



2015

Sexual Harassment Policy

8/26/2015

SEXUAL AND GENDER BASED HARASSMENT PROCEDURE

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I. Introduction

Holmes Community College is committed to maintaining a safe and healthy educational and work environment in which no member of the College community is, on the basis of sex, sexual orientation, or gender identity, excluded from participation in, denied the benefits of, or subjected to discrimination in any College program or activity. Gender-based and sexual harassment, including sexual violence, are forms of sex discrimination in that they deny or limit an individual's ability to participate in or benefit from College programs or activities.

This Policy is designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements, including: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the College's programs or activities; relevant sections of the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; and Mississippi laws that prohibit discrimination on the basis of sex. It does not preclude application or enforcement of other College policies.

It is the policy of the College to provide educational, preventative and training programs regarding sexual or gender-based harassment; to encourage reporting of incidents; to prevent incidents of sexual and gender-based harassment from denying or limiting an individual's ability to participate in or benefit from the College's programs; to make available timely services for those who have been affected by discrimination; and to provide prompt and equitable methods of investigation and resolution to stop discrimination, remedy any harm, and prevent its recurrence. Violations of this Policy may result in the imposition of sanctions up to, and including, termination, dismissal, or expulsion, as determined by the appropriate officials at the College.

II. Retaliation

This policy seeks to encourage students, staff, and faculty to express freely and responsibly their concerns about any possible instances of sexual harassment. Any act of reprisal (e.g., interference, restraint, penalty, discrimination, coercion or harassment)--overt or covert--by a college faculty member, employee, agent, or student against another who is responsibly using this policy and its procedures interferes with free expression and openness. Such acts violate this policy and require prompt and appropriate disciplinary action.

III. Definitions

For the purposes of this policy, the following terms have the meanings given to them below. Some of these terms may have different meanings in other contexts, such as criminal statutes, and they are not mutually exclusive of each other. It should be noted these definitions include any misconduct; including, but not limited to media.

1. Sexual Misconduct: broadly defines unwelcome behavior of a sexual nature committed without effective consent. Sexual Misconduct can vary in its nature and severity. As used in this policy, Sexual Misconduct includes without limitation "Sexual Exploitation," "Sexual Harassment," "Non-Consensual Sexual Contact," and "Non-Consensual Sexual Intercourse".

2. Sexual Exploitation: means taking sexual advantage of another person without effective consent. Some examples of Sexual Exploitation include, but are not limited to: (a) electronically recording, photographing or transmitting sexual activity without consent even if the sexual activity is consensual; (b) stalking if the content of the message or nature of the physical stalking is of a sexual nature or with a sexual motive; (c) voyeurism or secretive observation or electronically recording of another for sexual pleasure; (d) disrobing or exposing to another without effective consent; or (e) allowing third parties to observe sexual acts without effective consent.

3. Sexual Harassment: means unwelcome harassment of a sexual nature that is sufficiently severe or pervasive and objectively offensive that it unreasonably interferes with a complainant's academic performance or equal opportunity to participate in or benefit from the College's resources and opportunities, unreasonably interferes with the complainant's work or living environment, or deprives the complainant of some other protected right.

4. Non-Consensual Sexual Contact: means sexual contact that occurs without effective consent. Sexual contact as used in this policy includes without limitation deliberate sexual touching, however slight, or using force to cause another to engage in sexual touching. Sexual contact also may include contact of a sexual nature with an object.

5. Non-Consensual Sexual Intercourse: means sexual intercourse or penetration, however slight, with any object or body part without effective consent.

6. Effective Consent: means words or actions that clearly show an active knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Silence, in and of itself, cannot be interpreted as effective consent. Effective consent cannot result from force, threat, coercion, fraud or intimidation. Also, an incapacitated person is incapable of giving effective consent. A person who is incapacitated and incapable of giving effective consent includes without limitation a person who is unconscious, unaware, or otherwise physically or mentally unable to give effective consent to sexual activity. It also includes a person who cannot understand who, what, when, where, why or how with respect to the sexual activity.

