed administrator) will compose a written investigative report that lists and summarizes relevant evidence, including supporting documentation and the names of witnesses, submit the written investigative report to the Title IX Investigative Committee (hereafter referred to as the Hearing Decision Makers) and to both parties and their advisors, if any, and the Title IX Coordinator and will notify the parties that the investigative report has been filed with the Hearing Decision Makers. The Hearing Decision Makers are composed of faculty and staff members appointed each fall by the President and have received annual decision maker training.

5. At least ten (10) business days after the receipt of an investigative report from the Dean of Student Services (or other appointed Title IX investigator), the Primary Decision Makers (chair of the Disciplinary Committee) shall convene a live hearing and shall give the parties; their advisors, if any; the Title IX Coordinator; the Title IX investigator; and witnesses reasonable notice of the date, time, and place of the hearing, together with a copy of the written complaint. The live hearing date must provide the complainant, respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence. The Primary Decision Maker will also request a listing of proposed questions from the parties involved prior to the hearing.

The hearing shall be live and attended by the Hearing Decision Makers; the complainant and respondent; and their advisors, if any, in person or via teleconference. The Title IX Coordinator and Title IX investigator will attend the hearing in an advisory capacity. The Title IX investigator, Title IX Coordinator, complainant, respondent, and witnesses will be called to provide testimony if requested by the Hearing Decision Makers, parties, or their respective advisors. All parties must be able to see and hear the party or witness answering questions in real time. The hearing shall be recorded by either a court reporter or on audio, video, or other electronic recording medium. Additionally, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

If the complainant or respondent do not have an advisor present at the live hearing, the College shall provide, without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney. Neither party may dismiss a College-appointed advisor.

Each party and advisor will have the opportunity to present evidence and to present witnesses, if any such witnesses are willing participants in the proceedings. The Hearing Decision Makers and advisors will have the opportunity to cross examine the complainant, respondent, and any witnesses. No witness shall be required to participate in the proceedings. Before any party or witness is required to answer a question under cross-examination, the Primary Decision Maker must determine whether the question is relevant and must explain on the record the basis for excluding any question. Questions and evidence about a complainant's sexual predisposition or prior sexual behavior are deemed not relevant and will not be permitted. Only the Hearing Decision Makers and advisors, whether selected or appointed, are allowed to conduct cross-examination. Complainants and respondents cannot conduct cross-examination.

The hearing process, overseen by the Primary Decision Maker, will consist of the following:

1. An opening statement;
2. A review of hearing procedures, the formal complaint, and the notice of allegations;
3. A review of potential hearing outcomes and recommended sanctions;
4. The complainant(s) testimony;
5. Cross-examination of the complainant by the respondent's advisor;
6. Testimony of complainant witnesses;
7. Cross-examination of complainant witnesses by respondent's advisor;

8. The respondent(s) testimony;
9. Cross-examination of the respondent by the complainant's advisor;
10. Testimony of respondent witnesses;
11. Cross-examination of the respondent witnesses by complainant's advisor;
12. Decision Maker questions;
13. A review of the appeal process;
14. Closing statement by the Primary Decision Maker;
15. Dismissal of the parties; and
16. Decision Maker deliberations.

At the hearing, the Primary Decision Maker shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Primary Decision Maker concludes opening statements, the complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to the complainant testimony, the respondent's advisor may conduct cross-examination. The Decision Maker(s) may question the complainant after the cross-examination.

The complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The respondent's advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

The respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the respondent defense against the formal complaint. Subsequent to the respondent testimony, the complainant advisor may conduct cross-examination. The Decision Maker(s) may question the respondent after the cross-examination.

The respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The complainant advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

Only relevant cross-examination or other questions may be asked of a party or witnesses. During cross-examination, the advisor will pose each question orally to the Hearing Decision Maker(s). The Primary Decision Maker will determine if the complainant, respondent, or witnesses may respond to the question. If the Primary Decision Maker determines that the question is not relevant, he or she will explain the rationale for dismissing the question. Rape shield protection is provided for complainants. Therefore, questions and evidence about a complainant's behavior are considered irrelevant unless offered to prove that someone other than the respondent committed the alleged misconduct or concern specific incidents of a complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The Hearing Decision Makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examination, the Primary Decision Maker will read the appeal process and closing statements. The complainant, respondent, their respective advisors, Title IX investigator, Title IX Coordinator and all witnesses shall be dismissed.

The Hearing Decision Makers will deliberate to determine if the respondent is deemed responsible and submit a written hearing report which contains the following:

1. Identification of the allegations potentially constituting sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties; interviews with parties and witnesses; site visits; methods used to gather other evidence; and hearings held;

3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the College's Code of Conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any recommended disciplinary sanctions the College may impose on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be recommended by the Hearing Decision Makers to the President; and
6. The College's procedures and permissible bases for the complainant and respondent appeal.

The Title IX Coordinator and Title IX investigator will attend the hearing in an advisory capacity.

6. Within ten (10) business days after the hearing, the Hearing Decision Makers, by majority vote, shall issue a written determination of responsibility simultaneously to the complainant, respondent, any advisor to either party, the President, the Dean of Student Services (or other appointed Title IX investigator), and the Title IX Coordinator. If the Hearing Decision Makers finds that the complaint is supported by the facts, it will decide in favor of the complainant and will recommend appropriate sanctions in its written findings.
7. The President will determine if such sanctions will be imposed based on the written report and recommendations of the Hearing Decision Makers and will issue written notice simultaneously to the respondent, complainant, any advisor to either party, the Dean of Student Services (or other appointed Title IX investigator), and the Title IX Coordinator of the determination within ten (10) business days of receipt of the Hearing Decision Makers' recommendations. This notification will also include the appeal procedure.
8. Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds:
 1. Procedural irregularity that affected the outcome of the matter;
 2. New evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made which could affect the outcome; and/or
 3. The Title IX Coordinator, Investigator, or a Hearing Decision Maker had a conflict of interest or bias that affected the outcome.

Based on these reasons, the complainant and/or respondent may file a written appeal with the Title IX Coordinator specifically stating the objections to the decision within five (5) business days after receipt of the notice of responsibility and sanctions from the President. Copies of the appeal must be provided by the Title IX Coordinator to the other party, any advisor to either party, the Title IX Investigator, the Primary Decision Maker, and the President.

The Title IX Appeals Committee will be the appeal authority in upholding, rejecting, or modifying the recommendations of the Hearing Decision Makers and President. The Title IX Appeals Committee shall not be bound in any manner by the recommendation(s) of the Hearing Decision Makers or President, but shall take it (them) into consideration in rendering a decision. The Title IX Appeals Committee is made up of college administrators appointed by the President who receive annual training. The Appeals Committee will review the appeal solely on the following grounds, and none other:

1. to determine if there was substantial evidence to support the decision;
2. to determine if the student had a fair and impartial hearing;
3. to determine if there is new evidence which would affect either the guilt or innocence of the student or the degree of sanctions; and
4. to determine if procedural irregularities affected the outcome.

Regarding appeals, the College will ensure the following:

1. The other party is notified in writing when an appeal is filed and implement appeal procedures equally for both parties;

2. The Appeals Committee members do not also serve on the Hearing Decision Maker panel and are not the Title IX Coordinator or Title IX Investigator;
3. The Appeals Committee members comply with the standards set for in 34 C.F.R. § 106.45(b)(iii);
4. Both parties are given a reasonable, equal opportunity to submit a written statement in support of or in challenge to the outcome;
5. A written decision describing the results of the appeal and the rationale for the result is issued to the President within 30 calendar days of the initiation of the appeals process. The time for decisions may be extended for exigent circumstances or as may be otherwise agreed to by both parties.

If the complainant is an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 calendar days of the alleged discriminatory act.

The findings of the Title IX Appeals Committee are presented to the President, who will issue simultaneous notification of the Committee's determination to the respondent, complainant, any advisor to either party, Title IX Coordinator, Title IX investigator, and Primary Decision Maker.

9. If, after exhausting all available institutional processes, a complaint remains unresolved, the complainant or the respondent may appeal to the Alabama Community College System (ACCS) using the System's official Student Complaint Form, which is available on the ACCS website (www.accs.cc). The form should be completed by printing the form, signing it, and then either (1) scanning it and e-mailing it to complaints@accs.edu or (2) mailing it to:

Alabama Community College System

Attention: Division of Academic and Student Affairs

P.O. Box 302130

Montgomery, AL 36130-2130

The ACCS Division of Academic and Student Affairs will investigate the complaint within 30 days of receipt.

10. NACC has 30 days to provide a written response to questions and/or concerns raised during the ACCS Division of Academic and Student Affairs investigation. Such response may or may not contain a resolution. The Division of Academic and Student Affairs will judge the matter and write a report or letter to the institution and student detailing corrective action, if any is necessary, or stating that the school has no violation of policies. If corrective action is needed the institution will have 30 days to comply or develop a plan to comply with the corrective action. The System Office will monitor the institution's compliance to ensure the completion of any required corrective action.
3. **Withdrawal of Complaint.**
Each complainant has the right to proceed with or withdraw from the formal complaint process once it has been submitted. The issues involved in the complaint should not be changed from the information provided when the charge was originally made. Complaints may be revised to address issues arising during the investigation which were not known to the complainant or to the institution when the initial complaint was filed.
4. **Informal Resolution.**
At any time prior to reaching a determination regarding responsibility, the College may initiate and facilitate a voluntary informal resolution process, such as mediation, that does not involve a full investigation and adjudication. Informal resolution processes may encompass a broad range of conflict resolution strategies, including, but not limited to, arbitration, mediation, or restorative justice. The College may not require the parties to participate in the informal resolution processes previously named and may not offer these processes unless a formal complaint is filed. The College may not require the waiver of the right to an investigation and adjudication of formal complaints as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right.

If the College determines that informal resolution process may be appropriate, it will provide written notice to both parties which includes the following:

1. The allegations;

2. The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records will be maintained or could be shared;
3. The range of possible sanctions that may be imposed on the respondent as part of an informal resolution, which may include expulsion.

Initiation of informal resolution process proceedings will require the written consent of each party. Informal resolutions, including sanctions, must be voluntarily agreed to by each party.

Voluntary informal resolutions to formal complaints may include, but are not limited to, no contact agreements; schedule changes; agreements to restrict participation in certain College activities or use of college facilities; agreement to engage in counseling, training, or education; or mutual agreement to engage in a restorative meeting.

At any time prior to agreeing to a resolution, any party has the right to withdraw from informal resolution and resume the complaint process with respect to the formal complaint.

4. Sexual Harassment Complaints Against an Employee – Complaint Process

A complaint for sexual harassment under Title IX can be lodged against any employee or individual seeking employment by any affected party or by the NACC Title IX Coordinator. If the NACC Title IX Coordinator is not available, the matter may be brought to the attention of any division director, dean, director, supervisor, advisor, Campus Police, or Campus Security Authority. All complaints for sexual harassment or discrimination should be reported to the NACC Title IX Coordinator for prompt and equitable investigation and resolution, but only complaints for sexual harassment under Title IX will be subject to the procedures in this section. All other grievances should follow the Employee Grievance and Complaint Policies as published in the Employee Handbook or the general complaint policies published, as deemed most appropriate to the complaint by the Title IX Coordinator. Title IX complaints of sexual harassment as defined in the NACC Title IX Sexual Harassment Policy will be considered formal complaints when filed against employees.

1. Filing a Formal Title IX Sexual Harassment Complaint Against an Employee

1. The complainant must meet with the Title IX Coordinator and provide a written statement that clearly and specifically states the alleged violations, names the person(s) whom the complaint is against, and provides the date of the alleged violation. If the complainant needs assistance in writing a complaint, assistance may be requested from the Title IX Coordinator. The Title IX Coordinator will immediately notify the President and the Alabama Community College System Legal Division of receipt of the complaint. In an emergency situation, the College has the right to impose an emergency removal of the employee.
2. Any Title IX complaints against an employee will be provided to the Senior Personnel Officer (or other Title IX Investigator) within ten (10) business days following the date the formal, written complaint was filed. All Title IX investigators have received annual investigator training. Upon the filing of a formal complaint, and at any time during the complaint process, the College may place the respondent on administrative leave for the duration of the complaint process.
3. The Senior Personnel Officer (or other Title IX Investigator) will notify both the complainant and the respondent of the receipt of the complaint and intent to investigate within five (5) business days of receipt of the formal complaint to provide sufficient time for the party to prepare to participate in the investigation. The investigation will commence within 10 business days of receipt of the formal complaint by the Senior Personnel Officer (or other appointed Title IX Investigator).

This notice will include the following information about the complaint:

1. the identities of the parties involved in the incident, if known;
2. the conduct allegedly constituting sexual harassment under Title IX;
3. the date and location of the alleged incident, if known;
4. the supportive measures that may be available to both parties; and
5. a list of individuals intended to be interviewed, if known.

This notice will describe the College's policies and procedures for responding to complaints, including the following:

1. A description of interim supportive measures available to the parties;
 2. A description of the College's formal complaint and resolution procedures, including time frames;
 3. A statement that a determination regarding responsibility is made at the conclusion of the complaint process, and that the College will presume the respondent not responsible for the alleged conduct;
 4. The right of parties to have an advisor of their choice, who may be, but is not required to be, an attorney, and the College's responsibility to provide an advisor to either party;
 5. The right of both parties to present evidence and witnesses;
 6. The right of parties to inspect and review evidence collected in the investigation, subject to applicable privacy laws;
 7. The College's use of a "preponderance of the evidence" standard of evidence in Title IX investigations;
 8. A description of the range of remedies and disciplinary sanctions available;
 9. A reminder that dishonesty and providing false information are forbidden by the College's Code of Conduct and policy within the Employee Handbook;
 10. A reminder that intimidation and retaliation against complainants, respondents, and witnesses are forbidden under Title IX and by the College's Code of Conduct and Anti-Harassment, Physical Assault, and Anti-Discrimination Policy.
4. The Senior Personnel Officer (or other Title IX Investigator) shall investigate the complaint by gathering and objectively evaluating all relevant evidence and make a preliminary decision. The investigation will be factual and all applicable statutes, regulations, and/or policies will be researched. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not on the parties. The Senior Personnel Officer (or other Title IX Investigator) must provide advance written notice of any interviews, meetings, or hearings to any party expected or invited to attend. Such notice will also be provided to the party's advisor, if any, and must allow adequate time to prepare. Either party may identify and present other witnesses, including fact and expert witnesses, with relevant information for interview or other evidence for review by the investigator. Additionally, either party may present other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Credibility determinations may not be based on a person's status as a complainant, respondent, or witness.

Prior to the completion of the investigative report, the Senior Personnel Officer (or other Title IX Investigator) will submit all reviewed evidence to the Title IX Coordinator, who will in turn make the evidence available to the complainant, respondent, and their advisors for additional review. The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. The parties will have five (5) business days to review the evidence and to respond in writing to the Title IX Coordinator. These responses will be forwarded to the Senior Personnel Officer (or other Title IX Investigator). The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

If the Senior Personnel Officer (or other Title IX Investigator) finds that there is no probable cause for the complaint, the Senior Personnel Officer (or other Title IX Investigator) shall dismiss the complaint and will provide written notice to the respondent, complainant, and Title IX Coordinator of the dismissal stating the reasons for and right to appeal the dismissal. If there is probable cause to believe that the complaint is well-founded, but that the matter is not sexual harassment under Title IX, the Senior Personnel Officer (or other Title IX Investigator) will dismiss the formal complaint and provide written notice to the respondent, complainant, and Title IX Coordinator of the dismissal stating the reasons for and right to appeal the dismissal.

If there is probable cause to believe that the complaint is well-founded and that the matter is under the purview of Title IX, the Senior Personnel Officer (or other Title IX Investigator) will compose a written investigative report that lists and summarizes relevant evidence, including supporting documentation and the names of witnesses, submit the written

investigative report to the Title IX Investigative Committee (hereafter referred to as the Hearing Decision Makers) and to both parties and their advisors, if any, and the Title IX Coordinator and will notify the parties that the investigative report has been filed with the Hearing Decision Makers. The Hearing Decision Makers are composed of faculty and staff members appointed each fall by the President and have received annual decision maker training.

At least ten (10) business days after the receipt of an investigative report from the Senior Personnel Officer (or other Title IX Investigator), the Primary Decision Maker (chair of the Title IX Investigative Committee) shall convene a live hearing and shall give the parties; their advisors, if any; the Title IX Coordinator; the Title IX investigator; and witnesses reasonable notice of the date, time, and place of the hearing, together with a copy of the written complaint. The live hearing date must provide the complainant, respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence.

5. The hearing shall be live and attended by the Hearing Decision Makers; the complainant and respondent; and their advisors, if any, in person or via teleconference. The Title IX Coordinator and Title IX investigator will attend the hearing in an advisory capacity. The Title IX investigator, Title IX Coordinator, and witnesses will be called to provide testimony if requested by the Hearing Decision Makers, parties, or their respective advisors. All parties must be able to see and hear the party or witness answering questions in real time. The hearing shall be recorded by either a court reporter or on audio, video, or other electronic recording medium. Additionally, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

If the complainant or respondent do not have an advisor present at the live hearing, the College shall provide, without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney. Neither party may dismiss a College-appointed advisor.

Each party and advisor will have the opportunity to present evidence and to present witnesses, if any such witnesses are willing participants in the proceedings. The Hearing Decision Makers and advisors will have the opportunity to cross examine the complainant, respondent, and any witnesses. No witness shall be required to participate in the proceedings. Before any party or witness is required to answer a question under cross-examination, the Primary Decision Maker must determine whether the question is relevant and must explain on the record the basis for excluding any question. Questions and evidence about a complainant's sexual predisposition or prior sexual behavior are deemed not relevant and will not be permitted. Only the Hearing Decision Makers and advisors, whether selected or appointed, are allowed to conduct cross-examination. Complainants and respondents cannot conduct cross-examination.

The hearing process, overseen by the Primary Decision Maker, will consist of the following:

1. An opening statement;
2. A review of hearing procedures, the formal complaint, and the notice of allegations;
3. A review of potential hearing outcomes and recommended sanctions;
4. The complainant(s) testimony;
5. Cross-examination of the complainant by the respondent's advisor;
6. Testimony of complainant witnesses;
7. Cross-examination of complainant witnesses by respondent's advisor;
8. The respondent(s) testimony;
9. Cross-examination of the respondent by the complainant's advisor;
10. Testimony of respondent witnesses;
11. Cross-examination of the respondent witnesses by complainant's advisor;
12. Decision Maker questions;
13. A review of the appeal process;

14. Closing statement by the Primary Decision Maker;
15. Dismissal of the parties; and
16. Decision Maker deliberations.

At the hearing, the Primary Decision Maker shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Primary Decision Maker concludes opening statements, the complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to the complainant testimony, the respondent's advisor may conduct cross-examination. The Decision Maker(s) may question the complainant after the cross-examination.

The complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The respondent's advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

The respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the respondent defense against the formal complaint. Subsequent to the respondent testimony, the complainant advisor may conduct cross-examination. The Decision Maker(s) may question the respondent after the cross-examination.

The respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The complainant advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

Only relevant cross-examination or other questions may be asked of a party or witnesses. During cross-examination, the advisor will pose each question orally to the Hearing Decision Maker(s). The Primary Decision Maker will determine if the complainant, respondent, or witnesses may respond to the question. If the Primary Decision Maker determines that the question is not relevant, he or she will explain the rationale for dismissing the question. Rape shield protection is provided for complainants. Therefore, questions and evidence about a complainant's behavior are considered irrelevant unless offered to prove that someone other than the respondent committed the alleged misconduct or concern specific incidents of a complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

The Hearing Decision Makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examination, the Primary Decision Maker will read the appeal process and closing statements. The complainant, respondent, their respective advisors, Title IX Investigator, Title IX Coordinator, and all witnesses shall be dismissed.

The Hearing Decision Makers will deliberate to determine if the respondent is deemed responsible and submit a written hearing report which contains the following:

1. Identification of the allegations potentially constituting sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties; interviews with parties and witnesses; site visits; methods used to gather other evidence; and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the College's Code of Conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any recommended disciplinary sanctions the College may impose on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be recommended by the Hearing Decision Makers to the President; and
6. The College's procedures and permissible bases for the complainant and respondent appeal.

