



Procedures No: 2029

Title of Procedures: **Sexual Misconduct (i.e. Harassment/Assault) Procedures**

Procedures (check one): New Revised

Applies to (check all that apply):

Faculty Staff Students Division/Department: College

Topic/Issue:

There are ranges of corrective actions and penalties available to the College for violations of the Sexual Misconduct Policy. Any member of the College community may report allegations of sexual misconduct.

Background to Issue/Rationale for Procedure:

State/Federal Regulatory Requirements (cite if applicable):

- Title VII of the Civil Rights Act of 1964 as amended
- Title 20 State Government Article, Annotated Code of Maryland
- Title 5, Subtitle 2, Annotated Code of Maryland State Personnel and Pensions Article
- Title IX of the Education Amendments of 1972
- Executive Order-01.01.2007.16 Maryland Code of Fair Employment Practices
- EEOC Policy Guidance on Sexual Harassment, Number N-915-050
- Maryland Criminal Law Article (CR 3-305)

Procedural Language:

Baltimore City Community College adheres to the sexual harassment definitions promulgated by the Equal Employment Opportunity Commission (EEOC) and the Office of Civil Rights of the United States Department of Education (OCR).

I. Sexual Harassment

Sexual Harassment is defined as unwelcome sexual advances, requests for sexual favors, and may be **verbal** (sexual innuendos, threats, jokes, sexual propositions, or suggestive comments, etc.); **non-verbal** (making suggestive or insulting noises, leering, whistling or making obscene gestures, or displaying

sexually explicit or offensive pictures or other illustrations, etc.); or **physical** (touching, pinching, brushing the body, assaulting, or any other contact of a sexual nature) when;

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment at Baltimore City Community College or participation in a College program;
- b. Submission to or rejection of such conduct by an individual is used as the basis of academic or employment decisions affecting an individual or;
- c. Such conduct has the effect of interfering with an employee, student or third party's work performance or creating an intimidating hostile or abusive work environment.

Tangible psychological injury is not a necessary element of a hostile work/academic environment; rather, an environment that is perceived by the victim as hostile or abusive, and that a reasonable person would find hostile or abusive is sufficient to meet the standard.

A. Types of Sexual Harassment

1. Quid Pro Quo (*This for that*)

Unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal, non-verbal or physical conduct of a sexual nature constitute "quid pro quo" sexual harassment when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- b. Submission to or rejection of such conduct by an individual is used as the basis for an employment decision that affects an individual.

2. Hostile Work/Academic Environment

Sexual advances, requests for sexual favors, and other verbal, non-verbal or physical conduct of a sexual nature constitute "hostile environment" sexual harassment when the conduct:

- a. was unwelcome;
- b. was based on the victim's gender;
- c. was severe or pervasive enough to alter the conditions of the victim's employment and create a work environment

- that is perceived as hostile or abusive by any reasonable person subjected to the behavior
- d. is imputable to the College.

II. Reporting Violations

For the purposes of these procedures, the **Complainant** is the person filing a Complaint, while the **Respondent** is the person who is alleged to have violated the Sexual Misconduct Policy.

1. Reporting the Complaint

- a) **Faculty/Staff** who believe that he or she has been the victim of sexual harassment or retaliation should report the alleged incident immediately to the Executive Director of Human Resources and/ or designee.
- b) **Students** who believe that he or she has been the victim of sexual harassment or retaliation should report the alleged incident immediately to the Office of Student Judicial Affairs, who will investigate in accordance with the Student Code of Conduct.

2. Receiving the Complaint

- a) **Faculty/Staff**: Any BCCC faculty/staff who receives a report of sexual harassment or becomes aware of conduct in violation of the Policy has an affirmative duty to report immediately to the Executive Director of Human Resources and/ or designee
- b) **Students**: Any BCCC **student** who receives a report of sexual harassment or becomes aware of conduct in violation of the Policy has an affirmative duty to report immediately to the Office of Student Judicial Affairs.