IV. Groundless Charges or Malicious Mischief

Accusations of sexual harassment are serious matters. They should never be made casually and/or without cause. This policy shall not be used to bring groundless and malicious charges against students, faculty members, or employees. Disciplinary action concerning personal misconduct may be taken against any person bringing a groundless and malicious charge of sexual harassment. Bringing groundless and malicious charges may also result in legal liability for the person filing the charges.

The same sanctions appropriate to a violation of sexual harassment policy shall apply to those who bring charges in bad faith.

Sanctions Resulting From Findings of a Violation

The following sanctions are applicable to all HCC Faculty/Staff and Students when a finding or a violation of the sexual harassment policy has been determined, or when frivolous or malicious charges have been brought.

A first offense could be grounds for dismissal, and more than one sanction may be imposed for any single offense.

Sanctions for employees:

- Written or oral warning
- Formal reprimand placed in the respondent's permanent file
- Reassignment of duties (e.g., teaching or service duties involving students)
- Reduction in salary for one or more years
- Suspension without pay
- Dismissal

Sanctions for students:

- Warning, oral or written
- Reprimand in writing
- Restitution
- Probation
- Suspension
- Expulsion

V. Procedures for Handling Complaints Pursuant to the Sexual and Gender-Based Harassment Policy

The Title IX Coordinator has been charged with implementing the following procedures for students pursuant to the Sexual and Gender-Based Harassment Policy (“Policy”). The Vice-President/Director of each Campus will serve as the Title IX Investigative Officer and reports directly to the Title IX Coordinator.

HCC students, faculty, staff, or third parties may request information or advice, including whether certain conduct may violate the Policy; seek informal resolution; or file a formal complaint. These three options are described below. Initiating Parties are encouraged to bring their concerns to the Title IX Coordinator.

As set forth below, interim measures designed to support and protect the Initiating Party or the College community may be considered or implemented at any time, including during a request for information or advice, informal resolution, or a formal complaint proceeding. Consistent with the College’s policy, interim measures might include, among others: restrictions on contact; course-schedule alteration; changes in housing; leaves of absence; and/or increased monitoring of certain areas of the campus. These interim measures are subject to review and revision throughout the processes described below.

VI. Requests for Information or Advice

Initiating Parties seeking information or advice can expect to learn about resources available at the College and elsewhere that provide counseling and support. They also will be advised about the steps involved in pursuing an informal resolution or filing a formal complaint. Complainants have the right to file a criminal complaint. In addition, the Title IX Coordinator will discuss with Initiating Parties whether any interim measures are appropriate at this stage.

VII. Requests for Informal Resolution

Initiating Parties may make the initial request verbally, but must make a final request, in writing, for informal resolution to the Title IX Coordinator. The request should identify the alleged harasser (if known) and describe the allegations with specificity. The Title IX Coordinator will assess the severity of the alleged harassment and the potential risk of a hostile environment for others in the community to determine whether informal resolution may be appropriate. In cases involving allegations of sexual assault informal mechanisms, i.e. mediation, will not be used.

Upon determining that informal resolution is appropriate, and in instances when the Initiating Party makes the request to the Title IX Coordinator, the Title IX Coordinator will consult further with the person initiating the request, inform the person who is the subject of the allegations, and gather additional relevant information as necessary from the parties and others, as indicated. The Title IX Coordinator also may put in place any appropriate interim measures to protect the educational and work environment. The Title IX Coordinator will attempt to aid the parties in finding a mutually acceptable resolution.

When the allegations, if true, might constitute criminal conduct, the party against whom they are brought is hereby advised to seek legal counsel before making any written or oral statements. Those facing allegations may wish to obtain legal advice about how this process could affect any criminal case in which they are or may become involved.

A matter will be deemed satisfactorily resolved when both parties expressly agree, in writing, to an outcome that is also acceptable to the Title IX Coordinator. At any point prior to such an express agreement, the Initiating Party may withdraw the request for informal resolution and initiate a formal complaint under these Procedures.

Ordinarily, the informal resolution process will be concluded within two to three weeks of the date of the request.

VIII. Procedures for Formal Complaints

A. Initiating a Complaint

An Initiating Party may file a formal complaint alleging a violation of the Policy. A complaint of sexual or gender-based harassment should be filed directly with the Title IX Coordinator or designated campus representative, regardless of the identity of the Respondent. The Title IX Coordinator, in consult with appropriate College personnel, will inform the Respondent that a

complaint has been received, and, if indicated by the Complainant will put in place any appropriate interim measures.