The Title IX Coordinator and Title IX investigator will attend the hearing in an advisory capacity.

6. Within ten (10) business days after the hearing, the Hearing Decision Makers, by majority vote, shall issue a written determination of responsibility simultaneously to the complainant, respondent, any advisor to either party, the President, the Senior Personnel Officer (or other Title IX Investigator), and the Title IX Coordinator. If the Hearing Decision Makers finds that the complaint is supported by the facts, it will decide in favor of the complainant and will recommend appropriate sanctions in its written findings. If the Hearing Decision Makers find that the complaint is not supported by the facts, the Primary Decision Maker will take no further action and will notify the respondent, the complainant, Title IX Investigator, Title IX Coordinator, and the President of the findings.
7. The President will determine if such sanctions will be imposed based on the written report and recommendations of the Hearing Decision Makers and will issue written notice simultaneously to the respondent, complainant, any advisor to either party, the Senior Personnel Officer (or other Title IX Investigator), and the Title IX Coordinator of the determination within ten (10) business days of receipt of the Hearing Decision Makers' recommendations. This notification will also include the appeal procedure.
8. Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds:
 1. Procedural irregularity that affected the outcome of the matter;
 2. New evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made which could affect the outcome; and/or
 3. The Title IX Coordinator, Investigator, or a Hearing Decision Maker had a conflict of interest or bias that affected the outcome.

Based on these reasons, the complainant and/or respondent may file a written appeal with the Title IX Coordinator specifically stating the objections to the decision within five (5) business days after receipt of the notice of responsibility and sanctions. Copies of the appeal must be provided by the Title IX Coordinator to the other party, any advisor to either party, the Title IX Investigator, the Primary Decision Maker, and the President.

The Title IX Appeals Committee will be the appeal authority in upholding, rejecting, or modifying the recommendations of the Hearing Decision Makers and President. The Title IX Appeals Committee shall not be bound in any manner by the recommendation(s) of the Hearing Decision Makers or President, but shall take it (them) into consideration in rendering a decision. The Title IX Appeals Committee is made up of college administrators appointed by the President. The Appeals Committee will review the appeal solely on the following grounds, and none other:

1. to determine if there was substantial evidence to support the decision;
2. to determine if the student or employee had a fair and impartial hearing;
3. to determine if there is new evidence which would affect either the guilt or innocence of the student or employee or the degree of sanctions; and
4. to determine if procedural irregularities affected the outcome.

Regarding appeals, the College will ensure the following:

1. The other party is notified in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. The Appeals Committee members do not also serve on the Hearing Decision Maker panel and are not the Title IX Coordinator or Title IX Investigator;
3. The Appeals Committee members comply with the standards set for in 34 C.F.R. § 106.45(b)(iii);
4. Both parties are given a reasonable, equal opportunity to submit a written statement in support of or challenging the outcome;
5. A written decision describing the results of the appeal and the rationale for the result is issued to the President within 30 calendar days of the initiation of the appeals process. The time for decisions may be extended for exigent circumstances or as may be otherwise agreed to by both parties.

If the complainant is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

The findings of the Title IX Appeals Committee are presented to the President, who will issue simultaneous notification of the Committee's determination to the respondent, complainant, any advisor to either party, Title IX Coordinator, Title IX investigator, and Primary Decision Maker.

9. If, after exhausting all available institutional processes, a complaint remains unresolved, the complainant or the respondent may appeal to the Alabama Community College System (ACCS) using the System's official Complaint Form, which is available on the ACCS website (www.accs.cc) or from the Title IX Coordinator. The form should be completed and either (1) scanned and e-mailed to complaints@accs.edu or (2) mailed to:

Alabama Community College System

Attention: Division of Academic and Student Affairs

P.O. Box 302130

Montgomery, AL 36130-2130

The ACCS Division of Academic and Student Affairs will investigate the complaint within 30 days of receipt.

10. NACC has 30 days to provide a written response to questions and/or concerns raised during the ACCS Division of Academic and Student Affairs investigation. Such response may or may not contain a resolution. The Division of Academic and Student Affairs will judge the matter and write a report or letter to the institution and student detailing corrective action, if any is necessary, or stating that the school has no violation of policies. If corrective action is needed the institution will have 30 days to comply or develop a plan to comply with the corrective action. The System Office will monitor the institution's compliance to ensure the completion of any required corrective action.
2. **Withdrawal of Complaint.**
Each complainant has the right to proceed with or withdraw from the formal complaint process once it has been submitted. The issues involved in the complaint should not be changed from the information provided when the charge was originally made. Complaints may be revised to address issues arising during the investigation which were not known to the complainant or to the institution when the initial complaint was filed.
3. **Informal Resolution.**
At any time prior to reaching a determination regarding responsibility, the College may initiate and facilitate a voluntary informal resolution process, such as mediation, that does not involve a full investigation and adjudication. Informal resolution processes may encompass a broad range of conflict resolution strategies, including, but not limited to, arbitration, mediation, or restorative justice. The College may not require the parties to participate in the informal resolution processes previously named and may not offer these processes unless a formal complaint is filed. The College may not require the waiver of the right to an investigation and adjudication of formal complaints as a condition of enrollment or continuing enrollment, employment or continuing employment, or enjoyment of any other right.

If the College determines that informal resolution process may be appropriate, it will provide written notice to both parties which includes the following:

1. The allegations;
2. The requirements of the informal resolution process, including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records will be maintained or could be shared;
3. The range of possible sanctions that may be imposed on the respondent as part of an informal resolution, which may include restitution, suspension, or termination, upon approval of the President.

Initiation of informal resolution process proceedings will require the written consent of each party. Informal resolutions, including sanctions, must be voluntarily agreed to by each party.

Voluntary informal resolutions to formal complaints may include, but are not limited to, no contact agreements, schedule changes, agreements to restrict participation in certain College activities or use of college facilities, agreement to engage in counseling, training, or education, mutual agreement to engage in a restorative meeting.

At any time prior to agreeing to a resolution, any party has the right to withdraw from informal resolution and resume the complaint process with respect to the formal complaint.

5. General Provisions for Title IX Sexual Harassment Complaints

Advisors: Complainants and respondents shall have the right to retain an advisor who may be but is not required to be a licensed attorney, at any level of the complaint process, at the respective party's own expense. Complainants and respondents who do not retain their own advisor will be assigned an advisor by the College. Advisors may be present and participate in any meetings, interviews, or hearings in which the advised party participates. Only advisors may conduct cross examinations of parties and witnesses. Additional guidance will be provided to complainants and respondent about the scope of advisor responsibilities by the Dean of Student Services, the Senior Personnel Officer, or other appointed administrator. Advisors appointed by the College receive annual training.

Party-Designated Advisor: Both parties shall have the right to designate one personal advisor. This party-designated advisor can be legal counsel or other type of personal representative (i.e., pastor, family member, AEA Representative, friend) and shall be retained at the respective party's own cost. Other persons may be selected by the party as additional advisors to attend meetings and hearings, but additional advisors are not permitted to speak or otherwise participate.

College-Designated Advisor: In the event that either party does not or cannot designate their own advisor, that party shall have the right to request one advisor to be provided by the College by making a request in writing to the Title IX Coordinator and declaring that the party has not selected another advisor. An advisor will be appointed for the party at the discretion of the College. Once requested, a party may not dismiss a College-designated advisor unless that party elects to retain legal counsel. A College-designated advisor will be released by the College if a party subsequently designates legal counsel as its advisor.

Either the party or the party's designated advisor (not both) may conduct cross-examination during the live hearing.

A party is never required to obtain an advisor.

At no time may any party have more than one designated advisor. A designated advisor may speak on the party's behalf when appropriate.

Amendments: The College may amend the policy or procedures periodically. Nothing in the policy or procedures shall affect the inherent authority of the College to take actions such as it deems appropriate to further the educational mission or to protect the safety or well-being of the campus community.

Complaints Made Against Parties other than Students and Employees: While this policy is intended to address complaints against students or employees, Title IX sexual harassment complaints can be made against other parties who are involved in the educational programs or activities of the institution by following the process of complaints made against students. For more information, please see the Title IX Coordinator.

Complaint files: Records of Title IX formal and informal complaints shall be maintained by the Title IX Coordinator. These shall include at minimum the following: the name of the complainant; the date of complaint filing; the specified allegation made in the complaint and any corrective action requested; the name(s) of the respondent(s); the levels of processing and resolution; the date and hearing officer(s) at each level; any audio or video recording or transcript; a summary of major points, facts, and evidence presented by each party to the complaint; a statement of the final resolution and the nature and date of any corrective action taken or disciplinary sanctions imposed; a record of any appeal and the results of that appeal; record of any informal resolution and the results of that informal resolution, and records of any supportive measures taken in response to a complaint, or records that document why no supportive measures were required; and the basis for a conclusion that the College's response was not deliberately indifferent. Such records shall be maintained on a confidential basis except that they must be provided to the complainant and the respondent upon request.

Constitutional rights: The complaint process shall not be construed as to restrain employees and/or students in their exercise of constitutional rights.

Dismissal of Formal Complaint: The College may dismiss a formal complaint or allegation therein if (1) the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein; (2) the respondent is no longer enrolled or employed by the College; or (3) specific circumstances prevent the College from gathering sufficient evidence to reach a determination. The College must dismiss a formal complaint or allegation therein if (1) the allegations do not meet the definition of sexual harassment, (2) the alleged conduct did not occur in the United States, or (3) the alleged conduct did not occur within a College-sponsored program or activity. If the College determines that the formal complaint or allegations therein will be dismissed, the Dean of Student Services, Senior Personnel Officer, or other appointed administrator will provide written notice to both parties of the dismissal of allegations, the reason for dismissal, and the complainants right to appeal, if applicable. This notification must be made within five (5) business days of the decision to dismiss the complaint.

Failure to appeal within time: If there is no written mutual agreement to extend the time limit(s) set herein, and if a decision at any step is not appealed to the next step of the process within the stated time, the complaint shall be deemed settled on the basis of the last decision rendered, provided the decision is within the authority of the parties.

Failure to respond within time limit: Failure at any level of the complaint process to notify the parties of the reviewer's decision within the specified time limit shall permit an appeal at the next step of the process within the time which would have been allotted had the decision been communicated by the final day.

Harassment and physical assault prevention programs: The College requires all employees and invites all students to participate in a web-based harassment and physical assault awareness and prevention training program, which includes information required by the Campus SaVe Act. Additionally, the College coordinates ongoing educational programs for employees and students to promote awareness and prevention of harassment and physical assault, including, but not limited to, rape, acquaintance rape, domestic violence, dating violence, sexual assault, consent, and stalking.

Identification: All written complaints and appeals shall include the name of the complainant, the name of the respondent(s), a statement of the nature of the complaint, and the corrective action sought by the complainant.

Informal discussion: Nothing contained herein shall be construed as limiting the right of the student having a complaint to discuss the matter informally with any appropriate member of the College and having the complaint informally resolved nor the right of the College to manage normal business operations.

Notification of law enforcement: Victims of sexual harassment and physical assault needing immediate assistance from law enforcement can notify Campus Police or local law enforcement offices. Additionally, Campus Police can assist a victim with contacting local law enforcement, at the discretion of the victim. Individuals should dial 9-1-1 in emergencies.

Preservation of evidence: Victims of sexual harassment and physical assault should make every effort to preserve evidence that could be necessary to prove that the violation occurred or to obtain a protection order. Victims of assault are encouraged to seek a thorough medical examination. Rape victims should not bathe, smoke, use the toilet, or change clothes before they are examined. Stalking victims should preserve gifts and letters received and should also document phone calls, social media posts, and any other contact they have had with the alleged stalker. Domestic violence victims can document injuries by seeking medical attention or by taking photos of bruises, cuts, or other injuries. Likewise, parties accused of sexual assault should make every effort to preserve evidence that could be necessary to prove the violation did not occur.

Protection: In an effort to provide a harassment-free campus environment, the College is committed to the protection of employees and students. Anyone who has a legal order of protection, no contact order, restraining order, or similar lawful order against another individual is encouraged to provide a copy of the order to Campus Police.

Protective measures: Persons who have experienced harassment, physical assault, or discrimination may be able to change academic or working situations if accommodations are reasonably available even if the student chooses not to report the crime to Campus Police or law enforcement.

Public complaint file: For purposes of the dissemination of Title IX complaint precedents, separate file records shall be kept by the Title IX Coordinator which indicate only the subject matter of each complaint, the resolution of each complaint, and the date of the resolution. These records shall not refer to any specific individuals, and they shall not be considered confidential.

Retaliation prohibited: No College employee or any person involved in these complaint processes may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or because the individual has made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the Code of Conduct (Student Handbook) or Employee Complaint (Employee Handbook) procedures. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR, part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Sanctions: Possible sanctions for students may include but are not limited to warnings, restrictions from specific areas of campus, restitution, suspension, or expulsion. Possible sanctions for employees may include but are not limited to restitution, suspension, or termination. The College will follow the guidelines of the Students First Act in all cases where sanctions are recommended for employees. For individuals other than employees or students, sanctions could include a no-trespass order and or a no-contact order issued for individuals who have been accused of and/or found in violation of sexual harassment.

Standard of evidence: During resolution proceedings, the College shall use a preponderance of evidence to determine if a violation of policy has been made. The preponderance of evidence will consist of such evidence as, when considered and compared with that opposed to it, has more convincing force and produces in the mind's belief that what is sought to be proved is more likely true than not true.

Student: A student is defined as one who is or who has been duly and legally registered as either a full-time or part-time enrollee at Northeast.

Supportive measures: Supportive measures are defined as non-disciplinary, non-punitive individualized services that are designed to restore or preserve equal access to the education for the complainant and respondent without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment or to deter sexual harassment. These measures are without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. The range of possible supportive measures includes, but is not limited to, referral to counseling; extensions of deadlines or other course-related adjustments; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; changes in work or housing locations; leaves of absence; increased security and monitoring of certain areas of the campus; and other similar measures. The College will maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures.

Timelines: It is the intent of the College to address complaints as quickly as possible. Every effort shall be made to expedite the process and to stay within the timeline parameters of these procedures. However, there may be individual cases where the timelines involved may need to be adjusted to allow the institution to thoroughly investigate the issues. Timeline extensions will be made by mutual, written agreement between all parties involved.

Victims Option to Report: Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement or local law enforcement. In those cases, the victim may still seek assistance confidentially from the Title IX Coordinator or any other victim service agency of their choosing.

Witnesses: Both the complainant and the respondent shall have the right to present such witnesses as they deem necessary to develop the facts pertinent to the complaint. No witness shall be required to participate in the proceedings.

Nondiscrimination

It is the official policy of the Alabama Community College System and entities under its control, including Northeast Alabama Community College, that no person shall be discriminated against on the basis of any impermissible criterion or characteristic, including, without limitation, race, color, national origin, religion, marital status, disability, sex, age, or any other protected class as defined by federal and state law. (ACCS Board of Trustees Policies 601.02-4/15/16 and 800.00—5/10/17).

Northeast has filed with the Federal Government an Assurance of Compliance with all requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964 and the Regulation issued thereunder, to the end that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity sponsored by this institution. It is also the policy of Northeast to be in accordance with Title IX of the Education Amendments of 1972, which provides that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.”

Any person who believes himself or herself, or any specific class of individuals, to be subjected to discrimination prohibited by Title VI or Title IX of the Act and Regulation issued thereunder may, by himself or herself or through a representative, file a written complaint. Harassment and discrimination complaints can be reported to the Title IX Coordinator (Lynde Wheeler, PA 116, ext. 2230). Northeast is an Equal Opportunity Employer.

Nondiscrimination on the Basis of Disability

Northeast does not discriminate on the basis of disability in the admission or access to, or treatment or employment in, its programs or activities.

The ADA Compliance Coordinator, Riley Holland (256-638-4418 Ext 2222), located at 138 Alabama Hwy 35, Rainsville, AL 35986 in Office 115 in the Student Center has been designated to coordinate compliance with the non-discrimination requirements contained in section 35.107 of the Department of Justice regulations. Information concerning the provisions of the American with Disabilities Act, and the rights provided thereunder, are available from the ADA Compliance Coordinator.

Persons who need accommodations or assistance in order to participate in college programs or services should contact the ADA Compliance Coordinator as identified above. The telephone numbers are (256) 638-4418 and (256) 228-6001, ext. 2222. The relay number for speech or hearing impaired persons using a text telephone or TDD is (800) 548-2546.

Northeast Alabama Community College

Title IX Coordinator

Lynde Wheeler, Human Resources Director

wheelerl@nacc.edu

256.228.6001/256.638.4418, ext. 2230 (No Fax)

Civil Rights Compliance

Lynde Wheeler, Human Resources Director

Employee complaints, institutional compliance with civil rights standards, and sex-based harassment

wheelerl@nacc.edu

256.228.6001/256.638.4418, ext. 2230 (No Fax)

Jeff Hawes, Dean of Student Services

Student complaints regarding harassment that is not sex-based

hawesj@nacc.edu

256.228.6001/256.638.4418, ext. 2278 (No Fax)

Riley Holland, Admissions Office Assistant (ADA Compliance Coordinator for students)

ADA complaints

hollandr@nacc.edu

256.228.6001/256.638.4418, ext. 2222 (No Fax)

Complaint Policies

All NACC Complaint Processes and Policies are located at <https://catalog.nacc.edu/complaint-process>. A .pdf version is attached.

Non-Discrimination Statement

The Non-Discrimination Statement is published online at <https://catalog.nacc.edu/nondiscrimination>. A .pdf version is attached. Note: This statement is published in multiple College documents and online in multiple places.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

III.A. Nondiscrimination Policy

It is the official policy of the Alabama Community College System Board of Trustees and Northwest Shoals Community College that no person in Alabama shall, on the grounds of race, color, national origin, religion, age, disability, marital status, or gender, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program, activity, or employment.

No employee or applicant for employment or promotion shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law. Northwest Shoals Community College is an Equal Opportunity Employer. It is the policy to provide equal opportunity for employment and advancement to all applicants and employees as required by appropriate federal and state law.

Our Community College is also an Equal Opportunity Educator. It is the policy of this College that no student or other person because of age or race/color, national origin, sex, religion, disability, or the like shall be excluded or limited from participation in or be denied the benefits of any college program or activity.

Source: Alabama Community College System Board of Trustees Policy, 601.01 and 601.02, Dated 4-13-2016.

Northwest Shoals Community College complies with nondiscriminatory regulations under Title VI and Title VII of the Civil Rights Act of 1964 and amendments; Title IX Education Amendment of 1972; Section 504 of the Rehabilitation Act of 1973; and the Americans with Disabilities Act (ADA) of 1990.

Northwest Shoals Community College is committed to a Drug Free Learning and Work Environment through Education, Intervention, and Enforcement.

For Policy/Grievance Procedure, contact:

Dr. Crystal Reed (Student Issues)
Dean of Students
P.O. Box 2545, Muscle Shoals, Alabama 35662
Telephone (256) 331-5291

Mr. John McIntosh (Employee Issues)
Senior Personnel Officer
P.O. Box 2545, Muscle Shoals, Alabama 35662
Telephone (256) 331-5323

III.A.1. Employee Procedures for Requesting Reasonable Accommodations

Initiate Request

The employee is responsible for requesting a workplace accommodation for a disability. The request should be made to the Employee ADA Coordinator or the Director of Human Resources and Payroll by completing the Employee Accommodation Request Form (Appendix VV).

Engage in an Interactive Dialogue

The employee must engage in an interactive dialogue with the Employee ADA Coordinator to provide information about the requested accommodation, how the accommodation will allow the employee to perform the essential functions of their job, and other information as may be necessary to determine an appropriate and reasonable accommodation.

Provide Supporting Documentation

The employee may be asked to have their physician provide supporting documentation for the accommodation request. Physician documentation allows the Employee ADA Coordinator to evaluate whether the employee has a disability under the ADA, and to understand the employee's ability to perform the essential functions of their job with or without an accommodation. It allows the physician an opportunity to recommend accommodations.

