

Policy 6.22

Title IX Gender Discrimination and Sexual Misconduct Policy

Introduction

Beaufort County Community College students, employees, and visitors have the right to be free from gender discrimination, including sexual harassment and sexual violence. BCCC prohibits discrimination on the basis of sex in its programs and activities, including employment, academic, educational, extracurricular and athletic activities (both on and off campus). This policy protects all members of the college community regardless of their gender, gender identity, and sexual orientation. Likewise, all members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. BCCC has adopted a zero tolerance policy for gender discrimination, including sexual misconduct. When sexual misconduct is brought to the school's attention, BCCC will take action to stop the conduct, prevent its recurrence, and remedy its effects. This policy has been developed to define community expectations and to establish a mechanism for determining when those expectations have been violated. It is intended to be consistent with BCCC's obligations pursuant to Title IX, the Violence Against Women Act/the Campus Sexual Violence Elimination Act, and the Clery Act.

The Title IX Coordinator oversees all reports of gender discrimination and sexual misconduct, including related interim measures, investigations, resolutions, and adjudications. The Title IX Coordinator also provides employees and students with educational programs focusing on how to prevent and respond to sexual misconduct. Finally, the Title IX Coordinator attempts to identify and address any systemic or other patterns of gender discrimination and sexual misconduct impacting the BCCC community.

Prohibited Forms of Sexual Misconduct

The following forms of sexual misconduct are prohibited regardless of whether they take place on or off campus.

Domestic Violence: Asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, current or former cohabitant, persons similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

Dating Violence: Violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such a relationship will be determined by the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of same. Dating violence does not include acts that fall under the definition of domestic violence.

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Stalking: Course of conduct directed at a specific person that would cause a reasonable person to fear for their or other's safety, or to suffer substantial emotional distress. Please see NCGS 14 277.3A for North Carolina's definition of stalking along with the public policy statement.

Sexual Harassment: Unwelcome conduct of a sexual nature that is sufficiently severe, persistent or pervasive that it unreasonably interferes with, denies, or limits someone's ability to participate in or benefit from the college's educational program and/or activities. Sexual harassment may include unwelcome sexual advances, quid pro quo requests for sexual favors, jokes about sex or sexual orientation, or other verbal, non-verbal, or physical conduct of a sexual nature that creates a hostile environment.

Sexual Assault: Non-consensual sexual touching or a sexual act that is the product of coercion, threat, or force. This includes rape, groping, forced kissing, child sexual abuse, the torture of the victim in a sexual manner, and any intentional sexual touching with any object that is without consent and/or by force (no matter how slight the contact). Sexual touching encompasses (i) touching the sexual organ, anus, breast, groin, or buttocks of any person, (ii) a person touching another person with their own sexual organ, anus, breast, groin, or buttocks, or (iii) a person ejaculating, emitting, or placing semen, urine, or feces upon any part of another person.

Rape: non-consensual penetration (no matter how slight) of the victim's anus or vagina with any object or of the victim's mouth with a sexual organ.

Sexual Exploitation: Occurs when a person takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to the benefit or advantage of anyone other than the one being exploited. Sexual exploitation examples include: invasion of sexual privacy, prostituting another person, non-consensual video or audio-taping of sexual activity, going beyond the boundaries of consent such as allowing a third party to observe sexual acts without the consent of the participants, voyeurism, knowingly transmitting a STD or HIV to another student, exposing one's genitals in non-consensual circumstances or asking another person to expose their genitals, and sexually-based bullying such as sharing sexually explicit photos without consent or making sexual jokes at the expense of another person. Sexual exploitation also includes sexual activity that occurs when consent is coerced.

Consent and Capacity

The expectations of our community regarding sexual misconduct can be summarized as follows: In order for individuals to engage in sexual activity of any type with one another, there must be clear, knowing, and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent can be given by word or action, but non-verbal consent is not as clear as verbal consent. And silence -- without actions demonstrating permission -- cannot be assumed to show consent. In the absence of mutually understandable words or actions, it is the responsibility of the initiator or the person who wants to engage in the specific sexual activity to make sure consent from the other person(s) is given. Mutually understandable consent must be obtained by the initiator at every stage of sexual interaction. Consent to one form of sexual activity cannot be taken

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as consent to any other form of sexual activity. Similarly, previous relationships or previous consent do not imply consent to future sexual activity.

Additionally, there is a difference between seduction and coercion. Coercion happens when someone exerts unreasonable pressure for sexual activity, such as not accepting “no” for an answer and repeatedly asking for sex after the other party’s refusal. Coercing someone into sexual activity is a form of sexual exploitation that violates this policy.