A formal complaint must be in writing and signed and dated by a Complainant. It should state the name of the alleged harasser (if known) and describe with reasonable specificity the incident(s) of alleged harassment, including the date and place of such incident(s). The complaint must be in the Complainant's own words, and may not be authored by others, including family members, advisors, or attorneys. Attached to the complaint should be a list of any sources of information (for example, witnesses, correspondence and records, and the like) that the Complainant believes may be relevant to the investigation. However, a complaint should not be delayed if such sources of information are unknown or unavailable.

The Title IX Investigative Officer will not investigate a new complaint if it has already adjudicated a formal complaint based on the same circumstances or if the parties and the Title IX Coordinator already have agreed to an informal resolution based on the same circumstances.

B. Timeframe for Filing a Complaint

The College does not limit the timeframe for filing a complaint. The College encourages complaints to be filed as soon as reasonably possible following an alleged Policy violation because the College's ability to gather adequate information may be limited where a significant length of time has elapsed between an incident and the filing of a complaint. Further, with respect to those cases that will be reviewed by disciplinary bodies at the conclusion of the investigation, the College's ability to complete its processes may be limited with respect to Respondents who are no longer attending or are no longer employed by the College.

C. Initial Review

Once a formal complaint is received, the Title IX Coordinator will assign the case to the Title IX Investigative Officer for an initial review. The Title IX Investigative Officer will have appropriate training, so that they have the specialized skill and understanding to conduct prompt and effective sexual and gender-based harassment investigations.

The Title IX Investigative Officer will contact the Complainant in an attempt to gather a more complete understanding of the allegations. Based on the information gathered, the Title IX Investigative Officer will determine whether the information, if true, would constitute a violation of the Policy such that an investigation is warranted or whether the information warrants an administrative closure. The Title IX Investigative Officer will convey this determination to: the Complainant and the Title IX Coordinator. The Title IX Investigative Officer will work with the Title IX Coordinator to implement any appropriate interim measures to be put in place pending the completion of the case (or to revise as necessary any measures already in place).

Ordinarily, the initial review will be concluded within one week of the date the complaint was received.

D. Investigation

Following the decision to begin an investigation, the Title IX Investigative Officer will notify the Respondent in writing of the allegations and will provide a copy of the Policy and these procedures. The Respondent will have one week in which to submit a written statement in response to the allegations. This statement must be in the Respondent's own words; Respondents may not submit statements authored by others, including family members, advisors, or attorneys. Attached to the statement should be a list of all sources of information (for example, witnesses, correspondence, records, and the like) that the Respondent believes may be relevant to the investigation.

If the decision is made to begin an investigation in a case where the Complainant is unwilling to participate, but the College has assessed the severity of the harassment and the potential risk of a hostile environment for others in the community and has determined to proceed, then, for the purposes of these Procedures, the College's Title IX Coordinator (or a designee) will be considered the Complainant.

The Title IX Investigative Officer will request individual interviews with the Complainant and the Respondent, and, as appropriate, with other witnesses, which may include those identified by the parties as well as relevant officers of the College. When identifying potential witnesses, the parties should understand that the purpose of interviews is to gather and assess information about the incident(s) at issue in the complaint, not to solicit general information about a party's character. A typical investigation may take approximately 60 calendar days following receipt of the complaint.

When a complaint involves allegations that, if true, also might constitute criminal conduct, Respondents are hereby advised to seek legal counsel before making any written or oral statements. The investigation process is not a legal proceeding, but Respondents might wish to obtain legal advice about how this process could affect any criminal case in which they are or may become involved.

After the collection of additional information is complete but prior to the conclusion of the investigation, the Title IX Investigative Officer will request individual follow-up interviews with the Complainant and the Respondent to give each the opportunity to respond to the additional information.

E. Personal Advisors

Both the Complainant and the Respondent may bring a personal advisor to any interviews with the Title IX Investigative Officer. The Advisor may only advise their client and will not be allowed to make any presentations to the Title IX Investigative Officer.

