

Baltimore City Community College



Changing Lives...Building Communities

Procedure No. 2016A

Title of Procedure: Sexual Harassment Procedure

Applies to (check all that apply):

Faculty____ Staff____ Students____

Division/Department____ College **X**

Topic/Issue:

There are ranges of corrective actions and penalties available to the College for violations of this policy. Any member of the college community may report allegations of sexual harassment.

Background to Issue/Rationale for Procedure:

With a Sexual Harassment Policy in place, the College places its community on notice that sexual harassment within the college workplace and within educational programs will not be condoned and will not be allowed to interfere with the mission of Baltimore City Community College. These procedures address the complaint and investigation process, disciplinary actions, hearings and appeals and educating the college community.

State/Federal Regulatory Requirements (cite if applicable):

- Title VII of the Civil Rights Act of 1964
- Civil Rights Act of 1991
- Title IX of the Education Amendments of 1972
- Fair Employment Practices Act, MD Annotated Code art. 49B, §§14-18 (1986 & Supp. 1991)
- Title 29 - Labor, Chapter XIV--Equal Employment Opportunity Commission Sec. 1604.11 Sexual Harassment.

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).

Unwelcome sexual advances, unwelcome requests for sexual favors, and other behavior of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment by BCCC or an individual's participation in a BCCC program; or
2. Submission to or rejections of such conduct by an individual is used as the basis for academic or employment decisions affecting the individual; or
3. Such conduct by an employee, by a student, or by a third party is sufficiently severe, persistent or pervasive to
 - a. limit an individual's ability to participate in or benefit from an educational program or activity;
 - b. create a hostile or abusive educational environment; or
 - c. has the purpose or effect of unreasonably interfering with an individual's work performance, or of creating an intimidating, hostile, or offensive work environment at BCCC.

A. Reporting Violations

1. Any employee or student who believes 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 or any BCCC staff, faculty member, or supervisor.
2. Any BCCC employee 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 any behavior that he or she believes is in violation of this Policy.
3. The Executive Director of Human Resources shall promptly contact and inform the complainant of BCCC's policy prohibiting sexual harassment and of the procedures available to resolve a complaint of sexual harassment. Both informal and formal procedures for resolving a complaint of sexual harassment are available for use by employees, students, and volunteers.
4. An investigation of the complaint must be conducted immediately by the Executive Director of Human Resources or another designated official.

5. Complaints against students shall be brought to the attention of the Vice President for Student Affairs.

For the purposes of these procedures, the Complainant is the person filing a Complaint. The Respondent is the person who is alleged to have violated this Policy.

B. 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 in violation of this Policy, he or she will be subject to disciplinary action. Any individual who has been a victim of sexual harassment or retaliation shall immediately report such conduct to the Executive Director of Human Resources.
2. Complainants, Respondents, witnesses, and all persons involved in making investigations, or resolving a complainant of sexual harassment, shall use their good faith efforts to keep confidential all information relating to a complaint. Failure to maintain confidentiality may result in disciplinary action and/or other serious sanctions.
3. Allegations of sexual harassment are extremely serious, with potential for great harm if ill-conceived or without foundation. It is a violation of the policy for an individual to file an untruthful or bad faith claim of sexual harassment. The college community should not be discouraged from filing legitimate complaints of sexual harassment. An individual found to have filed an untruthful or bad faith complaint is in violation of this Policy and will be subject to disciplinary action.

C. Sanctions

1. Sanctions against BCCC faculty and staff for sexual harassment may range from reprimand to termination, depending on the severity of the conduct and the circumstances of the particular.
2. Sanctions against students and volunteers at the college for sexual harassment may include suspension or expulsion from BCCC programs
3. All employees and students should be aware that they may be civilly or criminally liable if they engage in prohibitive conduct.

D. Informal Procedures for Resolving a Complaint

1. A Complaint of an incident of sexual harassment or other behavior in violation of the Policy may be reported to any BCCC staff or faculty member, including the Complainant's supervisor, department/division head, dean or any other College administrator. Students and volunteers are encouraged to report complaints to the Executive Director of Human Resources. Any BCCC employee who receives a report of sexual harassment or otherwise becomes aware of conduct in violation of the Policy shall immediately notify the Executive Director 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 President who shall investigate the alleged violation. The Executive Director of Human Resources 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. While not required to initiate an investigation, the Complainant is strongly encouraged to submit a written, signed complaint as a means of achieving a comprehensive resolution.
2. Upon receipt of a complaint, the Executive Director of Human Resources shall, within ten days, conduct and conclude a confidential investigation of the facts, which will include:
 - an interview with the Complainant, the Respondent, and any witnesses to the material events;
 - the collection of all relevant documents; and
 - consultation with BCCC's attorney.