3. Establishing an investigation as Harassment or Sexual Assault

- a) **Faculty/Staff**: Upon receipt of a complaint the Executive Director of Human Resources and/ or designee will consult with the College's attorney and Public Safety to establish the investigation as harassment or as sexual assault. **Public Safety will investigate sexual assault cases.**
- b) **Students**: Upon receipt of a complaint the Vice President of Student Affairs will consult with the College's attorney and Public Safety to establish the investigation as harassment or as sexual assault. **Public Safety will investigate sexual assault cases.**

4. Informing the Complainant of the College's policy

- a) **Faculty/Staff:** The Executive Director of Human Resources and/ or designee shall promptly contact and inform the Complainant of the College's policy prohibiting sexual harassment and of the procedures available to resolve a complaint of sexual harassment. Formal procedures for resolving a complaint of sexual harassment are available for use by faculty, employees, students, and volunteers.
- b) **Students:** The Office of Student Judicial Affairs shall promptly contact and inform the Complainant of the College's policy prohibiting sexual harassment and of the procedures available to resolve a complaint of sexual harassment. Formal procedures for resolving a complaint of sexual harassment are available for use by faculty, employees, students, and volunteers.

III. Investigation

1. **Sexual Assault:** If at the conclusion of a Public Safety investigation the allegation is insufficient to support charges of sexual assault as defined by law, the incident will be referred to the appropriate College office (i.e. Human Resources (faculty/staff) or Judicial Affairs (students) for further investigation and action.
2. **Student towards Student Sexual Harassment:** The Vice President of Student Affairs will investigate sexual harassment behaviors by students toward students as covered in the Student Code of Conduct. The Code of Conduct is located on the Student Portal, BCCC website, and Blackboard. Hard copies can be requested from the Office of Judicial Affairs.
3. **Faculty/Staff towards Faculty/Staff Sexual Harassment:** The Executive Director of Human Resources and/ or designee will investigate sexual harassment behaviors by faculty and staff towards faculty and staff through the College's Office of Human Resources. If the person alleged to have violated this policy is the Executive Director of Human Resources, the complaint shall be brought to the attention of the BCCC President who shall refer or designate the complaint to the College's attorney or other appropriate State agency.

4. **Faculty/Staff towards Students Sexual Harassment:**

- a. **Faculty/Staff:** With regard to Faculty/Staff alleged sexual harassment towards students, the Executive Director of Human Resources and/ or designee will investigate the sexual harassment complaint accusation. Additionally, the Office of Student Judicial Affairs will assign a student advocate to assist with the investigation of these cases.
- b. **Students:** Students allegedly accused of sexual harassment towards faculty/staff, will be investigated by the Office of Student Judicial Affairs utilizing the Student Code of Conduct.

IV. Responsibilities

If an employee/student (Complainant) believes that sexual harassment has occurred, the Complainant shall take the following steps:

1. Inform the offending individual(s) that the conduct is unwelcome and should cease immediately. It is important for the Complainant to communicate that the conduct is unwelcome, particularly when the alleged harasser may have some reason to believe that the behavior may be welcome. However, a Complainant of harassment need not confront his/her harasser directly, so long as the Complainant's conduct demonstrates that the harasser's behavior is unwelcome.
2. If the alleged harassment does not cease:
 - a. **Faculty/staff** are to report it promptly to the Executive Director of Human Resources and/ or designee, who are the College's Fair Practices, EEO, and Title IX Officers. In addition; faculty/staff may report the alleged harassment to their supervisor or another management representative, and they should promptly report the information to the Executive Director of Human Resources
 - b. **Students** should report the alleged harassment to the Vice President of Student Affairs/Judicial Affairs Officer.
3. If an employee or student's immediate supervisor or instructor is the alleged harasser:

- a. **Faculty/staff** are to report the incident directly to his/her manager's immediate supervisor, or the Executive Director of Human Resources or designee.
- b. **Students** should report the alleged harassment to the Vice President of Student Affairs/ Judicial Affairs Office.

