



Asheville-Buncombe Technical Community College

(A-B Tech) Procedure

Procedure 112.02: Title IX Sexual Harassment

Introduction

Overview

The College strives to make its campuses and sites inclusive and a safe and welcoming learning environment for all members of the College community. Pursuant to multiple federal and state laws and administrative regulations and pursuant to College policy, the College prohibits discrimination in its education programs and activities based on sex.

Title IX

Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded educational program or activity. Under Title IX, discrimination on the basis of sex includes quid pro quo harassment; hostile environment harassment; other harassment on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; sexual assault, stalking, dating or domestic violence (collectively referred to as "sexual harassment"). The College's Title IX Coordinator has oversight responsibility for handling sexual harassment complaints and for identifying and addressing any patterns and/or systemic problems involving sexual discrimination or harassment. For these Procedures, when an individual brings forward an allegation of sexual harassment, the individual is referred to as the Complainant. The individual named in the allegation is referred to as the Respondent. All allegations involving sexual harassment should be directed to the College's Title IX Coordinator and addressed under these procedures. For other complaints of discrimination and harassment not related to sexual harassment, refer to the Non-Discrimination and Harassment procedure.

Scope and Applicability of Title IX

These Procedures apply to the conduct of and protect the following: 1) College students and applicants for admission into the College; 2) College employees and applicants for employment; 3) College sanctioned student organizations; and 4) third parties participating or attempting to participate in a College education program or activity.

These Procedures apply to conduct that occurs in any College Education Program or Activity or under circumstances where the College has disciplinary authority and of which the College has knowledge.

When a party is participating in a dual enrollment program, the College will coordinate with the party's school district to determine jurisdiction and coordinate providing supportive measures based on the allegations and identities of the parties.

Reporting

Reporting to Local Law Enforcement

Individuals may report sexual harassment directly to local law enforcement agencies by dialing 911. Individuals who make a criminal allegation may also choose to pursue the College's grievance procedure simultaneously. A criminal investigation into the matter does not release the College from its obligation to conduct its own investigation (nor is a criminal investigation determinative of whether sexual harassment has occurred). However, the College's investigation may be delayed temporarily while the criminal investigators are gathering evidence. In the event of such a delay, the College must make available supportive measures when necessary to protect the parties and/or the College community.

Individuals may choose not to report alleged sexual harassment to law enforcement authorities. The College respects and supports individuals' decisions regarding reporting; nevertheless, the College may notify appropriate law enforcement authorities if legally required or warranted by the nature of the allegations.

The A-B Tech Police Department is located across from the parking deck in the Mission Health/A-B Tech Conference Center on the Asheville campus and can be reached by phone at (828) 398-7125. A-B Tech Police Officers are available 24-hours a day, seven days a week. To reach the on-duty officer, please call (828) 279-3166.

Reporting to College Officials

Title IX Coordinator– The College's Title IX Coordinator oversees compliance with these Procedures and Title IX regulations. Questions about these Procedures should be directed to the Title IX Coordinator. Anyone wishing to make a report relating to sexual harassment may do so by reporting the concern to the Title IX Coordinator in person, by mail, by telephone, by email, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report of alleged harassment.

Michele Hathcock
Director of Title IX Compliance (Title IX Coordinator)
Office of the Vice President for Student Services
Asheville Campus
828-398-7932 or 828-398-7203
michelechathcock@abtech.edu

Online reporting at: www.abtech.edu/about/title-ix-sexual-discrimination-and-harassment-legislation.

Incidents solely between employees may be referred directly to the Human Resources Office who will work with the Title IX Coordinator. The Human Resources office can be reached at 828-398-7114 or hr@abtech.edu.

Mandatory Employee Reporting

All College employees, including student-employees, other than those deemed Confidential Employees, are Mandated Reporters and are expected to promptly report all known details of actual or suspected sexual harassment to appropriate officials immediately. Failure of a Mandated Reporter to report an incident of sexual harassment of which they become aware is a violation of College Policy and may subject the employee to disciplinary action.