The ten-day period of investigation may be extended with the approval of the President.

3. At the conclusion of the investigation, the Executive Director of Human Resources will make reasonable efforts to resolve the Complaint to the satisfaction of BCCC, the Complainant, and the Respondent. If a mutually agreeable resolution is reached, the Complainant, the Respondent and the College will sign a statement acknowledging concurrence with the resolution of the Complaint.
4. The Executive Director of Human Resources shall retain Complaints processed through informal procedures in a confidential file separate from any personnel or student files. The confidential file should include:
 - the name of the Complainant;
 - the name of the Respondent;
 - the nature of the Complaint;
 - the incident date;

- the names of witnesses; and
 - any other information relevant to the incident.
5. All administrators have ultimate responsibility for overseeing compliance with this policy at his or her respective unit of the college. In addition, each supervisor shall be required to report any complaint of sexual harassment to the individual or individuals designated in the procedures. All members of the BCCC community are required to cooperate in any investigation of a sexual harassment complaint.

E. Formal Procedures for Resolving a Complaint

1. A person wishing to process a Complaint of sexual harassment or other behavior in violation of the Policy through formal procedures shall file his or her Complaint with the Executive Director of Human Resources within thirty (30) days following the alleged violation(s) or within 30 days following the date on which the Complainant knew, or reasonably should have known, of the alleged incident.
2. The Complaint shall be signed by the Complainant and shall state:
 - the allegations, including when and where the alleged conduct occurred;
 - the name(s) of the person(s) alleged to have violated the Policy;
 - the names of any witnesses to the violation; and
 - the relief requested.
3. The Respondent shall be promptly furnished with a copy of the Complaint by the Executive Director of Human Resources and has ten (10) days to submit a written response to the allegations to the Executive Director of Human Resources.
4. Upon receipt of a formal Complaint of sexual harassment, the Executive Director of Human Resources shall immediately consult with BCCC's attorney prior to taking any action to investigate or resolve the Complaint.
5. The Executive Director of Human Resources shall, within ten days of receipt of the formal Complaint and request, conduct and conclude a confidential investigation of the facts. The ten day period of investigation may be extended, with the approval of the President. The investigation will include:
 - interviews with the Complainant, the Respondent and any witnesses;

- the collection of all relevant documents.
6. The Executive Director of Human Resources 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 Prohibiting Sexual Harassment to fail to maintain confidentiality with respect to both the facts of the investigation and any information that the individual provides to the Executive Director of Human Resources.
 7. Within five (5) days from the conclusion of the investigation, the Executive Director of Human Resources shall issue to the Complainant and the Respondent a written report setting forth:
 - findings of fact concerning the events that occurred or were alleged to have occurred;
 - conclusions as to whether the events that did occur constituted a violation of BCCC's Policy Prohibiting Sexual Harassment;
 - recommendation as to what disciplinary sanctions, if any, should be imposed.
 8. In preparing this report, the Executive Director of Human Resources shall consult fully with the College's attorney. If the Executive Director of Human Resources concludes that the Policy has been violated and recommends a disciplinary sanction, the Executive Director should consult with the President and the Respondent's supervisor concerning the disciplinary sanction.
 9. The Executive Director of Human Resources shall mail to the Complainant and Respondent the written report and a statement of the Complainant's and Respondent's appeal rights.

F. Disciplinary Actions

Recommended disciplinary action may include, but is not limited to: a letter of reprimand, a letter of apology from the Respondent to the Complainant; demotion of the Respondent; suspension of the Respondent; termination of Respondent's employment with the College; suspension or expulsion of a student Respondent from the College.