Determine a Reasonable Accommodation (if any)

If the Employee ADA Coordinator determines that the employee has a disability as defined by the ADA, the Employee ADA Coordinator will consult with the employee and the employee's supervisor as necessary to respond to the request and to assess whether a particular accommodation will be reasonable and effective. The Employee ADA Coordinator will notify the employee and the employee's supervisor of any recommended reasonable accommodations in a timely manner. After the reasonable accommodations are implemented, the employee should contact the Employee ADA Coordinator in the event the reasonable accommodations are not effective or if the employee needs different or additional accommodations.

If the Employee ADA Coordinator determines that the employee does not have a disability as defined by the ADA, the Employee ADA Coordinator will inform the employee of that determination and refer the employee to any other appropriate services.

For ADA Accommodations, contact:

*Dr. Crystal Reed
Dean of Students
P.O. Box 2545, Muscle Shoals, Alabama 35662
Telephone (256) 331-5291*

III.A.2. Age Act Discrimination and Complaints

The Office of Civil Rights (OCR) enforces the Age Discrimination Act of 1975 (Age Act), which prohibits discrimination on the basis of age in HHS-funded programs and activities. Under the Age Act, recipients may not exclude, deny, or limit services to, or otherwise discriminate against, persons on the basis of age. The Age Act does not cover:

- Employment discrimination – enforced by the EEOC
- Certain age distinctions in federal, state, or local statutes and ordinances
- An action that reasonably takes age into account as a factor that is necessary to the normal operation or achievement of a statutory objective of a program

OCR can only investigate health programs and activities that receive federal financial assistance from the HHS or are administered by HHS or any entity established under Title I of the Affordable Care Act or its amendments.

If you feel you have been discriminated based on age in programs or activities that receive federal financial assistance, please contact the College's Age Act Coordinator.

The College will request the complainant to submit a written complaint which (a) identifies the parties involved; (b) gives the date of the alleged violation or when the complainant first knew of the alleged violation; and (c) generally describe what happened; and (d) be signed by the complainant. An investigation will be timely conducted. If this does not resolve your complaint, complaints involving HHS recipients and beneficiaries may also be sent to: Office of Program Operations, Office for Civil Rights, Department of Health and Human Services, 330 Independence Avenue SW, Washington, D.C. 20201.

For Age Act Discrimination and Complaints, Contact:

Age Act Coordinator

Tia Heathcoat

Director of Human Resources and Payroll

P.O. Box 2545, Muscle Shoals, Alabama 35662

Telephone (256) 331-5279

III.B. Harassment Policy

The Alabama Community College System and Northwest Shoals Community College are committed to providing employment and an educational environment free of harassment in any form. Employees shall adhere to the highest ethical standards and professionalism and refrain from any form of harassment. Both employees and students shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is respected. Any practice or behavior that constitutes harassment shall not be tolerated.

Harassment can be defined as but is not limited to:

- Disturbing conduct which is repetitive;
- Threatening conduct;
- Intimidating conduct;
- Inappropriate or offensive slurs, jokes, language, or other verbal, graphic, or other like conduct;
- Unwelcome sexual advances, requests for sexual favors, or sexual based offenses;
- Assault;
- Repeated contact solicited during non-traditional business hours which may be perceived as harassment by recipient unless it is specifically associated with work related duties.

Employees and students who are found in violation of this policy shall be disciplined as deemed appropriate by the investigating authority. Harassment of employees and students by non-employees is also a violation of this policy.

This policy encourages faculty, students, and employees who believe that they have been the victims of harassment to contact the Title IX Coordinator, Human Resources Director or President at the institution within ten days of when the alleged incident occurred. Any reprisals shall be reported immediately to the Title IX Coordinator, Human Resources Director or President. Any employee or student who becomes aware of any harassment shall report the incident to the Title IX Coordinator, Human Resources Director or President. Failure to act, which includes initial investigation, shall be deemed in direct violation of this policy.

This policy shall be distributed, communicated, and implemented in a manner which provides all interested parties the opportunity to be informed of this policy. A system-wide educational program shall be utilized to assist all members of the community to understand, prevent, and combat harassment. Each community and technical college is required to provide annual training related to harassment, including sexual harassment.

Source: Alabama Community College System Board of Trustees Policy, 601.04, Dated 11-10-20.

For Policy/Grievance Procedure, Contact:

Dr. Crystal Reed (Student Issues)

Dean of Students

P.O. Box 2545, Muscle Shoals, Alabama 35662

Telephone (256) 331-5291

John McIntosh (Instructional/Employee Issues)

Senior Personnel Officer

P.O. Box 2545, Muscle Shoals, Alabama 35662

Telephone (256) 331-5323

III.C. Title IX Sexual Harassment Complaint Procedures

III.C.1. INTRODUCTION

Northwest Shoals Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its educational programs and activities. This includes discrimination affecting employees of the College and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on College premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's educational programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, in employment policies, and on the College's webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that includes a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence have the right to a resolution of their complaint, to have the College conduct a prompt, thorough, and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the College community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Northwest Shoals Community College does not tolerate or condone retaliation. Individuals wishing to report sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Dr. Crystal Reed (Students)
Dean of Students
P.O. Box 2545, Muscle Shoals, AL 35662
Phone: 256-331-5291
Email: crystal.reed@nwsccl.edu

Mrs. Brittany Jones (Students)
Executive Director of Student Success
P.O. Box 2545, Muscle Shoals, AL 35662
Phone: 256-331-5319
Email: bjones@nwsccl.edu

Ms. Tia Heathcoat (Employees)
Director of Human Resources and Payroll
P.O. Box 2545, Muscle Shoals, AL 35662

Phone: 256-331-5279
Email: tstone@nwsc.edu

and/or

*Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov (mailto: OCR@ed.gov)*

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College's website at www.nwsc.edu on the Title IX webpage.

III.C.2. POLICY

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in educational programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

III.C.3 DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures of behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be

a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.

Definitions of Sexually Based Offenses

Sexual abuse in the first degree:

(a) A person commits the crime of sexual abuse in the first degree if:

- (1) He subjects another person to sexual contact by forcible compulsion; or
- (2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.

(b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

(a) A person commits the crime of sexual abuse in the second degree if:

- (1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
- (2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

(b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

(a) A person commits the crime of rape in the first degree if:

- (1) He or she engages in sexual intercourse with a member of the opposite sex by forcible

compulsion; or

(2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.

(b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

(a) A person commits the crime of rape in the second degree if:

(1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.

(2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.

(b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

(a) A person commits the crime of sodomy in the first degree if:

(1) He engages in deviate sexual intercourse with another person by forcible compulsion; or

(2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

(a) A person commits the crime of sodomy in the second degree if:

(1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.

(2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
(b) Where the existence of such a relationship will be determined based on a consideration of the following factors:

- The length of the relationship,
- The type of relationship,
- The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10)).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

III.C.4. Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement or local law enforcement. In those cases, the victim may still seek assistance confidentially from Crisis Services of North Alabama or any other victim service agency of their choosing.

III.C.5. Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator [www.nwscc.edu]. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report a sexual harassment incident to the Title IX Coordinator in person, by

email, by telephone, or in writing. The report must include the names of the complainant(s) and respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the complainant, the Title IX Coordinator will also contact the complainant within five (5) business days.

If after a discussion with the complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the complainant in writing and may redirect the complaint to the appropriate committee.

If after a discussion between the complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of complainant and respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DISMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the complainant informs the Title IX Coordinator in writing that the complainant desires to withdraw the formal complaint or allegations therein,
- the respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the complainant and respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and that the parties are advised of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX Investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the complainant and respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or another personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

Neither party may dismiss a College appointed advisor.

I. INVESTIGATION PROCEDURE

The Title IX Investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX Investigator will have received Title IX Investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX Investigator will notify the complainant and respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX Investigator will notify the complainant and respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the Investigator.

The Title IX Investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX Investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent, or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator. The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the complainant, respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator. Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the complainant, respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the complainant, respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker Panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the

Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the complainant, respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the complainant, respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the complainant and respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time. The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors. If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint, and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of complainant by respondent advisor
- Testimony of witnesses of complainant
- Cross-examination of complainant witnesses by respondent advisor
- Respondent Testimony
- Cross-examination of respondent by complainant advisor
- Witnesses of respondent testimonies
- Cross-examination of respondent witnesses by complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to complainant testimony, the respondent advisor may conduct cross-examination. The Decision Makers may question the complainant after the cross-examination.

The complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the respondent's defense against the formal complaint.

Subsequent to respondent testimony, the complainant advisor may conduct cross-examination. The Decision Makers may question the respondent after the cross-examination. The respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness. During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the complainant, respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for complainants which deems irrelevant questions and evidence about a complainant's prior sexual behavior unless offered to prove that someone other than the respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of complainant's prior sexual behavior with respect to the respondent and offered to prove consent.

If a witness or party is not available or declines cross-examination, the Decision Makers must not rely on any statement of that witness in reaching a determination regarding responsibility; provided, however, that the Decision Makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The complainant, respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, complainant, respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative

report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Northwest Shoals Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the Decision-Maker(s) for the appeal is not the same person as the Decision-Maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the Decision-Maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- i. provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided,

however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

- ii. obtains the parties' voluntary, written consent to the informal resolution process; and
 - iii. does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.
- L. **RETALIATION PROHIBITED.** Neither the College nor any other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

III.C.6. Range of Possible Sanctions

On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

- An oral warning
- A written letter of warning
- A letter of reprimand
- Mandatory attendance at an educational program on discrimination, harassment, and/or sexual misconduct
- Mandatory referral for psychological or chemical dependency assessment and compliance with any resulting treatment plan
- Barring participation in student organizations, official College programs, or College sponsored activities
- Probation
- Suspension or expulsion from the College

For Faculty Members:

- An oral warning
- A written letter of warning
- A letter of reprimand
- Mandatory attendance at an educational program on discrimination, harassment, and/or sexual misconduct
- Mandatory referral for psychological or chemical dependency assessment and compliance with any resulting treatment plan
- Restriction of responsibilities
- Reassignment
- Barring leadership or participation in domestic or international off-campus educational programs
- Canceling College related travel
- Suspension without pay or dismissal/termination of employment

For Administrator or Staff Members:

- An oral warning

- A written warning
- A letter of reprimand
- Mandatory attendance at an educational program on discrimination, harassment, and/or sexual misconduct, or retaliation
- Mandatory referral for psychological or chemical dependency assessment and compliance with any resulting treatment plan
- Restriction of responsibilities
- Reassignment or transfer to another department
- Suspension without pay
- Final written warning
- Dismissal/termination or employment

For Individuals other than employees or students:

- A no trespass order may be issued for individuals who have been accused or and/or found in violation of sexual harassment.
- A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

At any time in the grievance process, the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers or any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at www.nwscc.edu.

III.D. EMPLOYEE GRIEVANCE PROCEDURE

This policy is intended to cover grievances between and amongst employees of an ACCS entity about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against a President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under Alabama Community College System Board of Trustees Policy 620.02.

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement ([Appendix C](#)) within 10 calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify the Senior Personnel Officer and/or the President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 45 calendar days (or as otherwise agreed) and then make a written report of findings with recommendations within 60 calendar days of receipt of the

grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has 5 calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final.

An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined.

The President's decision will be final.

NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

Source: Alabama Community College System Board of Trustees Policy, 620.01, Dated 4-10-19

III.E. EMPLOYEE COMPLAINTS PROCEDURE

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with an ACCS entity. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Alabama Community College System Board of Trustees Policy 620.01 or complaints of sexual harassment which are covered by Alabama Community College System Board of Trustees Policy 620.03. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Senior Personnel Officer, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

Source: Alabama Community College System Board of Trustees Policy, 620.02, Dated 11-10-2020



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

COMPLIANCE POLICY

It is the official policy of the Alabama Community College System and Reid State Technical College that no employee or applicant for employment or promotion, on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age, or any other protected class as defined by federal and state law, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, activity, or employment. Reid State Technical College has filed, with the Federal Government, an Assurance of Compliance with all requirements imposed by or pursuant to Title VI of the Civil Rights Acts of 1964 and the Regulations issued thereunder. It is also the policy of Reid State Technical College to be in accordance that "no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance." The College adheres to Federal Policies under Title IX prohibiting discrimination on the basis of sex and provides protection against acts of sexual harassment. The Title VI and IX Coordinators for the College are:

Title VI

Dr. Kevin Ammons
Edith A. Gray Library
P O Box 588
Evergreen, AL 36401
(251) 578-1313 ext. 231

Title IX(Employees)

Brenda Jackson
Administration Building
P O Box 588
Evergreen, AL 36401
(251) 578-1313 ext. 147

Title IX(Students)

Dr. Kevin Ammons
Edith A. Gray Library
PO Box 588
Evergreen, AL 36401
(251) 578-1313 ext. 231

AMERICANS WITH DISABILITIES ACT (ADA)

In addition, the College is in compliance with Section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of disability in the recruitment and employment of faculty and staff, or the operation of any of its programs and activities as specific by Federal Law and Regulations. The College is actively pursuing the guidelines in compliance of the Americans with Disabilities Act. ADA prohibits discrimination on the basis of disability for employees or students. The coordinator for compliance is:

Dr. Kevin Ammons
Edith A. Gray Library
P O Box 588
Evergreen, AL 36401
(251) 578-1313 ext. 231

Persons who believe they have been subjected to discrimination prohibited by Title VI, IX, Section 504, or an Act or Regulation issued thereunder may file with this College a written complaint.

Accommodations:

Students, visitors, and employees requesting accommodations or further information should contact the ADA coordinator. Requests for accommodations will be considered on a case-by-case basis. The college is not required to evaluate students or others requesting accommodation, or pay for such an evaluation. It is the requesting party's responsibility to provide appropriate documentation or evidence of disability and request accommodations.

Handbook Changes

Any changes needed in policies or procedures should be addressed with the person or committee with primary responsibility for that section and the Policy Review Committee or President. To incorporate such changes, the assigned person or committee should submit to the Office of Human Resources an edited section of the handbook or replacement pages, with the source of approval noted. Any new policies or procedures will be communicated to the employees through memorandum by the President or Policy Review Committee. The Office of Human Resources will be responsible for the inclusion of new policy and procedures into the handbook and will issue page updates annually at the beginning of the academic year.

The Office of Human Resources will make revisions that need to be made to the handbook, due to policy changes made by the Alabama Community College Board of Trustees. These revisions will be prepared and page updates will be issued as needed. The entire handbook is revised periodically.

EMPLOYEE RELATIONS

CODE OF CONDUCT

In the interest of creating an educational environment in which teaching and learning are optimized and in which each employee maximizes his/her effectiveness, the employee conduct code below is applicable to all employees. Outlined are various forms of conduct that are prohibited. Violations of the conduct may result in reprimand, suspension, and/or dismissal. The conduct code is subject to all provisions of Alabama Community College System Policy.

As specified in the applicable Alabama Community College System Policy, the activities outlined below are prohibited:

1. Sexual Harassment (ACCS 601.04)
2. Gambling on College Campuses (ACCS 513.01)
3. Smoking in prohibited areas (ACCS 514.01)
4. Possession of firearms, dangerous chemicals, or other dangerous weapons on campus or at College functions (ACCS 511.01)
5. Absence from work without approved leave (ACCS 618.01)
6. Disclosure of confidential information (ACCS 616.01 and 809.01)
7. Failure to report for duty at the beginning of a semester (ACCS 619.01)
8. Pursuit of individual interest resulting in a conflict with the interest of the College (ACCS 615.01)
9. Discrimination based on race, color, national origin, religion, age, disability, marital status, or gender (ACCS 601.01, 601.02, and 601.04)
10. Use of official position and influence to further personal gain or that of a family member or personal associate (ACCS 615.01)

In addition to the behaviors outlined above, the forms of conduct listed below are prohibited:

Theft, tardiness, disruptive conduct, sleeping on the job, abuse of equipment or facilities, violation of published safety regulations, unauthorized solicitations on work premises, use of abusive or threatening communications, unauthorized use of equipment, facilities, or other resources, physical or verbal abuse of persons within the College community, possession or use of alcohol or other controlled substances on campus, and any form of

fraud, dishonesty, or falsification of student records, employment applications, or records kept in performance of job duties.

The Students First Act further specifies that an employee's employment may be terminated for failure to perform his/her duties in a satisfactory manner, neglect of duty, incompetence, insubordination, immorality, justifiable decrease in jobs in the institution, or other good and just causes provided such termination shall not be made for political or personal reasons.

CONFIDENTIALITY

Reid State Technical College maintains strict confidentiality and security of records in compliance with the Privacy Act of 1974 and Health Insurance Portability and Accountability Act (HIPAA), in addition to other federal and state laws. These laws pertain to the security of all records that contain information that could reveal private information concerning an employee.

Faculty, staff, and students or others may have access to such private information to the extent necessary to perform their duties. As an individual with access to private information of the college, you are required to protect against unauthorized access, ensure the security and privacy, and disclose any anticipated threats or hazards to such information. You must be very careful not to release this information to any individuals, including but not limited to unauthorized college employees or students who do not have a legitimate college or business need to know. If in doubt, you should act to preserve the confidence of information requested, until you have verified Reid State's policies through your supervisor or the Office of Human Resources.

Information may not be used, disclosed, copied, sold, loaned, reviewed, altered or destroyed except as properly authorized by the appropriate college official within the scope of applicable federal or state laws, including record retention schedules and corresponding policies. No Reid State employee, student or other individual is permitted to realize any personal gain as a result of disclosing or using confidential information. This obligation of nondisclosure or unauthorized use continues indefinitely, even after your relationship with Reid State ends.

As faculty, staff, student, or volunteer of Reid State, you must abide by the rules, regulations, policies and procedures of Reid State as well as federal and state laws applicable to your position at the college. Your failure to comply with any applicable law or procedure may result in the revocation of your access to confidential information; disciplinary action, including termination of employment; criminal and/or civil penalties, depending upon the nature and severity of the breach of confidentiality.

EMPLOYEE GRIEVANCE

This policy is intended to cover grievances between and amongst employees of an ACCS entity about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against a President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under Policy 620.02.

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within 10 calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify HR personnel and/or the President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 45 calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within 60 calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has 5 calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final.

An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined.

The President's decision will be final.

NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

EMPLOYEE COMPLAINTS

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with the College. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 620.01 or complaints of sexual harassment which are covered in Policy 620.03. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- Discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- Harassment in forms other than sexual,
- Hostile work environment,
- Ethical violations or similar concerns,
- Criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the College or ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The President will designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

SEXUAL HARASSMENT COMPLAINTS

Grievance Procedure for complaints of sexual harassment that is consistent with the requirements of 34 C.F.R. § 106.44 and §106.45 can be found at <https://www.rstc.edu/title9>

This policy is intended to cover complaints of sexual harassment occurring in a College's education programs or activities by an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in a College's educational programs or activities.

HARASSMENT POLICY

Reid State Technical College is committed to providing both employment and educational environments free of harassment in any form. Employees shall adhere to the highest ethical standards and professionalism and refrain from any form of harassment. Both employees and students shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is respected. Any practice or behavior that constitutes harassment shall not be tolerated.

Harassment can be defined as but is not limited to:

- a. Disturbing conduct which is repetitive;
- b. Threatening conduct;
- c. Intimidating conduct;

- d. Inappropriate or offensive slurs, jokes, language, or other verbal, graphic, or other like conduct;
- e. Unwelcome sexual advances, requests for sexual favors, or sexual based offenses;
- f. Assault;
- g. Repeated contact solicited during non-traditional business hours which may be perceived as harassment by recipient unless it is specially associated with work related duties.

Employees and students who are found in violation of this policy shall be disciplined as seemed appropriate by the investigating authority. Harassment of employees or students by non-employees is also a violation of this policy.

This policy encourages faculty, students, and employees who believe that they have been the victims of harassment to contact the Title IX Coordinator, Human Resources director/Coordinator or President at the institution within ten (10) days of when the alleged incident occurred. Any reprisals shall be reported immediately to the Title IX Coordinator, Human Resources Director/Coordinator or President. Any employee or student who becomes aware of any harassment shall report the incident to the Title IX Coordinator, Human Resources Director/Coordinator or President. Failure to act, which includes initial investigation, shall be deemed in direct violation of this policy.

This policy shall be distributed, communicated, and implemented in a manner which provides all interested parties the opportunity to be informed of this policy. A college-wide educational program shall be utilized to assist all members of the college community to understand, prevent and combat harassment.