Confidential Employee Reporting

Confidential Employees designated by the College are not required to report actual or suspected sexual harassment. Confidential Employees must, however, provide a Complainant with the Title IX Coordinator's contact information and offer options and resources without any obligation to inform an outside agency unless otherwise required by law. The College designated the Support Services professional counselors in the Bailey Building as Confidential Employees.

Grievance Procedures

Scope

Use of this grievance procedures applies to reports alleging sexual harassment carried out by employees, students, or third parties. All reports of sexual harassment are taken seriously. At the same time, those accused of sexual harassment are presumed "not responsible" throughout this grievance process.

Initial College Response and Assessment

After receiving a report of sexual harassment, the Title IX Coordinator takes prompt and appropriate steps to:

1. Communicate with the individual who reported the alleged conduct;
2. Offer and implement supportive measures to eliminate and prevent the recurrence of sexual harassment, deter retaliation, remedy the effects of sexual harassment, and provide due process rights during a College investigation;
3. Provide the individual with a copy of this Policy and Procedure; and
4. Determine whether the alleged conduct, as described by the reporting party, falls within the scope of this policy and if so, initiate the investigation and resolution procedure outlined below.
5. The Title IX Coordinator may delegate the authority to take some or all of these steps to other trained College officials.

Supportive Measures

Any Party may seek modification or reversal of the College's decision to provide, deny, modify, or terminate supportive measures applicable to the Party. A request to do so should be made in writing to the Title IX Coordinator.

An impartial employee who has authority to modify or reverse the decision will determine whether to provide, deny, modify, or terminate the supportive measures if they are inconsistent with the definition of supportive measures as defined in this Procedure.

The College will also provide the Parties with the opportunity to seek additional modification or termination of supportive measures applicable to them if circumstances materially change.

Time Limitations

There is no time limitation on providing a Formal Complaint to the Title IX Coordinator. However, if the Respondent is no longer subject to the College's jurisdiction and/or significant time has passed, the ability to investigate, respond, and/or provide remedies may be more limited or impossible.

False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy or Procedure are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a determination of a Policy violation.

Witnesses and Parties who knowingly provide false evidence, tamper with or destroy evidence, or deliberately mislead an official conducting an investigation or resolution process can be subject to discipline under appropriate College policies, procedures, and rules.

Emergency Removals/Administrative Leave

The College may remove a student Respondent, upon receipt of a report, Formal Complaint, or at any time during the grievance process, on an emergency basis when the College performs an individualized safety and risk analysis and determines that an imminent and serious threat to the health or safety of any student or other individual justifies removal.

1. The risk analysis is performed by the College behavioral intervention team and must recommend to the appropriate College official to implement or stay an emergency removal of a student and the conditions and duration of such emergency removal.
2. In all cases in which an emergency removal is imposed, the student shall be given notice and an opportunity to challenge the removal decision immediately following the removal by submitting a written appeal to the President.
3. Violation of an emergency removal under this Procedure is grounds for independent disciplinary action, up to and including suspension or expulsion.

The College may place an employee on suspension with pay upon receipt of a report, Formal Complaint, or at any time during the grievance process. An employee does not have a right to appeal a determination to place the employee on suspension with pay pending the conclusion of the Title IX grievance procedure. Violation of the terms of the suspension is grounds for independent disciplinary action, up to and including dismissal.

Administrative Closure of a Formal Complaint

The Title IX Coordinator may administratively close a Formal Complaint of sexual harassment at any time if:

1. The Complainant voluntarily withdraws any or all of the allegations in the Complaint and the Title IX Coordinator declines to initiate a Complaint;
2. The Respondent is no longer enrolled or employed by the College;

3. The College is unable to identify the Respondent after taking reasonable steps to do so; or
4. The College determines the conduct alleged in the Complaint would not constitute a violation of this Policy and Procedure, even if proven.