V. Baltimore City Community College Responsibilities

1. When an alleged incident of sexual harassment is reported, the College has (30) thirty days in which to thoroughly investigate the complaint through the formal complaint process.
2. Independent review or consulting may be processed through the Office of the Statewide Equal Employment Opportunity Coordinator (OSEEOC).
3. The College will inform the Complainant of his/her right to pursue an allegation of sexual harassment with the Maryland Commission on Human Relations or the U.S. Equal Employment Opportunity Commission.
4. The College will inform the Complainant that it will take every reasonable effort to handle the complaint in a manner that protects the confidentiality of all parties.
5. The College will follow-up with the Complainant and any other individuals implicated in the investigation to ensure that no further incidents have occurred.
6. The College must ensure that employees who make complaints of sexual harassment or provide information related to such complaints are protected from retaliation.

VI. Protective Measures and Confidentiality

1. Retaliation by College faculty members, staff, or students against a person who makes a complaint of sexual harassment; supports a complaint of sexual harassment; or testifies during an investigation of a complaint of sexual harassment is expressly prohibited. If an individual is found to have engaged in retaliation, which is in violation of this policy, he or she will be subject to appropriate disciplinary action.

- a. **Faculty/staff:** Any individuals who are Complainants of sexual harassment or retaliation shall immediately report such conduct to the Executive Director of Human Resources and/ or designee, who is the College's Fair Practices Officer. As part of the investigation, the Respondent will be asked to sign a declaration of non-retaliation.
 - b. **Students:** Students who are Complainants of sexual harassment or retaliation shall immediately report such conduct to the Coordinator of Student Judicial Affairs. As part of the investigation, the Respondent will be asked to sign a declaration of non-retaliation.
2. Complainants, Respondents, Witnesses, and all individuals involved in the investigation process, or resolving a complaint of sexual harassment, are required to maintain the highest level of confidentiality. Failure to maintain confidentiality may result in appropriate disciplinary action.
3. Allegations of sexual harassment are extremely serious with the potential for great harm if ill-conceived or without foundation. It is a violation of the BCCC Sexual Misconduct policy for an individual(s) to file a bad faith claim of sexual harassment. Any individual found to have filed a bad faith complaint is in violation of the policy and will be subject to appropriate disciplinary action. Nonetheless, the College community should not be discouraged from filing legitimate complaints of sexual harassment.

VII. Disciplinary Actions

1. Disciplinary actions against:
 - a. **Faculty, staff, vendors, or volunteers found to be in violation of the Sexual Misconduct Policy shall be subject to appropriate disciplinary action. The actions range from reprimand to termination and will be implemented depending on the severity of the circumstances of the particular offense.**
 - b. **Students found to be in violation of the Sexual Misconduct Policy** at the College shall be subject to appropriate disciplinary action. The actions range from suspension to expulsion from BCCC programs. This information is outlined in the Student Code of Conduct.
2. All employees and students should be aware that they may be civilly or criminally liable if they engage in prohibitive conduct.

VIII. Procedures for Resolving a Complaint

1. The Complainant wishing to file a complaint of sexual harassment through formal procedures shall file his or her written complaint with:
 - a. **Faculty/staff:** Executive Director of Human Resources and/ or designee within thirty (30) days following the alleged violation(s), or within (30) thirty days following the date on which the Complainant knew or reasonably should have known of the alleged incident.
 - b. **Students:** Coordinator of Student Judicial Affairs within thirty (30) days following the alleged violation(s), or within (30) thirty days following the date on which the Complainant knew or reasonably should have known of the alleged incident.
2. The written complaint shall be signed by the Complainant and shall state:
 - a. The allegations, including when and where the alleged conduct occurred;
 - b. The name(s) of the person(s) alleged to have violated the policy;
 - c. The names of any witnesses to the violation; and
 - d. The relief requested.
3. Upon receipt of a formal complaint of sexual harassment, the Executive Director of Human Resources and/ or designee and/or Coordinator of Student Judicial Affairs shall immediately consult with the College's attorney prior to taking any action to investigate or resolve the Complaint.
4. The Respondent will be apprised of the allegations and afforded the opportunity to provide his/her response.
5. Within (30) thirty days upon receipt of a complaint, a confidential investigation of the facts shall be conducted and concluded, which will include:
 - a. Interviews with the Complainant, the Respondent and any witnesses; and
 - b. The collection of all relevant documents.
 - c. Drafting a full written report which includes recommendations that are reviewed by the Colleges attorney.
6. Confidentiality of information:
 - a. **Faculty/staff:** The Executive Director of Human Resources and/or designee shall make every effort to keep the investigation confidential and shall notify all those who are contacted in the course of the investigation that it is a violation of the Policy to fail to maintain confidentiality. Confidentiality applies to both the facts of the investigation, and any information that the individual provides to the Executive Director of Human Resources and/or designee.

