



# TITLE IX

# SEXUAL HARASSMENT PROCEDURES



## TITLE IX SEXUAL HARASSMENT COMPLAINT PROCEDURES

### INTRODUCTION

Central Alabama Community College (CACC) 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 readdress sexual harassment and take steps to prevent its recurrence and preserve or restore equal


stalking may also be considered forms of sex 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, 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 the 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 responsible party is found to have violated this policy, serious sanctions will be used to prevent its recurrence. CACC 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:

Tina Shaw (Employees)  
Building A Childersburg Campus

Email: [tshaw5@cacc.edu](mailto:tshaw5@cacc.edu)



Jerri Carroll (Students)  
Administrative Building Alexander City Campus  
1675 Cherokee Road  
Alexander City, AL 35010  
Phone: 256-215-4273  
jcarroll@cacc.edu

and/or

### ***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 educational 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 is an affirmative, voluntary, 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 one 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***

## Sexual Harassment



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sive,

### 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, or 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 is 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 (16A-6-90 Stalking in the first degree) or a

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 should 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 program or activity without unreasonably burdening the other party, including measures designed

to prevent or mitigate harassment. Supportive measures may include, but are not limited to, 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

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 the fact sought to be proved is more probable than not.



## 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 processes, 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. Alternatively, either or both parties may also request an advisor provided by the College.

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 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 be made 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 or may not 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 so 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.

any hearing to give each party equal access 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, 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 Making 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 charge 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 describe 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 to prove that someone other than the Respondent committed the alleged misconduct or if the 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 making a determination regarding responsibility; provided, however, that the decision makers cannot draw an inference about the determination 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 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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- a statement of, and rationale for, the basis 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 to the complainant; and
- 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 (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 effective 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

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), 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 (10) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.





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For Individuals other than employees or student:

- [Redacted] found [Redacted] ent.
- A no contact order may be issued [Redacted] or found [Redacted] ent.

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 same. Good cause may include considerations of the need for language assistance or accommodation of disabilities, 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.

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

at [www.cacc.edu](http://www.cacc.edu)



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## COLLEGE AND COMMUNITY RESOURCES

### College Resources

#### *Campus Security*



#### *Chief of Police*





Community Resources



Medical Facilities





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*Prevention and Education*