The Title IX Coordinator will notify the parties if a Formal Complaint of sexual harassment is closed under this section, including the reason(s) for closure, and direct the parties to the appropriate College office or department to resolve the report or complaint. All parties may appeal the Title IX Coordinator's dismissal of a Formal Complaint under this section by using the appeal procedures below.

Confidentiality/Privacy

The College makes every effort to preserve the Parties' privacy. The College will not share the identity of any individual who has made a report of sexual harassment, any Complainant, any individual who has been reported to be the perpetrator of sexual harassment, any Respondent, or any witness, except as permitted or required by or to fulfill the purposes of applicable laws and regulations.

Parties and Advisors are prohibited from unauthorized disclosure of information obtained by the College through these Procedures to the extent that information is the work product of the College, meaning it has been produced, compiled, or written by the College for purposes of its investigation and resolution of a Formal Complaint. It is also a violation of these Procedures to publicly disclose institutional work product that contains a Party or witness's personally identifiable information without authorization or consent.

Consolidation

The College may consolidate complaints of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against another party, when the allegations of sexual harassment arise out of the same facts or circumstances.

Informal Resolution

Any party may request the College facilitate an informal resolution to a sexual harassment complaint at any time prior to a final determination. The Title IX Coordinator may also offer the parties the opportunity for informal resolution.

1. Upon request for informal resolution, the Title IX Coordinator determines whether informal resolution is appropriate based on the facts and circumstances of the case. The Title IX Coordinator ensures that any proposed informal resolution is consistent with the College's obligations to prevent and redress sexual harassment.
2. A student's allegations of sexual harassment against a College employee are not eligible for informal resolution.
3. The Title IX Coordinator provides the parties with written notice of proceeding with an informal resolution, including the allegations of sexual harassment, the requirements of the informal resolution process, and potential terms that may be requested or offered in the informal

resolution, and what information the College will maintain, including any potential disclosures of information.

4. Informal resolution is voluntary. The Complainant and Respondent must provide written consent for informal resolution to take place. Any party has a right to end the informal resolution process at any time prior to agreeing to a resolution and begin or continue the formal investigation and grievance process.
5. Informal resolution concludes the matter only when all parties have signed a written agreement that confirms resolution of the allegations. The resolution agreement must include a waiver of the parties' right to have a formal grievance process on the allegations that have been informally resolved.
6. Parties are prohibited from revoking or appealing a resolution agreement. Should the Respondent violate the terms of an informal resolution agreement, such violation will subject the Respondent to an investigation and the formal grievance process contained in this procedure.
7. If a resolution agreement is not reached, the College will continue with a formal investigation.

Investigations

The goal of a formal investigation is to reach a determination as to whether a Respondent has violated one or more College policies prohibiting sexual harassment and if so, remedy the effects of a violation. The Title IX Coordinator may include possible violations of other College policies that contributed to, arose from, or are otherwise related to alleged violations of this Policy and Procedure in the scope of an investigation. Regardless of when alleged sexual harassment is reported, a Complainant must be participating in or attempting to participate in the College's education program or activity for a Formal Complaint to be investigated. The following are steps in the investigative process:

1. The Title IX Coordinator gives written notice to the Complainant and Respondent of the investigation, providing sufficient details to allow the parties to respond and prepare for initial interviews, including the identity of the parties involved (if known), the conduct alleged to be sexual harassment, the date and location of alleged incidents (if known), the specific policies implicated, a statement that the Respondent is presumed not responsible and a determination of responsibility is made at the conclusion of the process, information regarding the parties' right to an advisor and the right to review relevant evidence, a statement that retaliation is prohibited, information about the confidentiality of the process, and notice that the College prohibits knowingly making false statements or submitting false information during the grievance process.
2. The Title IX Coordinator designates an investigator to investigate the allegations of sexual harassment. The Title IX Coordinator may serve as the investigator if they are not serving in another role throughout the grievance process.
3. The investigator is also the decision-maker as to whether the Respondent has violated one or more College policies prohibiting sexual harassment, unless otherwise determined by the Title IX Coordinator.