Complaints or Reports concerning sexual harassment should be made, processed and addressed under ACCS Board Policy 620.03 and the College's Title IX Procedures - Sexual Harassment Complaint Procedures OR to file a Complaint or report sexual harassment see ACCS Board Policy 620.03 and the College's Title IX Procedures - Sexual Harassment Complaint Procedures.

The Director of Human Resources shall review the Sexual Harassment & Discrimination Policy and recommend changes to the President. The college will provide annual training related to harassment, including sexual harassment.

Confidentiality and Assurance Against Retaliation

Every effort possible shall be made to ensure confidentiality of information received as part of an investigation. Complaints will be handled on a “need to know” basis with a view toward protecting the interest of all parties involved. The College will do everything consistent with enforcement of this policy and with the law to protect the privacy of all parties involved and to ensure that all involved are treated fairly.

This policy seeks to encourage students, faculty, and other employees to express freely, responsibly, and in an orderly way, opinions and feelings about any problem or complaint of sexual harassment and discrimination. An employee or student bringing a complaint or assisting in investigating a complaint will not be adversely affected in terms of conditions of employment or enrollment, including any act of reprisal, including internal interference, coercion, and restraint, by a Reid State employee or by one acting on behalf of Reid State. Retaliation against a student or employee for bringing a sexual harassment or discrimination complaint is strictly prohibited. Retaliation is itself a violation of this policy and may be grounds for disciplinary action.

Disciplinary Sanction

A conclusion that sexual harassment and discrimination has occurred shall subject the offender to appropriate disciplinary action and may result in, but not be limited to, his/her suspension, discharge, expulsion, or dismissal. It is the intent of this policy to provide for a prompt and thorough investigation of any complaints.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

[Accreditation](#)[ACCS Board of Trustees](#)[Alabama Community College of
the Fine Arts](#)[Annual Report](#)[Bid Information](#)[Complaint Process](#)[Consumer Information](#)[Development](#)[Economic Impact](#)[Emergency Preparedness](#)[Employee Directory](#)[Employment](#)[Financial Disclosure Data](#)[Historically Black Colleges and
Universities \(HBCU
Designation\)](#)[History](#)[Institutional Effectiveness &
Research](#)[Instructional Locations](#)[Mission, Vision, Values, &
Strategic Plan](#)[Nondiscrimination Policy](#)

Title IX

Shelton State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the College and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on College premises or at any College owned off campus location and while participating in any educational program or activity of the College.

View the [Title IX Sexual Harassment Complaint Procedures](#).

Individuals wishing to report reporting sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Title IX Coordinator for Students

Wyetta Ryan Barnes, Ph.D.

Student Resources Coordinator

9500 Old Greensboro Road

Tuscaloosa, AL 35405

205.391.2481

wryan@sheltonstate.edu

Title IX Coordinator for Employees

Shywanda Moore

Associate Dean of Academic Services

9500 Old Greensboro Road

Tuscaloosa, AL 35405

205.391.2371

srmoore@sheltonstate.edu

and/or

Title IX Sexual Harassment Complaint Procedures

Summary

Shelton State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the College and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on College premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Purpose

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the College conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the College community.

Title IX Coordinators

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Shelton State Community College does not tolerate or condone retaliation. Individuals wishing to report reporting sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Title IX Coordinator for Students:

Wyetta Ryan Barnes, Ph.D.
Student Resources Coordinator
9500 Old Greensboro Road

Tuscaloosa, Alabama 35405
Phone: 205.391.2380
Email: wryan@sheltonstate.edu

Title IX Coordinator for Employees:

Shywanda Moore
Associate Dean of Academic Services
9500 Old Greensboro Road
Tuscaloosa, Alabama 35405
Phone: 205.391.2257
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and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at <https://www.sheltonstate.edu/about-us/> under the Title IX webpage.

POLICY

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.

Definitions of Sexually Based Offenses

Sexual abuse in the first degree:

- (a) A person commits the crime of sexual abuse in the first degree if:
 - (1) He subjects another person to sexual contact by forcible compulsion; or
 - (2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.
- (b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

- (a) A person commits the crime of sexual abuse in the second degree if:
 - (1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
 - (2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.
- (b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

- (a) A person commits the crime of rape in the first degree if:
 - (1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or
 - (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
 - (3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.
- (b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

- (a) A person commits the crime of rape in the second degree if:
 - (1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.
 - (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.
- (b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

- (a) A person commits the crime of sodomy in the first degree if:
 - (1) He engages in deviate sexual intercourse with another person by forcible compulsion; or

- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

(a) A person commits the crime of sodomy in the second degree if:

- (1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.
- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship will be determined based on a consideration of the following factors:

- The length of the relationship,
- The type of relationship,
- The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a)(10)).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report, but do have the option not to report, the incident to campus security or local law enforcement. In those cases, the victim may still seek assistance confidentially from the College or a victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the appropriate campus Title IX Coordinator (i.e. Student or Employee). An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report sexual harassment incident to appropriate Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the

Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in

opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DIMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the Respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College

Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

Neither party may dismiss a College appointed advisor.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a Complainant, Respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no

less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint.

Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or declines cross-examination, the decision makers must not rely on any statement of that witness in reaching a determination regarding responsibility; provided, however, that the decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;

- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant; and
- the College's procedures and permissible bases for the Complainant and Respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Shelton State Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- (i) provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (ii) obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

RETALIATION PROHIBITED

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

RANGE OF POSSIBLE SANCTIONS

On final determination of responsibility the following sanctions which may be imposed against a Respondent include, but are not limited to:

For Students:

- Training
- Referral to counseling
- Reprimand
- Probation
- Loss of Privileges
- Suspension
- Expulsion
- Other penalties which may be set forth by the College

For Employees:

- Training
- Referral to Counseling
- Warning
- Reprimand
- Probation
- Reassignment
- Transfer
- Suspension without pay
- Termination

For Individuals other than employees or student:

- Removal from campus
- Restrictions on future campus access
- Termination of contractual arrangements (if any)

- Referral to law enforcement

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator nor Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at <https://www.sheltonstate.edu/about-us/>

Nondiscrimination Policy

It is the policy of the Alabama Community College System Board of Trustees and Shelton State Community College, a postsecondary institution under its control, that no person shall, on the grounds of race, color, national origin, religion, marital status, disability, gender, age, or any other protected class as defined by federal and state law, be excluded from participation, denied benefits, or subjected to discrimination under any program, activity, or employment. (Sources: ACCS Board of Trustees Policies 601.02 – 4.13.16 and 800.00 – 5.10.17) Updated: 2.15.2018

Nondiscrimination Policy Contact Information

Title IX Coordinator for Students

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Title IX Coordinator for Employees

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srmoore@sheltonstate.edu

Full policies of Shelton State Community College are published in the Employee Handbook, College Catalog, or the Student Handbook. While this website attempts to present information accurately, it does not constitute the complete statement of policies of Shelton State Community College. Contents are subject to change without notice.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

POLICY 401.03: Nondiscrimination**EFFECTIVE: 04-13-2016****SUPERSEDES:** College Handbook, Revised November 2006**CROSS REFERENCE:** ACCS Board Policy 601.02

No employee or applicant for employment or promotion shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law.

POLICY 420.02: Employee Complaints**EFFECTIVE: 11-10-2020****SUPERSEDES:** College Handbook, Revised November 2006; ACCS Board Policy 620.02 issued 04-10-2019**SOURCE:** *Code of Alabama* 16-60-111.4**CROSS REFERENCE:** ACCS Board Policy 620.02

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with Snead State Community College. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 420.01 or complaints of sexual harassment which are covered in ACCS Policy 620.03. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within Snead State Community College (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

that level, the student may file a formal written grievance.

Step 2: Formal Grievance

A student who has attempted informal resolution without success may file a formal written grievance. The student should fully complete and submit the electronic student grievance form found on the Snead State website. In the event that a student does not wish to submit his/her grievance form electronically, the student may request a paper form from the Office of the Vice President for Student Services. Upon submission, the form will be submitted to the appropriate Executive Cabinet member over the area in which the student has a concern. The Executive Cabinet member (or designee) will conduct an investigation within ten (10) working days of receiving the complaint. The outcome of the investigation will then be communicated to the student within thirty (30) working days of receiving the complaint.

ALABAMA COMMUNITY COLLEGE SYSTEM

If, after exhausting all available institutional processes, a student's grievance remains unresolved, the student may appeal to the Alabama Community College System using the System's official Student Complaint Form, which is available online at the ACCS website (www.accs.edu). Students may submit completed forms by printing the form, signing it, and then either (1) scanning and emailing it to complaints@accs.edu or (2) mailing to Alabama Community College System, Attention: Division of Student Affairs, P.O. Box 302130, Montgomery, AL 36130.

Accreditation

Grievances regarding accreditation may also be made by contacting the Southern Association of Colleges and Schools Commission on Colleges, 1866 Southern Lane, Decatur, Georgia, 30033-4097, telephone: 404-679-4500 (www.sacscoc.org).

Out-of-State Students & NC-SARA

Snead State Community College desires to resolve student grievances, complaints, and concerns in an expeditious, fair, and amicable manner. Students residing outside of the State of Ala-

bama while attending Snead State who desire to resolve a grievance should follow the College's Complaint / Grievance Procedures for Students. However, if an issue cannot be resolved internally, students may file a complaint with their own state. Contact information for other state agencies may be found at <https://nc-sara.org/directory>.

DRUG-FREE WORKPLACE

In compliance with the provisions of the Federal Drug-Free Workplace Act of 1988, and the Drug-Free Scholar and Communities Act of 1989, Snead State Community College will take such steps as are necessary in order to provide a drug-free environment in accordance with these acts.

DISCRIMINATION POLICY

No employee or applicant for employment or promotion, shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law.

HARASSMENT POLICY

1. Snead State Community College and the Alabama Community College System are committed to providing both employment and educational environments free of harassment in any form. Employees shall adhere to the highest ethical standards and professionalism and refrain from any form of harassment. Both employees and students shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is respected. Any practice or behavior that constitutes harassment shall not be tolerated.
2. Harassment can be defined as but is not limited to:
 - Disturbing conduct which is repetitive;
 - Threatening conduct;
 - Intimidating conduct;

- Inappropriate or offensive slurs, jokes, language, or other verbal, graphic, or other like conduct;
 - Unwelcome sexual advances, requests for sexual favors, or sexual based offenses;
 - Assault;
 - Repeated contact solicited during non-traditional business hours which may be perceived as harassment by recipient unless it is specifically associated with work related duties.
3. Employees and students who are found in violation of this policy shall be disciplined as deemed appropriate by the investigating authority.
 4. Harassment of employees or students by non-employees is also a violation of this policy.
 5. This policy encourages faculty, students, and employees who believe that they have been the victims of harassment to contact the Title IX Coordinator, Human Resources Director, or President at the institution within ten days of when the alleged incident occurred. Any reprisals shall be reported immediately to the Title IX Coordinator, Human Resources Director, or President. Any employee or student who becomes aware of any harassment shall report the incident to the Title IX Coordinator, Human Resources Director, or President. Failure to act, which includes initial investigation, shall be deemed in direct violation of this policy.

Individuals wishing to report sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Ms. Brittany Goble
 Director of Student Support and Engagement/
 Title IX Coordinator
 220 N. Walnut Street, Boaz, AL 35957
 (256) 840-4208
 Email: brittany.goble@snead.edu
 Office: lower level of McCain Student Center
 The Title IX sexual harassment complaint procedures may be found on the Snead State website

at www.snead.edu/title-ix or upon request to the Title IX Coordinator, Ms. Brittany Goble.

CAMPUS SECURITY

It is the policy of Snead State Community College that any criminal act; act or threat of violence; serious injury; destruction of college or personal property; traffic accident; or other situation that occurs on the main campus of, any branch campus of, or any other site operated by Snead State Community College, and that may constitute an emergency (a danger to the health, safety, or property of any person or a threat to public order) be reported immediately by calling 911, and please also report the incident to the Office of Security in Elder Hall Residence Hall at 256-840-4167, 256-264-5060 (cell), and/or the Boaz Police Department at 256-593-6812. Notifications should include the Vice President for Student Services, 256-840-4150, and/or Vice President for Academic Affairs 256-840-4188, if Security is unavailable. In any actual emergency, please respond by dialing 911.

Again, in the event of any incident of an emergency nature, please dial 911 immediately. Other notifications may take place afterwards. SSCC Security will work with local responders to aid in the resolution of the incident. All witnesses to any situation that fits into any of the above described categories shall make themselves available to provide written statements and otherwise assist College, law enforcement, and security officials in an investigation of the event. It shall be an offense subject to appropriate disciplinary action for any Snead State Community College employee or student to file a false report or knowingly make a false statement, interfering with the investigation of any situation of the nature described above.

It shall be the duty of the College, upon its designated official or officials being made aware of any situation of a nature previously described, to immediately take all reasonable and prudent action to prevent or minimize any further harm or threat of harm to the employees, students, and visitors of Snead State Community College. It shall be the duty of said official(s) to notify the appropriate law enforcement and security officials in the event of an act of a criminal nature, or of any

(2) business days of receipt of notice by the student(s) of the decision of the Appeals Board or Student Discipline Committee, respectively.

The decision of the President is final. The President may approve, overturn, or amend the prior decision(s). The President shall notify, in writing, the student, the Student Discipline Committee, the Appeals Board, and the Vice President for Student Services of the decision(s) rendered.

GRIEVANCE PROCEDURES

Snead State Community College strives to provide the best instructional atmosphere and level of service to students. At times, however, students may have an issue, concern, or complaint regarding their educational experience. In such cases, Snead State Community College strives to resolve issues as quickly as possible and at the level closest to the issue.

Students should follow the procedures listed below to resolve their concerns or complaints.

Step 1: Informal Resolution

Complaint regarding a class or instructor: The first step a student must take in resolving a complaint regarding an academic situation is to discuss it with the faculty member directly. If that discussion does not resolve the issue, the student should then reach out to the respective Division Director that oversees the instructor. If the issue is still not resolved, the student should speak to the Vice President for Academic Affairs. If there is no resolution at that level, the student may file a formal written grievance.

Complaint about another student: The first step is to discuss the concern with the other student. If the student with the concern is uncomfortable addressing the other student, he or she may contact the Director of Student Support & Engagement. If there is no resolution at that level, the student may file a formal written grievance.

Complaint about sexual harassment and/or sexual violence: The student should immediately contact the Title IX Coordinator at the college. At Snead State Community College, the Director of Student Support and Campus Engagement

serves as the Title IX Coordinator. More information concerning the Title IX process may be found in the Snead State Student Handbook.

Other complaints: If the student has a complaint regarding college services (i.e. financial aid, disability services, facilities, advising and registration, admissions, computer accounts, business office, etc.), she or he should first attempt to resolve the issue by speaking with the supervisor in that department. If the issue is not resolved at that level, the student may file a formal written grievance.

Step 2: Formal Grievance

A student who has attempted informal resolution without success may file a formal written grievance. The student should fully complete and submit the electronic student grievance form found on the Snead State website. In the event that a student does not wish to submit his/her grievance form electronically, the student may request a paper form from the Office of the Vice President for Student Services. Upon submission, the form will be submitted to the appropriate Executive Cabinet member over the area in which the student has a concern. The Executive Cabinet member (or designee) will conduct an investigation within ten (10) working days of receiving the complaint. The outcome of the investigation will then be communicated to the student within thirty (30) working days of receiving the complaint.

ALABAMA COMMUNITY COLLEGE SYSTEM

If, after exhausting all available institutional processes, a student's grievance remains unresolved, the student may appeal to the Alabama Community College System using the System's official Student Complaint Form, which is available online at the ACCS website (www.accs.edu). Students may submit completed forms by printing the form, signing it, and then either (1) scanning and emailing it to complaints@accs.edu or (2) mailing to Alabama Community College System, Attention: Division of Student Affairs, P.O. Box 302130, Montgomery, AL 36130.

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Snead State Community College desires to resolve student grievances, complaints, and concerns in an expeditious, fair, and amicable manner. Students residing outside of the State of Alabama while attending Snead State who desire to resolve a grievance should follow the College's Complaint / Grievance Procedures for Students. However, if an issue cannot be resolved internally, students may file a complaint with their own state. Contact information for other state agencies may be found at <https://nc-sara.org/directory>.

TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES

A. INTRODUCTION

Snead State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence

and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Snead State Community College does not tolerate or condone retaliation. Individuals wishing to report sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Ms. Brittany Goble

Director of Support Services and Engagement/ Title IX Coordinator

McCain Center (Boaz campus)

Post Office Box 734, Boaz, Alabama 35957

Phone: 256-840-4208

Email: brittany.goble@snead.edu

and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of
Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCT@ed.gov

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at www.snead.edu under the Title IX webpage.

POLICY

The U.S. Department of Education's Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this

procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.

DEFINITIONS OF SEXUALLY BASED OFFENSES

Sexual abuse in the first degree:

(a) A person commits the crime of sexual abuse in the first degree if:

1. He subjects another person to sexual contact by forcible compulsion; or
2. He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.

(b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

(a) A person commits the crime of sexual abuse in the second degree if:

1. He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
2. He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

(b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

(a) A person commits the crime of rape in the first degree if:

1. He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or
2. He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
3. He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.

(b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

(a) A person commits the crime of rape in the second degree if:

1. Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.
2. He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.

(b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

(a) A person commits the crime of sodomy in the first degree if:

1. He engages in deviate sexual intercourse with another person by forcible compulsion; or
2. He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
3. He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

(a) A person commits the crime of sodomy in the second degree if:

1. He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.
2. He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has

a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

- (a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (b) Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - The length of the relationship,
 - The type of relationship,
 - The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10)).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(4)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Family Services of North Alabama (855-878-9159) or any other victim service agency of their choosing.

FORMAL COMPLAINT PROCESS**A. INITIAL STEPS**

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator [Ms. Brittany Goble; 256-840-4208; brittany.goble@snead.edu]. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s)

and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confi-

dential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. STANDARD OF EVIDENCE FOR DETERMINING RESPONSIBILITY

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DISMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

Neither party may dismiss a College appointed advisor.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days or receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investiga-

tor will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic re-

cording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer

- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dis-

missing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or declines cross-examination, the decision makers must not rely on any statement of that witness in reaching a determination regarding responsibility; provided, however, that the decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;



ity, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and

- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Snead State Community College or his/her designee shall be the ap-

peal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a

claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- (i) provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (ii) obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

L. RETALIATION PROHIBITED

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose inter-

fering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Range of Possible Sanctions – On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

- **Informal Reprimand** – an oral expression of disapproval to the student for violation of rules and regulations that may require disciplinary actions.
- **Formal Reprimand** – a written expression of disapproval to the student for violation of rules and regulations that may require disciplinary action.
- **Probation** – probation is for a stated period of time. A student on probation may be subject to loss of privilege to represent the College or a College organization.
- **Community Service** – performance of duties under the supervision of local agencies or College officials.
- **Restitution** – the student may be required to make compensation for certain violations or assessed fees for damage.
- **Suspension** – suspension is for a stated period of time. A student may be suspended from participating or attending college-related activities – it

may be from all college-related things, from specific courses, from specific locations on campus (i.e. campus housing, library, gymnasium, etc.), or from a particular college-related activity or event. The suspension should state if it is from all college-related classes/ events or whether it is specific to certain limitations.

- **Expulsion** – dismissal from the College for two years after which the student may apply to the Discipline Committee for consideration of readmission.
- **No Contact Order** – student is precluded from having any contact and/or communication with specified person(s) for a specified amount of time.
- **No Trespass Order** – student is precluded from being on College premises. It may stipulate all College property or specific locations.

For Employees:

- Verbal or Written Warning
- Adverse Performance Evaluation
- Reduction in Wages
- Transfer
- Demotion
- Suspension
- Dismissal / Termination
- No Contact Order
- No Trespass Order

For individuals other than employees or students:

- Verbal or Written Warning
- No Contact Order
- No Trespass Order
- Restitution
- Termination of contractual agreements

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and

the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at www.snead.edu under the Title IX webpage.