- b. **Students:** The Coordinator of Student Judicial Affairs shall make every effort to keep the investigation confidential and shall notify all those who are contacted in the course of the investigation that it is a violation of the Policy to fail to maintain confidentiality. Confidentiality applies to both the facts of the investigation, and any information that the individual provides to the Coordinator of Student Judicial Affairs.
- 7. Within five (5) days from the conclusion of the investigation, a written summary shall be issued to the Complainant and the Respondent including:
 - a. Findings of fact concerning the event(s) that occurred or were alleged to have occurred.
 - b. Conclusions as to whether the event(s) that did occur constituted a violation of BCCC's policy prohibiting sexual harassment
 - o The Complainant only receives notification that the College is taking appropriate action, not specific disciplinary steps.
 - o The Respondent only receives notification that the College is taking specific disciplinary steps as a result of the investigation.
 - o Both the Complainant and Respondent will receive information in writing pertaining to their appeal rights.
- 8. The College's attorney shall be fully consulted while preparing this report. If it is concluded that the policy has been violated and a disciplinary sanction is recommended:
 - a. **Faculty/staff:** The Executive Director and/or designee should consult with the President and the Respondent's supervisor concerning the disciplinary sanction.
 - b. **Students:** An Incident Management Advisory hearing will be convened per the Student Code of Conduct.
- 9. At the conclusion of the investigation the College's findings in the form of a summary will be mailed to both the Complainant and Respondent including a statement of the Complainant's and Respondent's appeal rights.

IX. Formal Hearing/Appeal

- 1. If either the Complainant or Respondent disagrees with the written decision, they may request an independent review by filing a written request with the President of the College within (5) five days of the date of receipt of the investigation summary. The request shall state with specificity the portions of the decision with which the person requesting the hearing disagrees.

2. If neither the Complainant nor the Respondent requests an independent review within the time stipulated above, the decision shall be the final disposition of the College, unless the President directs otherwise.

X. External Filing Procedures

Should the individual(s) wish to file a formal complaint with an external agency, he or she may do so with one of the following agencies:

Equal Employment Opportunity Commission (EEOC)
1801 L Street, N.W.
Washington, D.C. 20507

Equal Employment Opportunity Commission (EEOC)
10 South Howard Street, 3rd Floor
Baltimore, Maryland 21201

Maryland Commission on Human Relations
6 St. Paul Street, 9th floor
Baltimore, Maryland 21202

United States Department of Education
Office for Civil Rights
3535 Market Street, Room 6300
Philadelphia, Pennsylvania 19104-3326

XI. Education

The College will ensure that all BCCC employees and students are informed and understand the College's policy prohibiting sexual harassment. This will be accomplished through:

1. Employee Orientation: All new employees will receive a copy of the BCCC policy prohibiting sexual harassment at New Employee Orientation. The policy will be explained and all new employees will acknowledge by signature that they have had the policy explained to them, understand it, and agree to abide by the rules and regulations while employed at BCCC.
2. New Student Orientation: The Vice President for Student Affairs will ensure that all students are informed of BCCC's Sexual Harassment Policy prohibiting sexual harassment and that the procedures for filing complaints are distributed through the Student Handbook and are also found in the Student Code of Conduct.

3. Education: All employees will be required to participate in sexual harassment training every (2) two years through professional development. This course will discuss the policy, explain the procedures and provide updates on any changes. Vice presidents and department heads can also request additional training for their respective Division/Departments from Human Resources on an as needed basis.

Implementation Date: November 27, 2012

Proposed by: Tony Warner, Executive Director-Human Resources
Dr. Alicia B. Harvey-Smith, Vice President for Student Affairs
Shawn Harrison, Interim Director of Public Safety
Vice President/Senior Staff Members

Originator/Division: President's Office/Human Resources, Division of Student Affairs and Division of Business and Finance.