4. Parties to an investigation can expect a prompt, thorough, and equitable investigation of complaints, including the opportunity for parties to ask questions, present witnesses and provide information regarding the allegations.
5. Parties and witnesses should cooperate in the investigation process to the extent required by law and this policy. If the party or witness chooses not to participate or becomes unresponsive, the College reserves the right to continue its grievance process without their participation to ensure a prompt resolution.
6. The standard of proof used in investigations is the preponderance of the evidence standard. It is the College's responsibility to establish the standard of proof and gather evidence during investigations.
7. The College aims to bring all investigations to a resolution within forty-five (45) College business days from the date the Title IX Coordinator determines a formal investigation will commence. Extensions of the timeframe for good cause are allowed, so long as written notice and the reason for the delay is provided to the parties. Good cause includes:
 - a. The complexity and/or number of the allegations;
 - b. The severity and extent of the alleged misconduct;
 - c. The number of parties, witnesses, and other types of evidence involved;
 - d. The availability of the parties, witnesses, and evidence;
 - e. A request by a party to delay an investigation;
 - f. The effect of a concurrent criminal investigation or proceeding;
 - g. Intervening holidays, College breaks, or other closures;
 - h. Good faith efforts to reach a resolution; or
 - i. Other unforeseen circumstances.

Investigations typically include interviews with the Complainant, the Respondent, and any witnesses, and the objective evaluation of any physical, documentary, or other evidence as appropriate and available. The College will give the Complainant and the Respondent written notice of any interview, meeting, or hearing at which a party is invited or expected to participate. This written notice may be via e-mail.

The Title IX Coordinator will inform the Complainant and Respondent at regular intervals or the status of the investigation.

The Parties have an equal opportunity to present witnesses and other evidence tending to prove or disprove the allegations.

8. Interviews conducted as part of an investigation under this Procedure may be recorded by the College. Recordings not authorized by the College are prohibited.
9. The Complainant and Respondent have the right to be accompanied by an advisor of their choosing during all stages of an investigation. A party may elect to change advisors during the process. All advisors are subject to the same rules:

- a. During the investigation, the advisor's role is limited to providing advice, guidance, and support to the Complainant or Respondent. An advisor is not permitted to act as a participant or advocate during the investigative process.
 - b. Advisors are expected to maintain the privacy of the records shared with them.
 - c. Advisors are expected to refrain from interfering with investigations.
 - d. Any advisor who oversteps their role or interferes during an investigation process will be warned once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave. The Title IX Coordinator determines whether the advisor may return or should be replaced by a different advisor.
10. Prior to finalizing a report, the investigator provides all parties an equal opportunity to review any relevant evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint. The Complainant and Respondent may submit a written response to the evidence, including any questions a party wants asked of another party or witness, within three (3) College business days after receipt of the evidence.

Responses must be submitted to the investigator via email, mail, or hand delivery by 5:00 p.m. eastern standard time on the date responses are due. Responses may not exceed 10 double-spaced pages on 8.5 x 11 paper with one-inch margins and 12-point font.

The investigator considers any responses received from the parties and conducts any further investigation necessary or appropriate.

11. Following an investigation, the investigator submits an investigation report and written determination to the parties that fairly summarizes relevant evidence. The report and determination includes a summary of the allegations; a summary of the response; a summary of the investigative steps taken to verify the allegations and response; and a summary of the evidence relevant to a determination of responsibility; a determination on the question of responsibility, including rationale for the result and any discipline sanction that the College is permitted to share pursuant to State and federal law; and the procedures and permissible bases for the parties appeal.
12. In cases where the Respondent is a student, after the investigative report and written determination has been sent to the parties, all parties shall have three (3) College business days to request a hearing. If either party requests a hearing, the hearing procedures described in *Student Rights of Due Process* shall be followed, except that 1) all parties shall have the right to participate in the hearing to the extent required by Title IX; and 2) a single hearing officer may be utilized in lieu of a committee.