G. Formal Hearing/Appeal

1. If either the Complainant or Respondent disagrees with the report of the Executive Director of Human Resources, either may request a formal hearing by filing a written request for a hearing with the President, Baltimore City Community College within five (5) days of the date of receipt of the Executive Director of Human Resource's report. The request for a hearing 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 a formal hearing within the time stipulated above, the decision of the Executive Director shall be implemented as the final decision of the College, unless the President directs otherwise.
3. Upon receipt of a request for a hearing, the President shall appoint a three member Appeal Committee. The members of the Appeal Committee shall be selected from the Sexual Harassment Panel, a 15 member college-wide group. Each division shall appoint 3 members to serve alternatively on the Sexual Harassment Panel. Members of the Sexual Harassment Panel will not participate on an Appeal Committee that involves a Complainant or Respondent from his/her division. Each member of the Sexual Harassment Panel will be required to sign a Confidentiality Agreement. The President shall appoint one of the three members as the Committee Chair. No member of the appointed Hearing Committee may have served as an investigator, witness, or party in connection with the Complaint in question.
4. The Appeal Committee shall promptly conduct a hearing. The Committee Chair may limit the issues in the hearing to those issues or aspects of the report of the Director about which the parties disagree. The purpose of the hearing is to determine:
 - a. the events that occurred;
 - b. whether the events that did occur constituted a violation of the College's Policy Prohibiting Sexual Harassment; and
 - c. if the Committee concludes that the Policy has been violated, the Committee's recommendations as to what disciplinary sanctions, if any, should be imposed.
5. Prior to the hearing and in preparing its report, the Committee shall consult fully with the College's attorney.
6. At the hearing, the report of the Executive Director of Human Resources shall be introduced as evidence. The person or persons asserting that there has been a violation of the Policy Prohibiting Sexual Harassment

shall have the burden of ultimate persuasion, by the preponderance of the evidence, that the alleged events occurred and constituted a violation of the Policy.

7. The Complainant, the Respondent, and the Executive Director of Human Resources may all participate fully in the hearing. Each may present opening and closing statements; call, examine and cross-examine witnesses; and introduce documentary evidence. Hearing Committee members may question witnesses, and the Committee Chair may exclude irrelevant or unduly repetitious testimony. The College attorney may be present at the hearing to provide advice, education, and counsel to the Hearing Committee.
8. Within fifteen (15) days following the conclusion of the hearing, the Hearing Committee shall submit to the President a written report containing its findings, conclusions, and recommendation concerning the matters before it. That written report shall be mailed to the Complainant, the Respondent, and the Executive Director of Human Resources.
9. The report should contain:
 - statement of the facts that occurred;
 - the Committee's conclusions as to whether the conduct that occurred constitutes sexual harassment or other behavior that is a violation of the Policy; and
 - a recommendation for disciplinary action, if any.
10. Within fifteen (15) days following the receipt of the report of the Hearing Committee, the President shall issue a final written decision that will be binding on all parties. That final decision shall be mailed to the Complainant, the Respondent, the Executive Director of Human Resources, and the members of the Hearing Committee.

H. External Filing Procedures

Should the individual 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

To protect the legal rights and remedies available to a Complainant through external agencies, federal courts and/or State courts, a person filing a Complaint of sexual harassment must comply with certain time limits and deadlines. Therefore, a person wishing to file a Complaint with an external agency must contact that agency to verify time periods for filing Complaints.

I. Education

The College will ensure that all BCCC employees 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 Policy prohibiting sexual harassment, and that the procedures for filing complaints are distributed through the Student Handbook.
3. **Staff Education.** Each employee will receive a copy of the Policy and sign a document acknowledging receipt. All staff will be afforded the opportunity to participate in Sexual Harassment training every 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.
4. **Faculty Education.** Each faculty member will receive a copy of the policy and sign a document acknowledging receipt. Human Resources will communicate any policy or procedural changes and updates. All faculty will be afforded the opportunity to participate in Sexual Harassment

training every two years. Department Chairs may schedule faculty training for their Department from Human Resources on an as-needed basis. Faculty will also be able to participate in Professional Development courses as noted above.

5. Periodic BCCC Updates. The Network will be used to disseminate information when significant changes to the law occur. These updates will explain how any changes affect the BCCC Community. The Policy and Procedure will also be available on the N: Drive. Hard copies will be made available in each Department office, the Human Resources office and on reserve in the Bard Library.

Implementation Date: September 19, 2007

Originator/Division: Human Resources

Approved by the Board of Trustees: September 19, 2007