F. Confidentiality

The Title IX Coordinator, the Title IX Investigative Officer and others at the College involved in or aware of the complaint will take reasonable steps to protect the privacy of all involved. Once a complaint is filed, the Complainant, the Respondent, and any witnesses will be notified of the potential for compromising the integrity of the investigation by disclosing information about the case and the expectation that they therefore keep such information – including any documents they may

receive or review – confidential. They also will be notified that sharing such information might compromise the investigation or may be construed as retaliatory. Retaliation of any kind is a separate violation of the Policy and may lead to an additional complaint and consequences.

The parties remain free to share their own experiences, other than information that they have learned solely through the investigatory process, though to avoid the possibility of compromising the investigation, it is generally advisable to limit the number of people in whom they confide.

G. Coordination with Law Enforcement Authorities

In all cases, the Title IX Investigative Officer will have completed the initial review without delay and, as appropriate, will have proposed interim measures to the College Title IX Coordinator. In the event that an allegation includes behavior or actions that are under review by law-enforcement authorities, the Title IX Investigative Officer, in light of status updates from law-enforcement authorities and the Title IX Coordinator, assess and reassess the timing of the investigation under the Policy, so that it does not compromise the criminal investigation.

H. Conclusion of the Investigation and Issuance of Final Report

At the conclusion of the investigation, the Title IX Investigative Officer will make findings of fact, applying a preponderance of the evidence standard, and determine based on those findings of fact whether there was a violation of the Policy.

The Title IX Investigative Officer will provide the Complainant and the Respondent with a written draft of the findings of fact and analysis and will give both parties one week to submit a written response to the draft. The Title IX Investigative Officer will consider any written responses before finalizing these sections of the report and the final section of the report, which will outline any recommended measures to be taken by the College to eliminate any harassment, prevent its recurrence, and address its effects. The Title IX Coordinator and the appropriate Administrator will work to put in place such measures as they determine are appropriate. Consistent with College policies, measures imposed at this stage may include but are not limited by, among others: restrictions on contact; course-schedule or work-schedule alteration; changes in housing; leaves of absence; or increased monitoring of certain areas of the campus.

The investigation will be completed and the final report provided to the Complainant, the Respondent, the College Title IX Coordinator, and the appropriate Administrator ordinarily within 60 days of receipt of the complaint. At the conclusion of the investigation findings will be forwarded to the Administrative Hearing Officer and the adjudication process will begin. For cases involving faculty, staff, other HCC Officials, or third parties that have been investigated by the Title IX Investigative Officer pursuant to Section III.B above, the imposition of sanctions will be considered separately by the appropriate officials at the College or unit through their relevant policies.

IX. Special Circumstances

A. Request for Anonymity

If a potential Complainant asks to remain anonymous, then the Title IX Coordinator and the Title IX Investigative Officer, as appropriate, will consider how to proceed, taking into account the potential Complainant's wishes, the College's commitment to provide a non-discriminatory environment, and the potential Respondent's right to have specific notice of the allegations. The Title IX Coordinator and the Title IX Investigative Officer may conduct limited fact finding to better understand the context of the complaint. In some circumstances, a request for anonymity may mean an investigation cannot go forward, the Title IX Coordinator and Title IX Investigative Officer determine that further investigation is necessary, in which case the potential Complainant will be informed that his or her identity will be disclosed as necessary for the investigatory process. In other circumstances, the Title IX Coordinator and the Title IX Investigative Officer may determine that the matter can be appropriately resolved without further investigation and without revealing the Complainant's identity.

B. Administrative Closure

If, after conducting the initial review of a formal complaint, the Title IX Investigative Officer finds that the allegation, if true, would not constitute a violation of the Policy, then the Title IX Coordinator will administratively close the case and notify the Complainant.

Where the Complainant is unwilling to participate in further investigation, the Title IX Coordinator will assess the severity of the alleged harassment or the potential risk of a hostile environment for others in the community and will determine whether administrative closure is appropriate or whether the College should proceed with an investigation.

Within one week of the decision to close a case administratively, the Complainant may request reconsideration on the grounds that there is substantive and relevant new information that was not available at the time of the decision and that may change the outcome of the decision. The Title IX Coordinator will consider requests for reconsideration and inform the Complainant of the outcome, ordinarily within one week of the date of the request.