Sanctions

The following sanctions may be imposed for those who have violated these Procedures.

Student Sanctions:

- Verbal or Written Warning
- Restrictions

- Probation
- Administrative withdrawal from a course(s) without refund
- Required Counseling
- No Contact Directive
- Suspension
- Expulsion
- Other consequences deemed appropriate

Employees Sanctions:

- Verbal or Written Warning
- Performance Improvement Plan
- Required Counseling
- Required Training or Education
- Transfer or Reassignment
- Demotion
- Suspension with or without Pay
- Dismissal
- Other consequences or conditions of employment deemed appropriate

If the investigator or hearing officer finds a student expulsion or employee suspension, demotion or dismissal is an appropriate sanction for a Respondent, but the investigator does not have authority to authorize such sanction, the investigator or hearing officer will make a recommendation of the sanction to the appropriate College official after the time for the appeal has expired. If the investigator or hearing officer recommends the Respondent be expelled, suspended, demoted, or dismissed during the time in which either party has to appeal, the Respondent shall remain in their current status (allowed on campus, on emergency removal, or on paid administrative leave) unless otherwise determined by the appropriate College official.

Appeals

After the investigator submits their investigative report and written determination to the Complainant and Respondent, all parties are given an equal opportunity to appeal the determination. Appeals may be based only on these grounds:

1. Procedural irregularity that affected the outcome;
2. New evidence that was not reasonably available at the time of the decision that could affect the outcome; and/or
3. The Title IX Coordinator or designee, investigator, or decision-maker had a bias or conflict of interest for or against Complainants or Respondents that could change the outcome.

Parties must submit any appeal, specifying at least one of the grounds above, to the President of the College by 5:00 p.m. eastern standard time via email or mail, within three (3) College business days of receiving the written determination of responsibility. Appeals may not exceed ten (10) double-spaced pages on 8.5 x 11 paper with one-inch margins and 12-point font.

The College notifies all parties when an appeal is filed and provides all parties with a copy of the appeal and a chance to submit a written statement supporting or challenging the outcome. Parties must submit written statements supporting or challenging the outcome to the President of the College by 5:00 p.m. eastern standard time via email or mail, within two (2) College business days of receiving a copy of an appeal.

Within ten (10) College business days of receiving an appeal, the President shall conduct a review of the record, including the appeal(s) received, any written statements supporting or challenging the outcome, the investigation report and written determination, and any accompanying evidence prior to issuing a written decision to the Complainant and Respondent that describes the result of the appeal and the rationale for the result. If the appeal does not provide information that meets the grounds for appeal, the President will deny the appeal.

The President's written decision is final.

External Contact Information

Concerns about the College's application of these Procedures and compliance with certain federal civil rights laws may be addressed to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Email: OCR@ed.gov
Phone: (202) 453-6012

Equal Employment Opportunity Commission (EEOC)

131 M Street, NE
Washington, D.C. 20507
Email: info@eeoc.gov
Phone: 1-800-669-4000

Protection Against Retaliation

The College will not in any way retaliate against an 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, participated, or refused to participate in any manner in an investigation, proceeding, or hearing under these Procedures.

Retaliation is a violation of College policy regardless of whether the underlying allegations are ultimately found to have merit. Reports of retaliation are treated separately from reports or complaints of sexual harassment.

Limited Immunity

The College community encourages the reporting of misconduct and crimes. Sometimes, Complainants or witnesses are hesitant to report to College officials or participate in resolution processes because they fear that they themselves may be accused of various policy violations. It is in the best interest of this College that as many Complainants as possible choose to report to College officials, and that witnesses come forward to share what they know. To encourage reporting, the College offers Complainants and witnesses amnesty from minor policy violations.