DRUG AND ALCOHOL ABUSE: AWARENESS AND PREVENTION

Information on Legal Sanctions Regarding Unlawful Use, Possession, or Distribution of Alcoholic Beverages and Illicit Drugs

Any employee, student, or visitor who engages in any behavior prohibited by Drug, Alcohol, & Weapons Policy, and/or which is a violation of federal, state, or local laws or ordinances, shall be subject to referral to law enforcement officials for arrest and prosecution in addition to any disciplinary sanctions that might be imposed by the College.

STATE OF ALABAMA LAWS AND SANCTIONS

The information presented below refers to drug "Schedules" which make reference to the authorization by the Alabama State Legislature for the Alabama State Board of Health to classify drugs in terms of their potential for abuse and/or their current usage in medical treatment. Schedule I substances consist pri-

Title IX

Snead State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College-owned off campus location and while participating in any educational program or activity of the College.

/ Title IX Sexual Harassment Complaint Procedures

[The Title IX Sexual Harassment Complaint Procedures can be found here.](#)

Individuals wishing to report sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Ms. Brittany Goble

Director of Student Support and Engagement/ Title IX Coordinator

McCain Center (Boaz Campus)

P.O. Box 734, Boaz, Alabama 35957

(256) 840-4208

brittany.goble@snead.edu



SOUTHERN UNION
STATE COMMUNITY COLLEGE

Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

1. The name, address, position, title, email, telephone number and fax number for each College Title IX Coordinator.

Derika Hodge, Associate Dean of Student Affairs, 750 Roberts Street, Wadley, AL 36276

dhodge@suscc.edu, 256 395-2211

Sandra Hughley, Executive Director of Human Resources/SPO, 750 Roberts Street, Wadley, AL 36276

shughley@suscc.edu, 256 395-2211

2. The name, address, position, title, email, telephone number and fax number for the person at each College who is designated to oversee the compliance with the civil rights laws or complaints of discrimination or harassment based on protected characteristics.

Sandra Hughley, Executive Director of Human Resources/SPO, 750 Roberts Street, Wadley, AL 36276

shughley@suscc.edu, 256 395-2211

3. Copies of each College's grievance/complaint policy/process for Title IX complaints.

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Crisis Services of North Alabama or any other victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DISMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,

- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

Neither party may dismiss a College appointed advisor.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days or receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior

unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or declines cross-examination, the decision makers must not rely on any statement of that witness in reaching a determination regarding responsibility; provided, however, that the decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Southern Union State Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's

receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- i. provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- ii. obtains the parties' voluntary, written consent to the informal resolution process; and
- iii. does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

- L. RETALIATION PROHIBITED. Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

RANGE OF POSSIBLE SANCTIONS

On final determination of responsibility, the following sanctions which may be imposed against a Respondent include, but are not limited to:

For Students:

- Training
- Referral to counseling
- Reprimand
- Probation
- Loss of Privileges
- Suspension
- Expulsion
- Other penalties which may be set forth by the College
- Referral to law enforcement

For Employees:

- Training
- Referral to Counseling
- Warning
- Reprimand
- Probation
- Reassignment
- Transfer
- Suspension without pay
- Termination
- Referral to law enforcement

For Individuals other than employees or student:

- Removal from campus
- Restrictions on future campus access
- Termination of contractual arrangements (if any)
- Referral to law enforcement

4. Copies of each College's grievance/complaint policy/process for non-Title IX complaints of harassment or discrimination based on protected characteristics.

620.01: Employee Grievance, This policy is intended to cover grievances between and amongst employees of an ACCS entity about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against a President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under Policy 620.02. Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within 10 calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify HR personnel and/or the President

as appropriate. The supervisor, or other person appointed to address the grievance, must review the written statement and investigate the claims within 45 calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within 60 calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has 5 calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final. An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined. The President's decision will be final. NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

Policy 620.02: Employee Complaints: This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with an ACCS entity. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 620.01 or complaints of sexual harassment which are covered in Policy 620.03. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation. The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

5. Copies of each College's non-discrimination policy.

POLICY NAME: 601.02: No employee or applicant for employment or promotion, shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law.

FORWARD

This handbook is intended to provide important information regarding the employment policies, practices, and procedures for Shelton State Community College employees. The College reserves the right, with or without prior notice, to change, supplement, or eliminate the information in this handbook as deemed necessary to meet the needs of the College or as otherwise required for consistency with the policies of the Alabama Community College System Board of Trustees. The handbook promotes the mission of the College and guides the work of administrative, instructional, and support personnel in accomplishing the purpose and objectives of the institution. The information contained in this handbook is in keeping with Alabama law, the policies of the Alabama Community College System Board of Trustees, and the local policies of the College.

Although this handbook intends to reflect the current policies, procedures, and guidelines of the Alabama Community College System Board of Trustees and the College, the user is cautioned that changes or additions to policies, procedures, and guidelines may have become effective since the publication of this handbook. In the event of such an occurrence, the most recent official guidance from the Alabama Community College System Board of Trustees and the College shall prevail. In the event of any conflict or ambiguity between the language of this handbook and the official language of the policies of the Alabama Community College System Board of Trustees, the official language of the policies of the Alabama Community College System Board of Trustees will control and supersede the language of this handbook. The published policies of the Alabama Community College System Board of Trustees may be found online at <https://www.accs.cc/index.cfm/board-of-trustees/policies-and-procedures>.

The handbook is intended as a resource to promote a smooth work environment for the College. This handbook supersedes and replaces any previous employee handbook of the College. However, this handbook is not intended to be exhaustive or all-inclusive of all policies or procedures that govern the operation of the College. Furthermore, no provision or portion of this handbook constitutes an implied or expressed contract, guarantee, or assurance of employment or any right to an employment-related benefit or procedure and does not change the at-will nature of employment for those employed as at-will employees.

If you have questions concerning interpretations of the policies contained in this handbook, please contact the Office of Human Resources.

404 Nondiscrimination [ACCS 601.02]

Shelton State Community College and the Alabama Community College System are committed to providing both employment and educational environments free of discrimination related to an individual's race, color, national origin, religion, marital status, disability, sex, age, or any other protected class as defined by federal and state law. Any practice or behavior that constitutes discrimination shall not be tolerated on any College property or in any division or department by any employee, student, agent, or non-employee on College property and while engaged in any College sponsored activities.

Employees should further note that Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance. The sexual harassment of students can be a form of discrimination prohibited by Title IX. The Office for Civil Rights has long recognized that sexual harassment of students engaged in by school employees, other students, or third parties is covered by Title IX. OCR's policy and practice is consistent with the Congress' goal in enacting Title IX -- the elimination of sex-based discrimination in federally assisted education programs. It is also consistent with United States Supreme Court precedent and well-established legal principles that have developed under Title IX, as well as under the related anti-discrimination provisions of Title VI and Title VII of the Civil Rights Act of 1964. The Title IX Coordinator for Employees is the Executive Assistant to the President. The Title IX Coordinator for Students is the Dean of Student Services.

In addition, the College is in compliance with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in the recruitment and employment of faculty and staff, or the operation of any of its programs and activities, as specified by Federal Law and Regulations. Persons or any specific class of individuals who believe they have been subjected to discrimination prohibited by Titles VI, IX, Section 504 of the Rehabilitation Act of 1973, or an Act or Regulation issued there under may, alone or with a representative, file with the United States Commissioner of Education or with this institution, or with both, a written complaint.

Reporting Acts of Discrimination

Pursuant to the Alabama Community College System Board of Trustees' Policy 620.02 employees of the College who believe that they have been the victim of illegal discrimination should immediately report the matter as outlined in Policy 602 of this Employee Handbook. If anyone in the reporting chain is the alleged offender then that person should be omitted from the reporting. Employees must exhaust all administrative remedies prior to filing a lawsuit. Employees assisting students in presenting a claim of discrimination should bring the matter to the attention of the Title IX Coordinator for Students.

Misconduct constituting discrimination or retaliation will be dealt with appropriately. Responsive action may include, for example, training, referral to counseling, or disciplinary action such as a

warning, reprimand, reassignment, temporary suspension without pay, or termination, as the College believes appropriate under the circumstances.

Retaliation against an individual for reporting discrimination or for participating in an investigation of a claim of discrimination is a serious violation of this policy and, like discrimination itself, will be subject to disciplinary action. Acts of retaliation should be reported immediately and will be promptly investigated and addressed. False and malicious complaints of discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) may be the subject of appropriate disciplinary action.

602 Employee Complaint Procedure [ACCS 620.02]

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with an ACCS entity. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 601. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- sexual harassment,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within forty-five (45) calendar days if practical, but not later than sixty (60) days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within fifteen (15) calendar days if practical, but not later than thirty (30) days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined. Employees must exhaust all administrative remedies prior to filing a lawsuit.

Title IX Sexual Harassment Complaint Procedures

Summary

Shelton State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the College and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on College premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Purpose

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the College conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the College community.

Title IX Coordinators

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Shelton State Community College does not tolerate or condone retaliation. Individuals wishing to report reporting sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Title IX Coordinator for Students:

Wyetta Ryan Barnes, Ph.D.
Student Resources Coordinator
9500 Old Greensboro Road

Tuscaloosa, Alabama 35405
Phone: 205.391.2380
Email: wryan@sheltonstate.edu

Title IX Coordinator for Employees:

Shywanda Moore
Associate Dean of Academic Services
9500 Old Greensboro Road
Tuscaloosa, Alabama 35405
Phone: 205.391.2257
Email: srmoore@sheltonstate.edu

and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: [OCT@ed.gov](mailto:OCR@ed.gov) (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at <https://www.sheltonstate.edu/about-us/> under the Title IX webpage.

POLICY

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.

Definitions of Sexually Based Offenses

Sexual abuse in the first degree:

- (a) A person commits the crime of sexual abuse in the first degree if:
 - (1) He subjects another person to sexual contact by forcible compulsion; or
 - (2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.
- (b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

- (a) A person commits the crime of sexual abuse in the second degree if:
 - (1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
 - (2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.
- (b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

- (a) A person commits the crime of rape in the first degree if:
 - (1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or
 - (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
 - (3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.
- (b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

- (a) A person commits the crime of rape in the second degree if:
 - (1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.
 - (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.
- (b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

- (a) A person commits the crime of sodomy in the first degree if:
 - (1) He engages in deviate sexual intercourse with another person by forcible compulsion; or

- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

(a) A person commits the crime of sodomy in the second degree if:

- (1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.
- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship will be determined based on a consideration of the following factors:

- The length of the relationship,
- The type of relationship,
- The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a)(10)).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report, but do have the option not to report, the incident to campus security or local law enforcement. In those cases, the victim may still seek assistance confidentially from the College or a victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the appropriate campus Title IX Coordinator (i.e. Student or Employee). An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the Respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report sexual harassment incident to appropriate Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the

Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in

opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DIMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the Respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College

Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

Neither party may dismiss a College appointed advisor.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a Complainant, Respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the Complainant or Respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no

less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint.

Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or declines cross-examination, the decision makers must not rely on any statement of that witness in reaching a determination regarding responsibility; provided, however, that the decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;

- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the Respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the Complainant; and
- the College's procedures and permissible bases for the Complainant and Respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Shelton State Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- (i) provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (ii) obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

RETALIATION PROHIBITED

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

RANGE OF POSSIBLE SANCTIONS

On final determination of responsibility the following sanctions which may be imposed against a Respondent include, but are not limited to:

For Students:

- Training
- Referral to counseling
- Reprimand
- Probation
- Loss of Privileges
- Suspension
- Expulsion
- Other penalties which may be set forth by the College

For Employees:

- Training
- Referral to Counseling
- Warning
- Reprimand
- Probation
- Reassignment
- Transfer
- Suspension without pay
- Termination

For Individuals other than employees or student:

- Removal from campus
- Restrictions on future campus access
- Termination of contractual arrangements (if any)

- Referral to law enforcement

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the Complainant and the Respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator nor Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at <https://www.sheltonstate.edu/about-us/>



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

EMPLOYEE GRIEVANCE

This policy is intended to cover grievances between and amongst employees of an ACCS entity about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against a President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under Policy 620.02.

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within 10 calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify HR personnel and/or the President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 45 calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within 60 calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has 5 calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final.

An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined.

The President's decision will be final.

NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

EMPLOYEE COMPLAINTS

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with the College. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 620.01 or complaints of sexual harassment which are covered in Policy 620.03. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the College or ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The President will designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

SEXUAL HARASSMENT COMPLAINTS

Grievance Procedure for complaints of sexual harassment that is consistent with the requirements of 34 C.F.R. § [106.44](#) and §[106.45](#) can be found at https://www.trenholmstate.edu/uploads/files/Title_IX_Procedures_8_12_2020.pdf.

This policy is intended to cover complaints of sexual harassment occurring in a College's education programs or activities by an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in a College's educational programs or activities.

HARASSMENT POLICY

The Trenholm State Community College is committed to providing both employment and educational environments free of harassment in any form. Employees shall adhere to the highest ethical standards and professionalism and refrain from any form of harassment. Both employees and students shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is respected. Any practice or behavior that constitutes harassment shall not be tolerated.

Harassment can be defined as but is not limited to:

- a. Disturbing conduct which is repetitive;
- b. Threatening conduct;
- c. Intimidating conduct;
- d. Inappropriate or offensive slurs, jokes, language, or other verbal, graphic, or other like conduct;
- e. Unwelcome sexual advances, requests for sexual favors, or sexual based offenses;
- f. Assault;
- g. Repeated contact solicited during non-traditional business hours which may be perceived as harassment by recipient unless it is specifically associated with work related duties.

Employees and students who are found in violation of this policy shall be disciplined as deemed appropriate by the investigating authority. Harassment of employees or students by non-employees is also a violation of this policy.

This policy encourages faculty, students, and employees who believe that they have been the victims of harassment to contact the Title IX Coordinator, Human Resources

Director/Coordinator or President at the institution within ten (10) days of when the alleged incident occurred. Any reprisals shall be reported immediately to the Title IX Coordinator, Human Resources Director/Coordinator or President. Any employee or student who becomes aware of any harassment shall report the incident to the Title IX Coordinator, Human Resources Director/Coordinator or President. Failure to act, which includes initial investigation, shall be deemed in direct violation of this policy.

This policy shall be distributed, communicated, and implemented in a manner which provides all interested parties the opportunity to be informed of this policy. A college-wide educational program shall be utilized to assist all members of the college community to understand, prevent and combat harassment.

Complaints or Reports concerning sexual harassment should be made, processed and addressed under ACCS Board Policy 620.03 and the College's Title IX Procedures - Sexual Harassment Complaint Procedures OR to file a Complaint or report sexual harassment see ACCS Board Policy 620.03 and the College's Title IX Procedures - Sexual Harassment Complaint Procedures at https://www.trenholmstate.edu/uploads/files/Title_IX_Procedures_8_12_2020.pdf

Sexual Harassment Training

The Director of Human Resources shall review the Sexual Harassment & Discrimination Policy and recommend changes to the President. The college will provide annual training related to harassment, including sexual harassment.

Confidentiality and Assurance Against Retaliation

Every effort possible shall be made to ensure confidentiality of information received as part of an investigation. Complaints will be handled on a "need to know" basis with a view toward protecting the interest of all parties involved. The College will do everything consistent with enforcement of this policy and with the law to protect the privacy of all parties involved and to ensure that all involved are treated fairly.

This policy seeks to encourage students, faculty, and other employees to express freely, responsibly, and in an orderly way, opinions and feelings about any problem or complaint of sexual harassment and discrimination. An employee or student bringing a complaint or assisting in investigating a complaint will not be adversely affected in terms of conditions of employment or enrollment, including any act of reprisal, including internal interference, coercion, and restraint, by a Trenholm State employee or by one acting on behalf of Trenholm State. Retaliation against a

student or employee for bringing a sexual harassment or discrimination complaint is strictly prohibited. Retaliation is itself a violation of this policy and may be grounds for disciplinary action.

Disciplinary Sanction

A conclusion that sexual harassment and discrimination has occurred shall subject the offender to appropriate disciplinary action and may result in, but not be limited to, his/her suspension, discharge, expulsion, or dismissal. It is the intent of this policy to provide for a prompt and thorough investigation of any complaints.

Trenholm State's Non-discrimination Policy

It is the official policy of Trenholm State Community College that no employee or applicant for employment or promotion shall be discriminated against on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law.



TITLE IX PROCEDURES

TRENHOLM STATE COMMUNITY COLLEGE

REVISED 10/5/2021

1225 Air Base Blvd. Montgomery, AL 36108

Title IX Procedures

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Title IX Sexual Harassment Complaint Procedures

A. INTRODUCTION

Trenholm State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Trenholm State Community College does not tolerate or condone retaliation. Individuals wishing to report reporting sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Dr. Pamalon Rollins (Employees)
Director of Human Resources/SPO

1225 Airbase Blvd., A/B Administrative Building
P.O. Box 10048
Montgomery, Alabama 36108
Phone: 334. 420.4253
Email: prollins@trenholmstate.edu

Theresa Mays (Students)
Dean of Students
1225 Airbase Blvd., Building F
P.O. Box 10048
Montgomery, Alabama 36108
Phone: 334.420.4296
Email: tmays@trenholmstate.edu

and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCT@ed.gov (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at www.trenholmstate.edu under the Title IX webpage.

POLICY

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive

or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.

Definitions of Sexually Based Offenses

Sexual abuse in the first degree:

(a) A person commits the crime of sexual abuse in the first degree if:

- (1) He subjects another person to sexual contact by forcible compulsion; or
- (2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.

(b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

(a) A person commits the crime of sexual abuse in the second degree if:

- (1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
- (2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

(b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

(a) A person commits the crime of rape in the first degree if:

(1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or

(2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.

(b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

(a) A person commits the crime of rape in the second degree if:

(1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.

(2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.

(b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

(a) A person commits the crime of sodomy in the first degree if:

(1) He engages in deviate sexual intercourse with another person by forcible compulsion; or

(2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

(3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

(a) A person commits the crime of sodomy in the second degree if:

(1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.

(2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship will be determined based on a consideration of the following factors:

- ☐ The length of the relationship,
- ☐ The type of relationship,
- ☐ The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10)).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Crisis Services of North Alabama or any other victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator [link to Title IX webpage]. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a “preponderance of evidence” standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant’s desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DIMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

Neither party may dismiss a College appointed advisor.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees

will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct

the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence. **(NOTE: A Hearing Officer may be utilized in addition to the Hearing Decision Maker (s).)**

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor

- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific

incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

Decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Trenholm State Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- (i) provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (ii) obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

- L. **RETALIATION PROHIBITED.** Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Range of Possible Sanctions – On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

- *Expulsion* means that a student is removed from the College permanently and may not seek readmission.
- *Suspension for a Definite or Indefinite Period* means that the student must leave the College for a definite or indefinite period. This form of suspension anticipates that the student may eventually return if applicable conditions are satisfied.
- *Probation for a Definite or Indefinite Period* means that a student is not in good standing and may remain at the College but may be required to satisfy specified conditions or requirements.
- *Educational Requirements*. Completion of projects, programs, or requirements designed to help the student manage behavior and understand why it was inappropriate.
- *“No Contact” Orders*. Compliance with orders of no contact that limit access to specific College areas or forms of contact with particular persons.
- *Written Warning*. Written warning in the form of an official reprimand that is formally communicated by a letter giving the student notice that any subsequent Title IX Policy violation will carry more serious sanctions.

For Employees:

- *Employment Termination* means that the employment relationship shall end and be removed from the College permanently.
- *Suspension for a Definite Period* means that the staff must leave the College for a definite period. This form of suspension anticipates that the employee may eventually return if applicable conditions are satisfied.
- *“No Contact” Orders*. Compliance with orders of no contact that limit access to specific College areas or forms of contact with particular persons.
- *Written Warning*. Written warning in the form of an official reprimand that is formally communicated by a letter giving the staff notice that any subsequent Title IX Policy violation will carry more serious sanctions.

For Individuals other than employees or student:

- Termination of the relationship with the college.
- Removal of privileges of being on the college campus.