In cases where the Title IX Coordinator concludes that the alleged conduct, while not a violation of the Policy, might implicate other College conduct policies, the Title IX Coordinator may refer the complaint to the appropriate College official.

C. Request to Withdraw the Complaint

While every effort will be made to respect the Complainant's wishes to withdraw a formal complaint, the College must be mindful of its overarching commitment to provide a non-discriminatory environment. Thus, in certain circumstances, the Title IX Coordinator may determine that investigation is appropriate despite a Complainant's request to withdraw the complaint or failure to cooperate. Other circumstances also may result in a request to withdraw the complaint being declined, where, for example, a request to withdraw is made after a significant portion of the investigation has been completed and terminating the investigation would be inequitable.

D. Request for Informal Resolution after a Complaint has Been Filed

Once a complaint has been opened for investigation and before the final report has been provided to the parties, a party may request informal resolution as an alternative to formal resolution of the complaint, but that disposition requires agreement of the Complainant and the Respondent and the approval of the Title IX Coordinator.

If such a request is approved, the timeframes will be stayed, and the Title IX Coordinator will take such steps as he or she deems appropriate to assist in reaching a resolution. If the parties cannot reach an informal resolution within two weeks from receipt of the request, then the Title IX Investigative Officer will resume the investigation of the complaint in accordance with the formal complaint procedures.

X. Appeal/Grievance

Both the Respondent and the Complainant may appeal the decision of the Title IX Investigative Officer to the Title IX Coordinator or designee based on the following grounds:

1. A procedural error occurred, which may change the outcome of the decision; or
2. The appellant has substantive and relevant new information that was not available at the time of investigation and that may change the outcome of the decision.

NOTE: Disagreement with the Title IX Investigative Officer's findings or determination is not, by itself, a ground for appeal and will not be considered as such.

Appeals of the Title IX Investigative Officer's decision must be received by the Title IX Coordinator within one week of the date of the final report. Appeals will be forwarded to the Vice President of Financial Services and will be decided within two weeks. The Title IX Coordinator will promptly be informed of the outcome in writing and forward their findings to the Respondent and the Complainant.

XI. Resources and Services

Campus and community services are available, even if College or criminal reports are not made. The College strongly encourages anyone who feels he or she is, or has been, the victim of sexual misconduct to seek assistance to care for himself or herself emotionally and physically through confidential crisis intervention, healthcare, and counseling. As you tend to your health, you should keep in mind that medical examinations are time-sensitive and are critical in preserving evidence of sexual assault so that options can be considered at a later time. For a list of available services, visit the sexual misconduct site at www.holmescc.edu/sexual-misconduct .

Contact and Resource Information

Title IX Coordinator

Name

Emergency Assistance 911
Mississippi Department of Public Safety 601-987-1212
Mississippi State Coalition Against Sexual Assault (<http://www.msCasa.org>)
R.A.I.N.N. (Rape, Abuse and Incest National Network) (<http://www.rainn.org>)
Jackson Rape Crisis Center (601) 366-0750 Phone (601) 982-7273 Crisis Line
www.catholiccharitiesjackson.org

Goodman Campus

Law Enforcement

Holmes CC Campus Police 601-940-0089
Goodman Police 662-472-2272
Holmes County Sheriff's Department 660-834-1511

Medical and Counseling

University Hospital-Lexington 662-834-0440
Bartee Family Health Clinic-Goodman 662-472-2970
Life Help Mental Health Center-Lexington 662-834-1709
1-866-453-6216

Ridgeland Campus

Law Enforcement

Holmes CC Campus Police 601-605-3333
Ridgeland Police 601-856-2121
Madison County Sheriff's Department 601-859-2345

Medical and Counseling

St. Dominic Hospital-Jackson 601-200-2000
Baptist Medical Clinic-Madison 601-605-3858
Three Oaks Behavioral 601-991-3080
Angel Wings Outreach Center 1-866-847-5802

Grenada Campus

Law Enforcement

Holmes CC Campus Police 662-809-6845
Grenada Police Department 662-227-3455
Grenada County Sheriff's Department 662-227-2877

Medical and Counseling

University of Mississippi Medical Center-Grenada 662-227-7000
Family Health Clinic 662-226-0110
Life Help Mental Health 662-226-1112
Catherine Booth Center 1-800-898-0834