Suspending Procedures

In cases of emergency or serious misconduct, the College reserves the right to suspend this process and may enact appropriate action for the welfare and safety of the College community.

Student and Employee Education and Annual Training

All College employees shall receive annual training on the following topics:

1. The College's obligation to address sex discrimination in its education programs or activities;
2. The scope of conduct that constitutes sex discrimination under Title IX, including the definition of "sex-based harassment"; and
3. All applicable notification and information requirements.

In addition to the training that all College employees must receive, the Title IX Coordinator, investigators/decision-makers, those hearing appeals, and those involved in any informal resolution process shall receive annual trainings on the following topics:

1. These grievance procedures;
2. How to serve impartially, including avoiding prejudgment of facts at issue, conflicts of interest, and bias;
3. Issues of relevance of questions and evidence; and
4. The types of evidence that are impermissible regardless of relevance.
5. In addition, for Title IX Coordinators: training on specific Title IX Coordinator responsibilities, the College's recordkeeping system, and Title IX recordkeeping requirements.

Each year, all students and employees will receive an electronic copy of these Procedures sent to their College email address of record. These Procedures will be maintained online in the College's website and a hard copy will be kept on file in the Title IX Coordinator's office. Translations will be made available upon request.

Records Retention

The College maintains all records of Title IX grievance proceedings and all materials used to train the Title IX personnel for seven years.

Definitions

The following definitions shall apply to this procedure. The definitions are not intended to operate as speech codes, promote content and viewpoint discrimination or suppress minority viewpoints in the academic setting. Indeed, just because a person's speech or expression is deemed offensive by others does not mean it constitutes discrimination or harassment.

Behavior Intervention Team: A multi-disciplinary team of employees who assess and manage disruptive and threatening behaviors and situations to support the safety and well-being of the college community.

Complainant: An individual who is alleged to have been subjected to conduct that could constitute Sexual Harassment, as defined in these Procedures, and who was participating or attempting to participate in the College's education programs or activities at the time of the alleged Sexual Harassment.

Confidential Employees: Employees with confidentiality bestowed by law or professional ethics and serving in this capacity at the College. The College has designated the professional counselors in Support Services, located in the Bailey, as Confidential Employees.

Consent: Knowing, voluntary, and clear permission by word or action to engage in sexual activity. Consent is evaluated from the perspective of what a reasonable person would conclude are mutually understandable words or actions. Reasonable reciprocation can establish consent. Consent to some sexual contact (such as kissing or fondling) cannot be assumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

Consent has not been obtained in situations where the individual: 1) is forced, coerced, pressured, manipulated or has reasonable fear that they will be injured if they do not submit to the act; 2) is incapable of giving consent or is prevented from resisting due to physical or mental incapacity (including being under the influence of drugs or alcohol); or 3) has a mental or physical disability which inhibits their ability to give consent to sexual activity.

Dating Violence: Violence on the basis of sex committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. For purposes of this definition, Dating Violence includes but is not limited to sexual or physical abuse or the threat of such abuse.

Domestic Violence: Violence on the basis of sex committed by a current or former spouse or intimate partner of the Complainant; by a person with whom the Complainant shares a child in common; by a person with whom the Complainant cohabitates or has cohabitated as a spouse or intimate partner; by a person similarly situated to a spouse of the Complainant under the domestic violence laws of the State; or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic violence laws of the State.

Education Program or Activity: For purposes of these Procedures, this means any locations, events, or circumstances in which the College exercises substantial control over both the Complainant and Respondent and the context in which the alleged sexual harassment occurs.

Formal Complaint: A verbal or written report alleging sexual harassment against a Respondent that objectively can be understood as a request for the College to investigate the allegation(s) and make a policy violation determination. A Formal Complaint initiates a formal grievance process in which parties are entitled to due process protections. A Formal Complaint is separate and distinct from a Report, which provides only notice to the College of an allegation or concern about sexual harassment and provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures.