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party’s advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at www.trenholmstate.edu



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Policies and Procedures for Compliance with 40 CFR Parts 5 and 7



Sexual Misconduct Policy

Title IX Sexual Harassment Introduction

Wallace Community College – Dothan (WCCD) is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the College and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. WCCD does not tolerate or condone retaliation. Individuals wishing to report sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact the following individuals:

Title IX Coordinators

Employee Contact

Ms. Keyashia Sheppard
Wallace Community College
1141 Wallace Drive
Dothan, AL 36303
Phone: 334-556-2557
Email: ksheppard@wallace.edu

Students Contact

Ms. Shaletha Barnes-Blackmon
Wallace Community College
1141 Wallace Drive
Dothan, AL 36303
Phone: 334-556-2511
Email: sblackmon@wallace.edu

and/or

Assistant Secretary

U.S. Department of Education Office for Civil Rights

Lyndon Baines Johnson Department of Education Building 400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at www.wallace.edu under the Title IX webpage.

Title IX Policy

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

Definitions Relating To Sexual Harassment

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence. Definitions of Sexually Based Offenses.

Definitions of Sexual Based Offenses

Sexual abuse in the first degree:

- A person commits the crime of sexual abuse in the first degree if:
 - He subjects another person to sexual contact by forcible compulsion; or
 - He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.
- Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

- A person commits the crime of sexual abuse in the second degree if:
 - He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
 - He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.
- Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

- A person commits the crime of rape in the first degree if:
 - He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or
 - He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
 - He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.
- Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

- A person commits the crime of rape in the second degree if:
 - Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.
 - He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.
- Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

- A person commits the crime of sodomy in the first degree if:
 - He engages in deviate sexual intercourse with another person by forcible compulsion; or
 - He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or

- He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.
- Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

- A person commits the crime of sodomy in the second degree if:
 - He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.
 - He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.
- Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

- Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).
- In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

- Means violence committed by a person –
 - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - The length of the relationship,
 - The type of relationship,
 - The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10).
- In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

- Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).
- In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

- Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Complaint Process

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Crisis Services in the Wiregrass area or any other victim service agency of their choosing.

Community Sources:

Local Law Enforcement Officials

Dale County Sheriff's Department.....	(334) 774-2335
Dothan Police Department	(334) 615-3601
Eufaula Police Department	(334) 684-1200

Medical Facilities

Southeast Health.....	(334) 793-8111
Flowers Hospital, Dothan, AL.....	(334) 793-5000
Medical Center Barbour, Eufaula, AL.....	(334) 688-7000
Dale Medical Center, Ozark, AL.....	(334) 774-2601

Sexual Assault Crisis Assistance

Alabama Coalition Against Sexual Assault	www.acasv.org
The House of Ruth Crisis Line	(334) 793-2232 or (800) 650-6522
The House of Ruth Crime Victims Assistance	(334) 290-4420

Formal Complaint Process

Initial Steps

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus [Title IX Coordinator](#). An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

Reporting a Complaint

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

Supportive Measures

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as

reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

Formal Complaint Process

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- The date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

Dismissal of Formal Complaint

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

Notice of Allegations

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal

complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

Advisors

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

- Only an advisor may conduct cross-examination during the live hearing.
- Neither party may dismiss a College appointed advisor.

Investigation Procedure

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

Live Hearing Procedure

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

Decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- Identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination

regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

Appeal Procedure

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Wallace Community College - Dothan or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution

The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a

formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

- obtains the parties' voluntary, written consent to the informal resolution process; and
- does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Retaliation Prohibited

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

TITLE IX SANCTIONS

Range of Possible Sanctions

On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

- **Disciplinary Reprimand.** This may be an oral or written warning. It notifies a student that any further violation of College regulations may subject the student to more severe disciplinary actions.
- **Disciplinary Probation.** This is designated to encourage and require a student to cease and desist from violating College regulations. Students on probation are notified in writing that any further misbehavior on their part will lead to more severe action. Disciplinary Probation will be for the remainder of the existing semester and for all of the following semesters of attendance.
- **Disciplinary Suspension.** This excludes a student from the College for a designated period of time, usually not more than two semesters. While on suspension, a student will not be allowed to take any course at the College. At the end of the designated period of time, the student must make formal reapplication for admission.
- **Class Suspension.** A student may be suspended from attending one or more specified courses for improper behavior. Class suspensions are for the remainder of the semester, and the student will be assigned a letter grade of "F" for each course from which he/she is suspended.
- **Library Suspension.** A student may be suspended from using the library for improper or disruptive behavior in the library. Library suspension will be for a period of time not to exceed the remainder of the semester.
- **Disciplinary Expulsion.** This is the strongest disciplinary action. This category of severe penalty generally indicates the recipient may not return to the College.
 - Disciplinary expulsion normally would be the least-used disciplinary action and would be applied only to students who are guilty of chronic misbehavior or a major breach of conduct. The College reserves the right, but has no duty, to lift the probation against re-enrollment upon its consideration of a written application for readmission evidencing that the student has demonstrated an ability and readiness to comply with all College rules and regulations. The College will not consider such a request until at least one year from the date of expulsion.
- **Payment of Damages.** Charges will be assessed against a given student or students for the amount necessary to repair damage caused by student or students' behavior.
 - **No Trespass Order.** A no trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
 - **No Contact Order.** A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

For Employees:

- Oral warning,
- Written warning,
- Letter of reprimand,
- Mandatory attendance at an educational program on discrimination, harassment, and/or sexual misconduct, or retaliation,
- Mandatory referral for psychological assessment and compliance with any resulting treatment plan
- Restriction of responsibilities,
- Reassignment or transfer to another department,
- Suspension without pay,
- Final written warning,
- Dismissal/termination of employment,
- No trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
- No contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

For Individuals Other Than Employees or Student:

- A no trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
- A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

Title IX Grievance Summary

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at www.wallace.edu.

Wallace Community College

EMPLOYEE GRIEVANCE FORM

This form should be completed by the aggrieved employee and delivered to the appropriate supervisor in the employee's chain of command.

Name of person making grievance _____

Address to send correspondence: _____

Telephone number: _____ Email address: _____

Name of person your grievance is against? _____

What date/s did the actions occur? _____

What do you allege occurred? (Please be specific, provide details, and use additional sheets if needed)

Is there a specific College/ACCS policy/guideline that you believe has been violated? _____

If so, which one/s?

In your opinion, what could be done to reasonably resolve this grievance?

Print Name

Signature

Date

This section should be completed by the college official who receives the form.

Signature of College Official Receiving Form

Date Form Received

⋮

Instructions to employee filing the report: Complete and deliver this report to your direct supervisor, unless your direct supervisor is the alleged offender. If this is the case, deliver the form to the next supervisor in your chain of command who is not an alleged offender. You must file the written statement within ten (10) calendar days from the date of the alleged incident. Once you receive a report of findings/decision, you must within five (5) calendar days provide specific written objections, if any, to the President, in order to appeal the matter. The President's decision will be final.

Instructions to college official receiving the report: (1) Notify any appropriate personnel of the grievance (such as HR, SPO, President as applicable); (2) Review the written statement and conduct an investigation of the claims within forty-five (45) calendar days or as otherwise agreed; (3) Prepare a written report of findings/decision and provide to the employee within sixty (60) calendar days of receipt grievance; (4) Advise the employee of the five (5) calendar day deadline to appeal your report to the President.

Instructions to the President if a timely appeal is submitted: The President or his/her designee will have ten (10) working days from the receipt of the written report before issuing a final decision. If timely appealed, the President will issue a final decision based on the original grievance, report of the supervisor, and the appeal notice by the employee.

Only the President can take disciplinary action against an employee.

WALLACE COMMUNITY COLLEGE - DOTHAN

Click to Enter Location

(Location)

GRIEVANCE APPEAL - FORM B

TO: Click to Enter President's Name

FROM: Click to Enter Name

Division/Program: Click to Enter Division/Program

Home Address: Click to Enter Home Address

Home Telephone: Click to Enter Home Telephone Number

PART I. NOTICE OF APPEAL

Nature of Grievance Being Appealed: Click to Enter Requested Information

Appeal Statement(s): (Please specify objection(s) to finding(s), conclusion(s), or recommendation(s) of Report of Supervisor/Appointee of College. Please attach any supporting documents. Please include photocopy of Report. Use additional sheets, if necessary.)

Employee Signature

Distribution: President

PART II. PRESIDENT'S REPORT

TO: _____

Home Address: _____

FROM: President _____

Date Appeal Received: _____

Date of Report: _____

Response to Appeal:

President

Distribution: Complainant
Human Resources

349 Complaints and Grievances

Wallace Community College promotes the open exchange of ideas among all members of the College community, including students, faculty and staff members, and administrators. However, the College recognizes that, at times, people may have differences that they are unable or unwilling to resolve without intervention. The College also is committed to an environment conducive to learning and free from harassment or discrimination.

The College recognizes 2 distinct levels of action: *Grievances* and *Complaints*. These procedures are designed as a means of resolving grievances at the lowest possible level or in accessing subsequent steps in the grievance procedure.

348.01 General Grievance Procedures

Employee grievances are between and amongst employees of the College about general workplace issues, conduct, or professionalism (620.01). This policy does not apply and cannot be used against the President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered in the **348.02 Compliant Procedures** (620.02) section. Employees should use the Employee Grievance Form, to make the written report.

1. Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within ten (10) calendar days from the date of the alleged incident. Otherwise, the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written [Employee Grievance Form](#) must be filed with the complaining employee's direct supervisor, unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line.
2. The supervisor (or other person receiving a written grievance) will notify the Human Resources Director and President as appropriate.
3. The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within forty-five (45) calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within sixty (60) calendar days of receipt of the grievance.

4. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged.
5. The complaining employee or the person about whom the grievance is lodged has five (5) calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or designee before issuing a final decision. Complainant must state clearly and specifically on [Grievance Form B](#) the objections to the findings and recommendations.

NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

6. The President or President's designee will have 10 working days from the receipt of the written report before issuing a final decision. The President's decision will be final. **The decision reached at this level in the process is final.**

Any employee who is uncertain of the College official to whom to report a grievance under this section should seek guidance from the Director of Human Resources.

In some instances when the personalities or problem involved would make starting at the level of the grievance too awkward or embarrassing, employees may initiate a grievance at the next higher level listed.

Only the President can take disciplinary action against an employee.

An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined. The President's decision will be final.

348.02 General Complaint Procedures

Employee complaints are defined as those complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with the College (620.02). This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed in **348.01 General Grievance Procedures** section (620.01). This policy does not cover complaints of sexual harassment which are addressed in **348.03 Harassment** section (620.03). This policy does not apply and cannot be used against the President.

Any employee who believes he or she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinators, Human Resources Director, or President.

1. Any employee who claims a complaint (who believes he/she has been subjected to observed discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters) shall report the action immediately, but no less than ten (10) calendar days from the date of the incident. The written [Employee Complaint Form](#) must be submitted to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.
2. The appropriate person shall review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but no later than 60 days, unless the period is extended by agreement of the complaining and responding parties.
3. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties.
4. Once the review and investigation has been completed, the written response issued by the President or President's designee shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

348.03 Harassment

Wallace Community College adheres to *Policies 601.04: Harassment* and *620.03: Sexual Harassment Complaints*.

Complaint procedures for issues related to harassment and discrimination also are published in the *Wallace Community College Catalog and Student Handbook*. Formal compliant procedures relating to Title IX must comply with *620.02*.

1. Alabama Community College System is committed to providing both employment and educational environments free of harassment in any form. Employees shall adhere to the highest ethical standards and professionalism and refrain from any form of harassment. Both employees and students shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is respected. Any practice or behavior that constitutes harassment shall not be tolerated.
2. For these purposes, the term *harassment* includes, but is not necessarily limited to:
 - Disturbing conduct which is repetitive;
 - Threatening conduct;
 - Intimidating conduct;
 - Inappropriate or offensive slurs, jokes, language, or other verbal, graphic, or other like conduct;
 - Unwelcome sexual advances, requests for sexual favors, or sexual based offenses;
 - Assault;
 - Repeated contact solicited during non-traditional business hours which may be perceived as harassment by recipient unless it is specifically associated with work related duties.
3. Employees and students who are found in violation of this policy shall be disciplined as deemed appropriate by the investigating authority.
4. Harassment of employees or students by non-employees is also a violation of this policy.
5. This policy encourages faculty, students, and employees who believe that they have been the victims of harassment to contact the Title IX Coordinator, Human Resources Director/Coordinator or President at the institution within ten days of when the alleged incident occurred. Any reprisals shall be reported immediately to the Title IX Coordinator, Human Resources Director/Coordinator or President. Any employee or student who becomes aware of any harassment shall report the incident to the Title IX Coordinator, Human Resources Director/Coordinator or President. Failure to act,

which includes initial investigation, shall be deemed in direct violation of this policy.

6. This policy shall be distributed, communicated, and implemented in a manner which provides all interested parties the opportunity to be informed of this policy. A system-wide educational program shall be utilized to assist all members of the community to understand, prevent and combat harassment. Each community and technical college is required to provide annual training related to harassment, including sexual harassment.
7. Complaints or Reports concerning sexual harassment should be made, processed and addressed under **349.04 Compliant Process** and **349.05 Formal Compliant Process** (620.03 - Sexual Harassment Complaint Procedures).

349 Sexual Misconduct Policy

Introduction

Wallace Community College – Dothan (WCCD) is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the College and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and

well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. WCCD does not tolerate or condone retaliation. Individuals wishing to report reporting sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact the following individuals:

Ms. Keyashia Sheppard (Employees)
Wallace Community College
1141 Wallace Drive
Dothan, AL 36303
Phone: 334-556-2418
Email: ksheppard@wallace.edu

Ms. Sheletha Barnes-Blackmon (Students)
Wallace Community College
1141 Wallace Drive
Dothan, AL 36303
Phone: 334-556-2414
Email: sblackmon@wallace.edu

and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCT@ed.gov ([mailto: OCR@ed.gov](mailto:OCR@ed.gov))

348.01 Title IX Policy

The U.S. Department of Education's Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title

IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

348.02 Definitions Relating To Sexual Harassment

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College’s education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: “Consent” must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to

consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence. Definitions of Sexually Based Offenses.

348.03 Definitions of Sexual Based Offenses

Sexual abuse in the first degree:

- A person commits the crime of sexual abuse in the first degree if:
 - He subjects another person to sexual contact by forcible compulsion; or
 - He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.
- Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

- A person commits the crime of sexual abuse in the second degree if:
 - He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
 - He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.
- Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

- A person commits the crime of rape in the first degree if:
 - He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or
 - He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
 - He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.
- Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

- A person commits the crime of rape in the second degree if:
 - Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.
 - He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.
- Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

- A person commits the crime of sodomy in the first degree if:
 - He engages in deviate sexual intercourse with another person by forcible compulsion; or
 - He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
 - He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.
- Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

- A person commits the crime of sodomy in the second degree if:
 - He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.
 - He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.
- Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

- Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person

against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

- In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

- Means violence committed by a person –
 - Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - Where the existence of such a relationship will be determined based on a consideration of the following factors:
 - The length of the relationship,
 - The type of relationship,
 - The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10)).
- In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

- Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).
- In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

- Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

348.04 Complaint Process

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Crisis Services of North Alabama or any other victim service agency of their choosing.

348.05 Formal Complaint Process

A. Initial Steps

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus [Title IX Coordinator](#). An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. Reporting a Complaint

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. Supportive Measures

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. Formal Complaint Process

A written complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- The date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. Dismissal of Formal Complaint

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. Notice of Allegations

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions

of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. Advisors

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

- Only an advisor may conduct cross-examination during the live hearing.
- Neither party may dismiss a College appointed advisor.

I. Investigation Procedure

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations

may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. Live Hearing Procedure

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer

- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or declines cross-examination, the decision makers must not rely on any statement of that witness in reaching a determination regarding responsibility; provided, however, that the decision makers cannot draw an inference about the

determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- Identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. Appeal Procedure

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Wallace Community College - Dothan or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

L. Informal Resolution

The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- obtains the parties' voluntary, written consent to the informal resolution process; and
- does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

M. Retaliation Prohibited

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy.

Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

N. TITLE IX SANCTIONS

Range of Possible Sanctions

On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

- **Disciplinary Reprimand.** This may be an oral or written warning. It notifies a student that any further violation of College regulations may subject the student to more severe disciplinary actions.
- **Disciplinary Probation.** This is designated to encourage and require a student to cease and desist from violating College regulations. Students on probation are notified in writing that any further misbehavior on their part will lead to more severe action. Disciplinary Probation will be for the remainder of the existing semester and for all of the following semesters of attendance.
- **Disciplinary Suspension.** This excludes a student from the College for a designated period of time, usually not more than two semesters. While on suspension, a student will not be allowed to take any course at the College. At the end of the designated period of time, the student must make formal reapplication for admission.
- **Class Suspension.** A student may be suspended from attending one or more specified courses for improper behavior. Class suspensions are for the remainder of the semester, and the student will be assigned a letter grade of "F" for each course from which he/she is suspended.
- **Library Suspension.** A student may be suspended from using the library for improper or disruptive behavior in the library. Library suspension will be for a period of time not to exceed the remainder of the semester.
- **Disciplinary Expulsion.** This is the strongest disciplinary action. This category of severe penalty generally indicates the recipient may not return to the College.
 - Disciplinary expulsion normally would be the least-used disciplinary action and would be applied only to students who are guilty of chronic misbehavior or a major breach of conduct. The College reserves the right, but has no duty, to lift the probation against re- enrollment upon its consideration of a written application for readmission evidencing that the student has demonstrated an ability and readiness to comply with all College rules and regulations. The College will not consider such a request until at least one year from the date of expulsion.
- **Payment of Damages.** Charges will be assessed against a given student or students for the amount necessary to repair damage caused by student or students' behavior.
 - **No Trespass Order.** A no trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
 - **No Contact Order.** A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

For Employees:

- Oral warning,

- Written warning,
- Letter of reprimand,
- Mandatory attendance at an educational program on discrimination, harassment, and/or sexual misconduct, or retaliation,
- Mandatory referral for psychological assessment and compliance with any resulting treatment plan
- Restriction of responsibilities,
- Reassignment or transfer to another department,
- Suspension without pay,
- Final written warning,
- Dismissal/termination of employment,
- No trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
- No contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

For Individuals Other Than Employees or Student:

- A no trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
- A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.

O. Title IX Grievance Summary

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at www.wallace.edu.

106 Equal Opportunity Policy

Wallace Community College is an equal opportunity employer. It is our policy to provide equal opportunity for employment and advancement to all applicants and employees as required by appropriate federal and state law. The College does not exclude from, participation in, deny the benefits of, or subject any individual to discrimination on the basis of any impermissible criterion or characteristic including, without limitation, race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law. The following person has been designated to handle inquiries regarding nondiscrimination policies: Director of Human Resources, Ext. 2418.



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

Section 3: Employment Policies and Procedures

or economically unreasonable, or changes in academic mission, administrative or ministerial function that necessitates significant organizational changes.

The College may adopt additional policies or guidelines for RIF actions that are consistent with this Policy. (*Board Policy 624.01*)

RESIGNATIONS

All faculty and staff shall give written notice of resignation at least 14 calendar days prior to the effective date of resignation, unless the President approves a shorter notice period. Failure to do so may result in documentation being placed in the employee's personnel file about the failure to follow policy and may affect your ability to be rehired at any ACCS entity or system office. (*Board Policy 617.01*)

EMPLOYEE GRIEVANCE (*Board Policy 620.01*)

This policy is intended to cover grievances between and amongst employees of an ACCS entity about general workplace issues, conduct, or professionalism. This policy does not apply and cannot be used against a President. This policy is not intended to cover complaints regarding discrimination, harassment, hostile work environment, ethical concerns, or other legal-related matters, which are covered under Policy 620.02.

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within 10 calendar days from the date of the alleged incident, otherwise the grievance will not be reviewed under this policy. Oral grievances do not comply with this policy. The written statement must be filed with the complaining employee's direct supervisor unless the direct supervisor is the person about whom the grievance is lodged. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify HR personnel and/or the President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement, and conduct an investigation of the claims within 45 calendar days (or as otherwise agreed), and then make a written report of findings with recommendations within 60 calendar days of receipt of the grievance. The report must be given to the President, the complaining employee, and the person about whom the grievance is lodged. The complaining employee or the person about whom the grievance is lodged has 5 calendar days from receipt of the written report to provide specific written objections to the report of findings with recommendations to the President, which will be considered by the President or his/her designee before issuing a final decision. This decision shall be final.