Informal Resolution: A resolution reached regarding an allegation of sexual harassment without going through the entire formal grievance process. Informal Resolution may include mediation, facilitated dialogue, conflict coaching, restorative justice, or other models of alternative dispute resolution. Informal Resolution cannot be used for a student's allegation of sexual harassment against a College employee.

Report: Notice to the College of an allegation or concern about sexual harassment that provides an opportunity for the Title IX Coordinator to provide information, resources, and supportive measures. When the College receives a Report of alleged sexual harassment, the College is deemed to have knowledge of conduct that reasonably may constitute sexual harassment.

Respondent: An individual who has been reported to engage in conduct that could constitute sexual harassment.

Retaliation: To intimidate, threaten, coerce, or discriminate against any person by the College, a student, employee, or a person authorized by the College to provide aid, benefit, or service under the College's education program or activity, for the purpose of interfering with any right or privilege secured by law or policy, or because the person has made a report or complaint, testified, assisted, participated, or refused to participate in any manner in an investigation, proceeding, or hearing under these Procedures.

The exercise of rights protected by the First Amendment does not constitute retaliation. It is also not retaliation for the College to pursue Policy violations against those who make materially false statements in bad faith in the course of a resolution under these Procedures.

Sexual Assault: An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting system.

Sexual Harassment: A form of sex discrimination that means harassment on the basis of sex. Sexual Harassment includes hostile environment harassment; quid pro quo harassment; or any instance of sexual assault, dating violence, domestic violence, or stalking; other sex-based harassment on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity when it takes the form of:

1. **Hostile environment harassment** is unwelcome sex-based conduct, which based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the College's education program or activity. Hostile environment harassment is a fact-specific inquiry that includes consideration of the degree to which the conduct affected the Complainant's ability to access the College's education program or activity; the type, frequency, and duration of the conduct; the parties' ages, roles, previous interactions, and other factors that may be relevant; the location of the conduct and the context in which the conduct occurred; and any other sexual harassment in the College's education program or activity.
2. **Quid pro quo harassment** is when a College employee or agent who provides an aid, benefit, or service under the College's education program or activity and explicitly or impliedly conditions the provision of such aid, benefit, or service on a person's participation in unwelcome sexual conduct.
3. **Specific Offenses** as defined in this Procedure as sexual assault, dating violence, domestic violence, and stalking.

Stalking: Engaging in a course of conduct on the basis of sex, directed at the Complainant, which would cause a reasonable person to fear for his/her safety or the safety of others or suffer substantial emotional

distress. For purposes of this definition, "course of conduct" means two or more acts, including but not limited to acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

Standard of Evidence: The College uses the preponderance of the evidence as the standard of proof of whether a violation of this policy has occurred. In the student due process hearing or employee grievance process, legal terms like "guilt," "innocence," and "burden of proof" are not applicable. Student and employee due process hearings are conducted to take into account the totality of all evidence available from all relevant sources. The College will find the Respondent either "responsible" or "not responsible" for violating College policy.

Supportive Measures: Individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party that are offered to restore or preserve educational access, protect safety, or deter sexual harassment. Examples of support measures are counseling, medical, or other healthcare services; extensions of deadlines or other course-related adjustments; modifications of work or class schedules; campus escort services; mutual restrictions on contact between the parties; leaves of absences; increased security and monitoring of certain areas of the College; and other similar measures.

Title IX Coordinator: For the purposes of these Procedures, the Title IX Coordinator refers to the Director of Title IX Compliance and Student Life Development. The Director's office is located in the Coman Student Center. The Title IX Coordinator's phone number is 828-398-7203 and email is michelechathcock@abtech.edu.

Owners: Vice President for Student Services
Director for Human Resources and Organizational Development

Updated: August 1, 2024