An employee who brings a good faith grievance under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith grievance under this policy will be disciplined.

The President's decision will be final.

NOTE: If the last day for filing a notice of appeal falls on a Saturday, Sunday, or a legal holiday, the appealing party will have until 5:00 p.m. the first working day following to file.

Section 3: Employment Policies and Procedures

EMPLOYEE COMPLAINTS (*Board Policy 620.02*)

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with an ACCS entity. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 620.01 or complaints of sexual harassment which are covered in Policy 620.03. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

Title IX Sexual Harassment Complaint Procedures

A. INTRODUCTION

Wallace State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

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Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Wallace State Community College does not tolerate or condone retaliation. Individuals wishing to report reporting sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Ms. Kristen Holmes
Vice President for Students
801 Main Street
Hanceville, Alabama 35077
Phone: 256-352-8233
Email: kristen.holmes@wallacestate.edu

and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: ocr@ed.gov

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at <https://www.wallacestate.edu/about-wscc/title-ix> under the Title IX webpage.

Section 3: Employment Policies and Procedures

Policy

The U.S. Department of Education's [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures on behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

Section 3: Employment Policies and Procedures

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Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

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Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

Section 3: Employment Policies and Procedures

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.

Definitions of Sexually Based Offenses

Sexual abuse in the first degree:

(a) A person commits the crime of sexual abuse in the first degree if:

- (1) He subjects another person to sexual contact by forcible compulsion; or
- (2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.

(b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

(a) A person commits the crime of sexual abuse in the second degree if:

- (1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
- (2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

(b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

(a) A person commits the crime of rape in the first degree if:

- (1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or
- (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.

(b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

(a) A person commits the crime of rape in the second degree if:

- (1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.
- (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.

(b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

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Sodomy in the first degree:

(a) A person commits the crime of sodomy in the first degree if:

- (1) He engages in deviate sexual intercourse with another person by forcible compulsion; or
- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

(a) A person commits the crime of sodomy in the second degree if:

- (1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.
- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship will be determined based on a consideration of the following factors:

- The length of the relationship,
- The type of relationship,
- The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10)).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

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Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Crisis Services of North Alabama or any other victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator [link to Title IX webpage]. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

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If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. STANDARD OF EVIDENCE FOR DETERMINING RESPONSIBILITY

For the purposes of College Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

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A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DIMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

Neither party may dismiss a College appointed advisor.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

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The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to

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the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time. The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer

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- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or declines cross-examination, the decision makers must not rely on any statement of that witness in reaching a determination regarding responsibility; provided, however, that the decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;

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- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Wallace State Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;

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- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- (i) provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (ii) obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

- L. RETALIATION PROHIBITED. Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The

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College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Range of Possible Sanctions – On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

1. Disciplinary Suspension: This excludes a student from the College for a designated period of time, usually not more than two terms. While on suspension, a student will not be allowed to take any courses at the College. At the end of the designated period of time, the student must make formal reapplication for admission.
2. Area Suspension: A student may be suspended from a specified college area for improper or disruptive behavior. Suspensions generally will be for a period of time not to exceed the remainder of the term.
3. Disciplinary expulsion: This is the strongest disciplinary action. This category of severe penalty generally indicates the recipient may not return to the College.
4. A no trespass may be issued for individuals who have been accused and or found in violation of sexual harassment.

For Employees:

In addition to any criminal or civil actions which may be pending or in process, the College reserves the right to pursue separate disciplinary action against perpetrators of sexual assault. Persons found responsible for sexual assault should expect disciplinary actions up to and including permanent expulsion or termination from the College.

For Individuals other than employees or student:

A no trespass may be issued for individuals who have been accused and or found in violation of sexual harassment.

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at <https://www.wallacestate.edu/about-wscc/titx>.

4. ADMINISTRATIVE SERVICES, POLICIES AND PROCEDURES

EMPLOYEE CONDUCT CODE

In the interest of creating an educational environment in which teaching and learning are optimized and in which each employee maximizes his/her effectiveness, the employee conduct code below is applicable to all employees. The list below is illustrative of the type of conduct that is prohibited. However, it is impossible to itemize every inappropriate conduct. Wallace State trusts that each employee will conduct him/herself with integrity and mutual respect for one another, our students, and other visitors on campus, and will in all cases exhibit behavior and interpersonal relations that are consistent with the mission of the College and that is conducive to quality learning and healthy workplace environments. Violations of the conduct code may result in disciplinary action up to and including reprimand, suspension, and/or dismissal.

As specified in the applicable Board Policy, the activities outlined below are among those that are prohibited:

- A. Sexual or any other Harassment (*Board Policy 601.04*)
- B. Gambling on College campuses
- C. Smoking, vaping, e-cigarettes, or use of tobacco products in prohibited areas and college-owned vehicles (*Board Policy 514.01*)
- D. Absence from work without approved leave (*Board Policy 618.01*)
- E. Disclosure of confidential personnel or student information (*Board Policies 616.01 and 808.01*)
- F. Pursuit of individual interest resulting in a conflict with the interest of the College (*Board Policy 615.01*)
- G. Discrimination based on race, color, national origin, religion, age, disability, marital status, or gender (*Board Policy 601.02*)
- H. Use of official position and influence to further personal gain or that of a family member or personal associate (*Board Policy 615.01*)
- I. Violation of any Board Policy.

In addition to the above-listed activities that are prohibited by Board policies, Wallace State has adopted the following institutional Code of Conduct:

- A. Any form of dishonesty (i.e., theft, embezzlement, misappropriation of College funds or property, cheating, plagiarism, fraud, misrepresentation, or furnishing false information to the College or any educational or governmental institution or agency on behalf of the College).
- B. Any form of forgery, alteration, destruction, or misuse of any College document, record or identification source.
- C. Intoxication, or the display, possession, sale, or use of any alcoholic beverage or any unprescribed controlled substance or illicit drug, to include a marijuana plant or any part of a marijuana plant.
- D. Use, possession, or distribution of firearms, ammunition, any other weapon, fireworks, or any combustible or explosive device or material; provided, however, that law enforcement officers properly authorized to carry weapons may do so if they are officially enrolled in classes or are acting in the performance of law enforcement duties.
- E. Disorderly or disruptive conduct including rioting, inciting to riot, assembling to riot, raiding, inciting to raid, or assembling to raid College property. This offense also includes intentional damage to College property or the private property of another person, as well as physical or verbal damage or abuse to another person, as well as any threat of violence

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toward any other person or any property of the College or of other persons. It also includes any other behavior that unduly disrupts the safe and efficient operation of the College.

- F. Lewd, indecent, obscene, or unduly offensive behavior or expression, including an oral, written or symbolic expression that would be offensive to a reasonably sensitive person, that is not protected by the First Amendment.
- G. Unauthorized entry to or use of a College facility or College equipment.
- H. Participating in, or benefiting from, any form of gambling.
- I. Insubordination toward a supervisory College official.
- J. Misfeasance, malfeasance, or failure to perform assigned duties and responsibilities.
- K. Tardiness or excessive absenteeism.
- L. Sleeping on the job.
- M. Any form of littering, including, but not limited to tobacco products such as cigarette butts.
- N. Violation of any State or Federal law, any local or county ordinance, on any policy, rule or regulation of the Board or Wallace State Community College.
- O. Violation of any of the terms and conditions of the employee's employment.
- P. Anything done or said by an employee which bears a reasonable relation to the employee's fitness or capacity to discharge the duties of his/her position; or, if the employee has become unfit for continued employment, or the employee's retention would interfere with the building up or maintaining of an efficient college.

Applicable provisions of the Students First Act of 2011 further specify that an employee's employment may be terminated for failure to perform his/her duties in a satisfactory manner, neglect of duty, incompetence, insubordination, immorality, justifiable decrease in jobs in the institution, or other good and just causes provided such termination shall not be made for political or personal reasons. In addition to termination, the College has the authority, where there is good and just cause, to impose a formal reprimand, suspension with pay, or a suspension without pay.

SEXUAL ASSAULT POLICY

Wallace State Community College does not tolerate sexual assault, domestic violence, dating violence, stalking, or bullying and will pursue the perpetrators of such acts to the fullest extent possible. WSCC is also committed to supporting victims through safety and support services. This policy applies equally to all full and part-time students, full and part-time staff, faculty, administrators, contract employees, and any campus visitors, at all College-sponsored activities, whether on or off campus. It is the policy of Wallace State Community College that no student or employee may threaten the health and safety of a member of the College community, of any person on College property, or at a College sponsored or supervised activity, through the commission of sexual assault, including acquaintance rape. Acquaintance rape is manipulated or coerced sexual assault by a friend or an acquaintance. In all cases, rape is an act of violence, aggression, and power in which a victim is forced to have sex through verbal coercion, threats, physical restraint, and/or physical violence.

All campus community members who are victims of sexual assault have the following rights, at a minimum:

1. The right to be treated with dignity and respect, and to the support of campus personnel, including as needed to a referral to a Counseling Center for personal counseling;

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EMPLOYEE EVALUATIONS

The Chancellor shall evaluate the performance of Presidents of institutions under the authority, direction, and control of the Board, using appropriate evaluation instruments and methods. The results of such evaluations shall be reported to the Board.

All instructors and other employees at the College are evaluated at least annually. Individual written evaluation records shall be maintained in the employees' respective personnel files.

The President is evaluated annually for the first three years of service by the Chancellor. After the initial three years of service, the President is then evaluated once every three years. (*Board Policy 607.01*)

The Deans and Vice Presidents are evaluated annually by the President.

The Administrative Staff are evaluated annually by the Deans/Vice Presidents.

The Support and Hourly Staff - Schedules E, H and Supplemental H are evaluated by their immediate supervisors.

WORK SCHEDULE

The President has discretion to establish the normal work week and regular work schedules for College employees to meet the needs of the College. Each full-time support or administrative person is expected to maintain a weekly schedule that includes 40 hours of work time, excluding the lunch period. All full-time and permanent part-time non-exempt employees are required to take a 30-minute lunch break. Days that the institution is officially open are duty days for full time, non-instructional employees of each institution. During peak times such as registration, it may be necessary for some employees to work overtime.

Full-time non-exempt employees may not work additional part-time jobs (including adjunct positions) for the college.

HOLIDAYS

Employees shall be allowed the following official holidays on which days the College is closed: New Year's Day; Martin Luther King/Robert E. Lee Birthday; National Memorial Day; Juneteenth; Independence Day; Labor Day; Veterans Day; Thanksgiving Day; Day after Thanksgiving Day; Christmas Eve; and Christmas Day. In addition, the President will designate five other days on which the College will be closed in the official, approved calendar of the institution.

EMPLOYEE NAME BADGE

Each employee is required to wear his/her name badge during working hours and during all work related events. It is each employee's responsibility to contact Lion Central to obtain a name badge.

HARASSMENT

The College is committed to providing both employment and educational environments free of harassment in any form. As part of this commitment, the College recognizes that all employees

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determine the ethical and moral tone for the College through both their personal conduct and their job performance. Therefore, each employee must be dedicated to the ideals of honor and integrity in all public and personal relationships. Employees shall adhere to the highest ethical standards and professionalism and refrain from any form of harassment. Both employees and students shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is respected. Any practice or behavior that constitutes harassment shall not be tolerated by the College. Employees and students who are found in violation of this policy shall be disciplined as appropriate to the severity of the offense.

Relationships between College personnel of different ranks which involve partiality, preferential treatment, or the improper use of position shall be avoided. Consensual amorous relationships that might be appropriate in other circumstances are inappropriate when they occur between an instructor and any student for whom the instructor has responsibility, between any supervisor and an employee, or between a College employee and a student where preferential treatment results. Further, such relationships may have the effect of undermining the atmosphere of trust on which the educational process depends. Implicit in the idea of professionalism is the recognition by those in positions of authority that in their relationships with students or employees there is an element of power. It is incumbent on those with authority not to abuse the power with which they are entrusted.

All personnel shall be aware that any amorous relationship (consensual or otherwise) or any otherwise inappropriate involvement with another employee or student makes them potentially liable for formal disciplinary action against them if a complaint is initiated by the aggrieved party in the relationship. Even when both parties to a relationship have previously consented to the development of such a relationship, it is often the supervisor in a supervisor-employee relationship, or the instructor or employee in an instructor-student or employee-student relationship, who is held most accountable for harassing behavior when the relationship is no longer consensual, or for unprofessional behavior even if the relationship remains consensual.

What to do if you experience, witness, or become aware of harassment

Any employee or student who experiences, witnesses, or becomes aware of any such harassment should, if possible, try to resolve the matter either directly with the alleged harasser, with or without the assistance of a supervisor, for employee matters, or of a student services advisor, for student matters, in instances where it would be reasonable to attempt to do so. However, employees and students are not required to attempt this informal resolution of the matter. In instances where the employee or student is uncomfortable for any reason in attempting an informal resolution, or where informal resolution efforts were not successful, the employee or student is encouraged to proceed with submitting a grievance under the College's Employee or Student Grievance Policies, respectively.

All employees and students may report incidents of harassment without fear of reprisal. The College will not retaliate against or tolerate reprisal against any person because he/she has opposed any unlawful practice or because he/she has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing alleging unlawful discrimination or harassment. The College is committed to taking immediate action as soon as practicable to eliminate harassment, prevent it from reoccurring, and responding to its effects both promptly and equitably. (*Board Policy 601.04, Appendix 26*).

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The College respects the rights and privileges of the instructors as citizens, but instructors' positions impose special obligations. Hence, the instructors are free from institutional censorship or discipline when they speak, write, or act as citizens; however, instructors should always be mindful of the fact that the public may judge the College by their words, behavior, and use of social media including but not limited to; Facebook, Twitter, Instagram. Instructors should therefore maintain accuracy, exercise restraint, respect the opinions of others, and make it clear that they are not spokespersons for the institution.

NONDISCRIMINATION STATEMENT

Wallace State Community College has filed with the Federal Government an Assurance of Compliance with all requirements imposed by or pursuant to Title VI of the Civil Rights Act of 1964 and the regulations issued thereunder, to the end that no person in the United States shall, on the basis of race, color or national origin, be excluded from participation in, be denied the benefits thereof, or be otherwise subjected to discrimination under any program or activity sponsored by this institution.

The College is committed to providing a workplace and campus community free of sexual harassment and does not discriminate on the basis of sex in its education programs and activities, and it is required by Title IX of the Education Amendments of 1972 not to discriminate in such a manner. This includes, but is not limited to admission and employment and all individuals participating in or attempting to participate in a College sponsored program or activity.

The Title IX Coordinator is Kristen Holmes, Vice President for Students; 801 Main Street, Hanceville, Alabama 35077, Bailey Center Suite 30; telephone: (256) 352-8233, email: kristen.holmes@wallacestate.edu.

In addition, the College does not discriminate on the basis of disability in its educational programs and activities, pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973, Public Law 93- 112, and the Americans with Disabilities Act of 1990 (ADA), ADAA 2008, Public Law 101-336. This policy extends to application for or employment by and application for or admission to the College. The Section 504 and ADA Coordinator for administrators, faculty and staff is Ms. Alyce Flanigan, Vice President of Administrative Services; 801 Main Street, Hanceville, Alabama 35077; email: alyce.flanigan@wallacestate.edu. The Section 504 and ADA Coordinator for students is Ms. Lisa Smith, Director of Resource Center and ADA; 801 Main Street, Hanceville, Alabama 35077, Bailey Center (7th Floor); telephone: (256) 352-8052; email: lisa.smith@wallacestate.edu. Moreover, the College does not discriminate on the basis of age in its educational programs and activities pursuant to the Age Discrimination Act of 1975.

The College encourages any individual who believes that he or she has been subjected to discrimination or harassment based on their race, color, national origin, age, disability, sex or other protected classification to report the discrimination or harassment to the appropriate College official. The College is committed to conducting a prompt investigation of all allegations of discrimination or harassment based on race, color, national origin, age, disability, sex or other protected classification. Students, administrators, staff and/or contract staff found to have engaged in acts of discrimination or harassment based on an individual's race, color, national origin, age, disability, sex or other protected classification will be promptly disciplined, to include, if circumstances warrant, up to and including suspension or expulsion for students and suspension or termination of employment for staff, faculty and administrators. The College

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encourages students and College faculty, administrators and staff to work together to prevent acts of discrimination or harassment of any kind.

Persons or any specific class of individuals who believe they have been subjected to discrimination or harassment based on their race, color, national origin, age, disability, sex or other protected classification may, alone or with a representative, file a complaint with the United States Department of Education or with the College, or with both. The complaint process for students relating to claims of discrimination or harassment may be found in the College Catalog.

DRUG-FREE WORKPLACE POLICY

The College insists upon drug-free learning and work environments. The unlawful manufacture, distribution, possession, or use of alcohol or a controlled substance is prohibited by Wallace State Community College on any property owned, leased, or controlled by Wallace State Community College or during any activity conducted, sponsored, authorized by, or on behalf of Wallace State Community College.

In the event that an employee violates the provisions of this policy or receives a conviction for a drug or alcohol offense, the respective employee must report the conviction to the President within five (5) days after the conviction and shall be subject to appropriate disciplinary action which may include, but is not limited to, termination of employment. Wallace State Community College shall also reserve the right to require said employee, as a condition of continued employment, to complete a drug treatment or rehabilitation program of a reasonable duration and nature, at the employee's own expense.

OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT POLICY

The College complies with the Omnibus Transportation Employees Testing Act of 1991. This act relates to those employees possessing or required to possess a Commercial Drivers' License (CDL). Any employee in or applicant for such a CDL position has special obligations to notify the College that he or she has recently or is currently using certain physician-prescribed drugs or other medication that may affect that person's test results and/or ability to perform his or her duties. Current CDL employees are subject to the following rules:

1. When reasonable suspicion exists that an employee has used a controlled substance or has otherwise violated the substance abuse rules, he/she may be tested.
2. The College may conduct unannounced random testing.
3. When an Employee is involved in any accident resulting in injury or damage to College property, he/she must notify the Director of Auxiliary or Chief of Police.
4. When an employee returns from substance-abuse rehabilitation, the College may require that he/she submit to follow-up testing.
5. All affected employees may be required to undergo urinalysis as part of a re-certification physical examination.

The complete policy and pertinent procedures are available in the office of the Director of Human Resources. This policy and procedures cover Testing Procedures, Collection Sites, Collection Procedures, Occasions When the Collection Personnel Should Directly Observe the Specimen



Policies and Procedures for Compliance with 40 CFR Parts 5 and 7

GRIEVANCE PROCEDURE

Wallace Community College Selma follows the ACCS Board of trustees Employee Grievance policy as outlined in policy 620.01. Wallace Community College Selma recognizes that in order to efficiently and effectively carry out its purpose, its employees and students must feel confident that any valid complaint or grievance concerning the college will be promptly addressed by the appropriate authorities. Therefore, the following procedures for resolving such complaints and grievances have been adopted by Wallace Community College Selma. The procedures also include Title IX and Section 504 complaints:

POLICY NAME:	620.01 Employee Grievance
EFFECTIVE:	04-13-2016
SUPERSEDES:	
SOURCE:	<i>Code of Alabama 16-60-111.4</i>
CROSS REFERENCE:	

Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within a reasonable time from the date of the alleged incident. Any employee must file the written statement with his/her direct supervisor, unless the direct supervisor is the alleged offender. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify the Title IX Coordinator, HR personnel, and/or President as appropriate.

The supervisor, or other person appointed to address the grievance, must review the written statement and conduct an investigation of the claims within 30 days or as otherwise agreed. The supervisor must then make a written report of findings/decision and provide to the employee within 45 days of receipt grievance. The employee must, within 10 calendar days of the written report, provide specific written objections to the report of findings/decision to the supervisor, which will be considered a request for appeal. Failure to timely provide the specific written objections is a waiver of the employee's right to appeal the supervisor's findings/decision.

All appeals will be sent to the President or his/her designee, and the President or his/her designee will convene a three-person grievance committee to hear the appeal within 30 calendar days. The President or his/her designee will appoint one person to sit on the grievance committee, and the President will allow both the aggrieved and accused to select an employee of the College to sit on the grievance committee (excluding the President and his/her designee). Should the aggrieved or accused fail to select a member of the grievance committee in the time period required by the President or his/her designee or the selected employee does not agree to participate as a member of the grievance committee in the time required by the President or his/her designee, then the President or his/her designee will select the grievance committee member.

The grievance committee will hold a hearing and allow the aggrieved employee to present the grievance and the accused will have an opportunity to respond within 45 days of the appeal. The grievance committee will also have access to the original grievance, report of the supervisor, and appeal notice by the employee. The grievance committee will provide its findings and decision following the hearing in a timely manner. Either party will have 10 calendar days from receipt to file a written appeal to the grievance

committee decision. If timely appealed, the President will issue a final decision based on the original grievance, report of the supervisor, appeal notice by the employee, and grievance committee decision.

NOTE: If the last day for filing notice of appeal falls on either Saturday, Sunday, or a legal holiday, aggrieved will have until 5:00 p.m. the first working day following the 10th calendar day to file.

POLICY NAME:	601.04: Harassment
EFFECTIVE:	November 10, 2020
SUPERSEDES:	Policy 601.04, Issued 04-13-2016
SOURCE:	<u>Code of Alabama 16-60-111.4; 16-60-111.7</u>
CROSS REFERENCE:	<u>Code of Alabama 16-60-111.4; Title VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972</u>

1. The Alabama Community College System is committed to providing both employment and educational environments free of harassment in any form. Employees shall adhere to the highest ethical standards and professionalism and refrain from any form of harassment. Both employees and students shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is respected. Any practice or behavior that constitutes harassment shall not be tolerated.
2. Harassment can be defined as but is not limited to:
 - Disturbing conduct which is repetitive;
 - Threatening conduct;
 - Intimidating conduct;
 - Inappropriate or offensive slurs, jokes, language, or other verbal, graphic, or other like conduct;
 - Unwelcome sexual advances, requests for sexual favors, or sexual based offenses;
 - Assault;
 - Repeated contact solicited during non-traditional business hours which may be perceived as harassment by recipient unless it is specifically associated with work related duties.
3. Employees and students who are found in violation of this policy shall be disciplined as deemed appropriate by the investigating authority.
4. Harassment of employees or students by non-employees is also a violation of this policy.
5. This policy encourages faculty, students, and employees who believe that they have been the victims of harassment to contact the Title IX Coordinator, Human Resources Director/Coordinator or President at the institution within ten days of when the alleged incident occurred. Any reprisals shall be reported immediately to the Title IX Coordinator, Human Resources Director/Coordinator or President. Any employee or student who becomes aware of any harassment shall report the incident to the Title IX Coordinator, Human Resources Director/Coordinator or President. Failure to act, which includes initial investigation, shall be deemed in direct violation of this policy.
6. This policy shall be distributed, communicated, and implemented in a manner which provides all interested parties the opportunity to be informed of this policy. A system-wide educational program shall be utilized to assist all members of the community to understand, prevent and combat harassment. Each community and technical college is required to provide annual training related

to harassment, including sexual harassment.

7. Complaints or Reports concerning sexual harassment should be made, processed and addressed under Policy 620.03 - Sexual Harassment Complaint Procedures.

OR

8. To file a Complaint or report sexual harassment see Policy 620.03 - Sexual Harassment Complaint Procedures.

POLICY NAME:	620.02: Employee Complaints
EFFECTIVE:	November 10, 2020
SUPERSEDES:	Policy 620.02, issued April 10, 2019
SOURCE:	<u>Code of Alabama 16-60-111.4</u>
CROSS REFERENCE:	

This policy is intended to cover employee complaints related to discrimination, harassment, hostile work environment, ethical concerns, and other legal-related matters against any person associated with an ACCS entity. This policy does not cover general workplace grievances, conduct, or professionalism, which are addressed by Policy 620.01 or complaints of sexual harassment which are covered in Policy 620.03. This policy does not apply and cannot be used against a President.

Any employee who believes he/she has been subjected to or observed:

- discrimination based on race, color, national origin, religion, marital status, disability, sex, age or any other protected class as defined by federal and state law,
- harassment in forms other than sexual,
- hostile work environment,
- ethical violations or similar concerns,
- criminal acts,
- ACCS, College, or Chancellor policy or procedure violations,
- or other legal-related issues,

by any person associated within the ACCS entity (other than a President), shall report the action immediately, and in no event less than ten (10) calendar days following the event, to the Title IX Coordinator, Human Resources Director, or President. In conjunction with the report, the employee shall provide a written statement, as well as any evidence the employee believes substantiates the complaint, and shall be required to assist in an appropriate investigation.

The College shall designate an appropriate person to review and investigate the matter and may engage legal counsel for this purpose, as determined by the President. This review and investigation shall be conducted promptly and within 45 calendar days if practical, but not later than 60 days, unless this period is extended by agreement of the complaining and responding parties. The President or his/her designee shall issue a written response to the reporting employee within 15 calendar days if practical, but not later than 30 days unless this period is extended by agreement of the complaining and responding parties; once the review and investigation has been completed, and this written response shall be final.

An employee who brings a good faith complaint under this policy shall not be retaliated against in any manner. Any employee who retaliates against an employee for making a good faith complaint under this policy will be disciplined.

II. STATEMENT ON HARASSMENT

Wallace Community College Selma complies with the policies of the Alabama Board of Trustees which is committed to providing both employment and educational environments free of harassment or discrimination related to an individual's race, color, gender, religion, national origin, age, or disability. Such harassment is a violation of the Board of Trustees policy. Any practice or behavior that constitutes harassment or discrimination will not be tolerated on any campus, site, or in any division or department by any employee, student, agent, or non-employee on any institution's property and while engaged in any institutionally-sponsored activities.

It is within this commitment of providing a harassment-free environment and in keeping with the efforts to establish an employment and educational environment in which the dignity and worth of members of the College community are respected, that harassment of students and employees is unacceptable conduct and will not be tolerated at any of the institutions that comprise The Alabama College System.

NON-DISCRIMINATORY ENVIRONMENT

A nondiscriminatory environment is essential to the mission of The Alabama College System. A sexually abusive environment inhibits, if not prevents, the harassed individual from performing responsibilities as student or employee. It is essential that the institutions maintain an environment that affords equal protection against discrimination, including sexual harassment. The institutions of the Alabama College System will take all the necessary steps to ensure that harassment, in any form, does not occur. Employees and students who are found in violation of this policy will be disciplined as appropriate to the severity of the offense.

Employees and students of The Alabama College System will strive to promote a college environment that fosters personal integrity where the worth and dignity of each human being is realized, where democratic principles are promoted, and where efforts are made to assist colleagues and students to realize their full potential as worthy and effective members of society. Administrators, professional staff, faculty, and support staff will adhere to the highest ethical standards to ensure professionally functioning institutions and to guarantee equal educational opportunities for all students.

For these purposes, the term "harassment" includes, but is not necessarily limited to: Slurs, jokes, or other verbal, graphic, or physical conduct relating to an individual's race, color, gender, religion, national origin, age, or disability. Harassment also includes unwelcome sexual advances, requests for sexual favors, and other verbal, graphic, or physical conduct of a sexual nature.

Harassment of employees or students by non-employees is a violation of this policy. Any employee or student who becomes aware of any such harassment should report the incident(s) to the appropriate college official. Sexual harassment is a form of sex discrimination which is illegal under Title VII of the Civil Rights Act of 1964 for employees and under Title IX of the Education Amendments of 1972 for students. Sexual harassment does not refer to occasional compliments; it refers to the behavior of a sexual nature which interferes with the work or education of its victims and their co-workers or fellow students. Sexual harassment may involve the behavior of a person of either sex against a person of the opposite sex or the same sex, and occurs when such behavior constitutes an unwelcome sexual advance, unwelcome requests for sexual favors, or other unwelcome 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 the individual's employment or educational opportunities;
2. Submission to or rejection of such conduct is used as the basis for employment or academic decisions affecting that individual;
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creates an intimidating, hostile, or offensive work or educational environment.

Any incident of sexual harassment will be reported to the grievance officer as promptly as possible after the harassment occurs.

The employees of the institutions within The Alabama College System determine the ethical and moral tone for these institutions through both their personal conduct and their job performance. Therefore, each employee must be dedicated to the ideals of honor and integrity in all public and personal relationships. Relationships between college personnel of different ranks which involve partiality, preferential treatment, or the improper use of position will be avoided. Consensual amorous relationships that might be appropriate in other circumstances are inappropriate when they occur between an instructor or any student for whom he or she has

a responsibility, between any supervisor and an employee, or between a college employee and a student where preferential treatment results. Further, such relationships may have the effect of undermining the atmosphere of trust on which the educational process depends. Implicit in the idea of professionalism is the recognition by those in positions of authority that in their relationships with students or employees there is always an element of power. It is incumbent on those with authority not to abuse the power with which they are entrusted.

All personnel will be aware that any amorous relationships (consensual or otherwise) or any otherwise inappropriate involvement with another employee or student makes them liable for formal action against them if a complaint is initiated by the grieved party in the relationship. Even when both parties have consented to the development of such a relationship, it is the supervisor in a supervisor-employee relationship, the faculty member in a faculty-student relationship, or the employee in an employee-student relationship who will be held accountable for unprofessional behavior.

This policy encourages faculty, students, and employees who believe that they have been the victims of sexual harassment to contact the grievance officer or other appropriate official at the institution where the alleged incident occurred. Any reprisals will be reported immediately to the grievance officer or other appropriate official.

This policy will be distributed, communicated, and implemented in a manner which provides all interested parties the opportunity to be informed of this policy. A system-wide educational program will be utilized to assist all members of the college community to understand, prevent, and combat harassment. The Chancellor will issue guidelines to ensure the adherence to, implementation of, and enforcement of this policy.

A. Definition of Sexual Harassment

Sexual harassment can be verbal, visual, or physical. It can be overt, as in the suggestions that a person could get a higher grade or a raise by submission to sexual advances. The suggestion or advance need not be direct or explicit; it can be implied from the conduct, circumstances, and relationship of the individuals involved. Sexual harassment can also consist of persistent, unwanted attempts to change a professional or educational relationship to a personal one. Sexual harassment is distinguished from consenting or welcome sexual relationships by the introduction of the elements of coercion; threat; unwelcome sexual advances; unwelcome requests for sexual favors; other unwelcome sexually explicit or suggestively written, verbal, or visual material; or unwelcome physical conduct of a sexual nature. Examples of verbal or physical conduct prohibited within the definition of sexual harassment include, but are not limited to:

1. Physical assault;
2. Direct or implied threats that submission to or rejection of requests for sexual favors will affect a term, condition, or privilege of employment or a student's academic status;
3. Direct propositions of a sexual nature;
4. Subtle pressure for sexual activity;
5. Repeated conduct intended to cause discomfort or humiliation, or both, that includes one or more of the following: (i) comments of a sexual nature; or (ii) sexually explicit statements, questions, jokes, or anecdotes;
6. Repeated conduct that would cause discomfort and/or humiliate a reasonable person at whom the conduct was directed that includes one or more of the following: (i) touching, patting, pinching, hugging, or brushing against another's body; (ii) commentary of a sexual nature about an individual's

body or clothing; or (iii) remarks about sexual activity or speculations about previous sexual experience(s);

7. Intimidating or demeaning comments to persons of a particular sex, whether sexual or not;
8. Displaying objects or pictures which are sexual in nature that would create a hostile or offensive employment or education environment, and serve no educational purpose related to the subject matter being addressed.

B. Reporting Acts of Sexual Harassment

Harassment against another student, faculty member, staff member, or administrator should be reported to the Dean of Students. If the student experiences sexual harassment from a person who is not a WCCS student or employee, the student should contact the College Security Office and the Dean of Students. Wallace Community College Selma is committed to providing a positive, discrimination-free educational environment.

POLICY NAME:	620.03: Sexual Harassment Complaints
EFFECTIVE:	November 10, 2020
SUPERSEDES:	
SOURCE:	<i>Code of Alabama 16-60-111.4</i>
CROSS REFERENCE:	

Each College shall adopt a Grievance Procedure for complaints of sexual harassment that is consistent with the requirements of 34 C.F.R. § 106.44 and §106.45.

This policy is intended to cover complaints of sexual harassment occurring in a College's education programs or activities by an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in a College's educational programs or activities.

Employees must follow 620.01 procedure when filing a sexual harassment complaint.

Title IX Sexual Harassment Complaint Procedures

A. INTRODUCTION

Wallace Community College Selma is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources that include a trained counselor.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the

individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Wallace Community College Selma does not tolerate or condone retaliation. Individuals wishing to report reporting sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Ms. Letti Hasberry (Employees) Wallace Community College Selma
Title IX Coordinator
3000 Earl Goodwin Parkway
Post Office Box 2530 Selma, Alabama 36702
Phone: 334 876-9319
Email: letti.hasberry@wccs.edu

and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: [OCT@ed.gov](mailto:OCR@ed.gov) (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at www.wccs.edu under the Title IX webpage.

POLICY

The U.S. Department of Education's Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX

Coordinator or any official of the College who has authority to institute corrective measures of behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College's education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: "Consent" must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person's safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);

- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school's education program or activity; or
- Stalking, dating violence, or domestic violence.

Definitions of Sexually Based Offenses

Sexual abuse in the first degree:

- (a) A person commits the crime of sexual abuse in the first degree if:
- (1) He subjects another person to sexual contact by forcible compulsion; or
 - (2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated.
- (b) Sexual abuse in the first degree is a Class C felony (Alabama Code 13A-6-66).

Sexual abuse in the second degree:

- (a) A person commits the crime of sexual abuse in the second degree if:
- (1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or
 - (2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.
- (b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony (Alabama Code 13A-6-67).

Rape in the first degree:

- (a) A person commits the crime of rape in the first degree if:
- (1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or
 - (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
 - (3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.
- (b) Rape in the first degree is a Class A felony (Alabama Code 13A-6-61).

Rape in the second degree:

- (a) A person commits the crime of rape in the second degree if:
- (1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex.
 - (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.
- (b) Rape in the second degree is a Class B felony (Alabama Code 13A-6-62).

Sodomy in the first degree:

(a) A person commits the crime of sodomy in the first degree if:

- (1) He engages in deviate sexual intercourse with another person by forcible compulsion; or
- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old.

(b) Sodomy in the first degree is a Class A felony (Alabama Code 13A-6-63).

Sodomy in the second degree:

(a) A person commits the crime of sodomy in the second degree if:

- (1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old.
- (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

(b) Sodomy in the second degree is a Class B felony (Alabama Code 13A-6-64).

Domestic Violence:

Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person cohabitating with or has cohabitated with the victim as a spouse, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction (34 U.S.C.12291(a)(8).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means violence committed by a person –

- (a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (b) Where the existence of such a relationship will be determined based on a consideration of the following factors:

- ☐ The length of the relationship,
- ☐ The type of relationship,
- ☐ The frequency of interaction between the persons involved in the relationship (34 U.S.C.12291(a) (10).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to

a) fear for his or her safety or the safety of others; or b) suffer substantial emotional distress 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from Crisis Services of North Alabama or any other victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator [link to Title IX webpage]. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report sexual harassment incident to Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of College Title IX procedures, the College will use a "clear and convincing" standard for determining responsibility. A "clear and convincing" evidence standard means evidence that, when weighed against evidence in opposition, will produce in the mind of the Hearing Decision Maker(s) a firm conviction as to the claim and a high probability as to the correctness of the conclusion. Proof by clear and convincing evidence requires a level of proof greater than a preponderance of the evidence or the substantial weight of the evidence, but less than beyond a reasonable doubt.

Preponderance = 50.1%

Beyond Reasonable Doubt = 99%

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that under the circumstances a

formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint. The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DIMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, and the reason for dismissal within five (5) business days of the decision to dismiss the complaint.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the College Code of Conduct relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties that they may each obtain one

designated personal advisor, who may be selected by the party or, in the alternative, appointed by the College.

Party-Designated Advisor: Both parties shall have the right to designate one personal advisor. This party-designated advisor can be legal counsel or other type of personal representative (i.e., pastor, family member, AEA Representative, friend) and shall be retained at the respective party's own cost. Other persons may be selected by the party as additional advisors to attend meetings and hearings, but additional advisors are not permitted to speak or otherwise participate.

College-Designated Advisor: In the event that either party does not or cannot designate their own advisor, that party shall have the right to request one advisor to be provided by the College by making a request in writing to the Title IX Coordinator and declaring that the party has not selected another advisor. An advisor will be appointed for the party at the discretion of the College. Once requested, a party may not dismiss a College-designated advisor unless that party elects to retain legal counsel. A College-designated advisor will be released by the College if a party subsequently designates legal counsel as its advisor.

Either the party or the party's designated advisor (not both) may conduct cross-examination during the live hearing.

A party is never required to obtain an advisor.

At no time may any party have more than one designated advisor. A designated advisor may speak on the party's behalf when appropriate.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the College and not on the parties.

The Title IX investigator will notify the Complainant and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days'

notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence. Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing. The Hearing Officer shall be provided a copy of the investigative report and reviewed evidence.

J. LIVE HEARING PROCEDURE

Upon receipt of the final investigative report, the Hearing Officer will convene a Decision Maker panel and schedule a live hearing. The panel will consist of three (3) individuals selected by the Hearing

Officer who have completed Decision Maker training during the current academic year. The Hearing Officer will designate one of the Decision Makers as Primary Decision Maker. Hearing Officer will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, witnesses named in the final report, and the Decision Makers of the live hearing date within five (5) business days of receipt of the final investigative report. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence. A Hearing Officer may be utilized in addition to the Hearing Decision Maker(s).

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Making Panel, are able to see and hear the party or witness answering questions in real-time.

The Hearing Officer, Decision Makers, Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Decision Makers, parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney.

The hearing process will consist of:

- Opening statement by Hearing Officer
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Officer
- Review of potential hearing outcomes and sanctions by Hearing Officer
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Officer
- Closing statement by Hearing Officer
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Officer shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Officer concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and

offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Makers may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Makers may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Makers may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness. During cross-examination, the advisor will pose each question orally to the Primary Decision Maker. The Primary Decision Maker will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Primary Decision Maker chair determines that the question is not relevant, the Primary Decision Maker will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

Decision makers cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Officer shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Decision Makers will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;

- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Primary Decision Maker will submit the hearing report to the Hearing Officer within ten (10) business days of the live hearing.

The Hearing Officer will submit the hearing report simultaneously to the Title IX Coordinator, Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Wallace Community College Selma or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Decision Maker Panel. The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Decision Maker Panel, but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President review the decision of the Decision Maker Panel. The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 160.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstance or as may be otherwise agreed by the parties.

If the Respondent is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- (i) provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (ii) obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

- L. **RETALIATION PROHIBITED.** Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by

Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

Range of Possible Sanctions – On final determination of responsibility the following sanctions may be imposed against a respondent:

Range of Possible Sanctions

On final determination of responsibility, the following sanctions may be imposed against a respondent:

For Students:

- An oral warning
- A written letter of warning
- A letter of reprimand
- Mandatory attendance at an educational program on discrimination, harassment, and/or sexual misconduct
- Mandatory referral for psychological or chemical dependency assessment and compliance with any resulting treatment plan
- Barring participation in student organizations, official College programs, or College Sponsored activities
- Probation
- Suspension or expulsion from the College

For Faculty Members:

- An oral warning
- A written letter of warning
- A letter of reprimand
- Mandatory attendance at an educational program on discrimination, harassment, and/or sexual misconduct
- Mandatory referral for psychological or chemical dependency assessment and compliance with any resulting treatment plan
- Restriction of responsibilities
- Reassignment
- Barring leadership of educational programs
- Canceling College related travel
- Suspension without pay or dismissal/termination of employment

For Administrators or Staff Members:

- An oral warning
- A written warning
- A letter of reprimand
- Mandatory attendance at an educational program on discrimination, harassment, and/or sexual misconduct, or retaliation
- Mandatory referral for psychological or chemical dependency assessment and compliance with any resulting treatment plan
- Restriction of responsibilities
- Reassignment or transfer to another department
- Suspension without pay
- Final written warning
- Dismissal/termination or employment

For Individuals other than employees or student:

- Oral warning
- Written warning
- Up to and including removal from campus and termination of contractual arrangements
- Trespass from campus

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities.

Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at www.wccs.edu.