Finally, in order to consent to sexual activity, an individual must be able to understand what he or she is doing. If a person lacks the capacity to reasonably understand the situation and the details of a sexual interaction, he or she cannot consent. Anything other than a clear, knowing and voluntary consent to sexual activity by a person with adequate capacity is equivalent to “No.” Individuals who are unable to consent include those who are:

- Unconscious, passed out, or asleep
- Incapacitated due to the use or administration of drugs or alcohol
- Incapacitated because of a psychological, neurological, or cognitive impairment or other physical or developmental condition
- Under the age of 16.

Reporting

BCCC strongly encourages all members of the campus community to report gender discrimination, including sexual misconduct, that impacts the educational environment (whether it takes place on or off of campus). Upon receiving a report, the College will take appropriate steps to provide support to the alleged complainant and respondent, investigate the incident, and conduct a fair adjudication process.

To facilitate reporting, BCCC has established multiple avenues to bring sexual misconduct to the attention of the administration. By visiting the [Title IX portion of BCCC’s website](#), concerned persons may submit a written or online form. Anonymous reporting is possible.

In addition to other **responsible employees** (full-time and part-time faculty and staff) concerns about gender discrimination and sexual misconduct may be reported to BCCC’s Title IX Coordinator or Title IX Deputy Coordinator in person, by telephone, or via email:

Title IX Coordinator (for students)

Stacey Gerard
Vice President of Continuing Education
252-940-6241
stacey.gerard@beaufortccc.edu
Building 8, Room 808A

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Title IX Deputy Coordinator (for employees)

Mark Nelson
Vice President of Administrative Services
252-940-6213
mark.nelson@beaufortccc.edu
Building 1, Room 208

Retaliation against individuals who report sexual misconduct or participate in an investigation is a violation of this policy that is strictly prohibited.

The College may offer amnesty or leniency to alleged victims and/or witnesses with respect to other violations of College policy which are disclosed in the context of a sexual misconduct report. Generally speaking, individuals acting in good faith who report an incident of sexual misconduct will not be subject to disciplinary action for violations of the College's alcohol and/or drug use policy occurring in connection with the incident. Note, however, that providing alcohol or drugs to facilitate sexual assault is unacceptable. Use of alcohol or other drugs will not excuse behavior that otherwise violates College policy.

Confidentiality

BCCC understands that reports of sexual misconduct are sensitive by nature and treats reports with respect and discretion. The privacy of all parties to a complaint of sexual misconduct must be respected, except insofar as it interferes with the college's obligation to fully investigate the allegations. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. Dissemination of information and/or written materials to persons not involved in the complaint procedure is not permitted.

Victims of sexual misconduct who wish to receive confidential counseling without initiating an investigation should contact one of BCCC's counselors at 252-940-6252 or 252-940-6443.

Other sources of confidential counseling and support in the community include:

<http://www.beaufortccc.edu/about-bccc/title-ix>

If sexual misconduct is reported to a "responsible employee" (full-time and part-time faculty and staff), that employee will make a Title IX Coordinator aware of the issue. One of the Title IX Coordinators (or a designee) will follow up with the alleged victim to conduct a preliminary assessment of the situation and understand how the alleged victim wishes to proceed. The preferences of the alleged victim are an important priority, and BCCC honors them whenever possible. BCCC reserves the right, however, to investigate and adjudicate incidents of sexual misconduct without the alleged victim's participation if necessary in order to maintain a safe and non-discriminatory educational environment.

Role of Law Enforcement

BCCC encourages crime victims to file a police report with the appropriate law enforcement officials. Sexual violence that occurs on campus may be reported to the BCCC Police Department at 252-943-8721.

Criminal investigations by the police and sexual misconduct investigations by BCCC's Title IX Coordinator are independent processes. Under typical circumstances, the College's Title IX investigation will continue to move forward regardless of whether a criminal investigation is taking place, as well. A victim may choose to pursue both, but is not required to pursue the criminal process in order to pursue the school process.

To facilitate both criminal and academic community investigation, the College encourages victims of sexual violence to preserve evidence and to seek medical care as soon as possible. Victims of sexual assault should not shower or wash their clothes until medical personnel and/or the police have the opportunity to collect physical evidence. Victims of sexual harassment, stalking, and sexual exploitation should preserve text messages, emails, social media posts, and other forms of communication that demonstrate misconduct.

Interim Measures

BCCC will assess the support needs of both the complainant and respondent to provide interim measures as necessary and appropriate. Interim measures may include:

- **No Contact Order:** Requests may be made, or the College may impose, communication and contact restrictions to prevent further potentially harmful interaction. These communication and contact restrictions generally preclude in person, telephone, electronic or third party communications. An individual may also seek a protection/anti-harassment order from the appropriate law enforcement authorities. This is a civil proceeding independent of the College. If a court order is issued, the College will, to the extent possible, assist the protected person in benefitting from the restrictions imposed by the court and will also facilitate on-campus compliance with the order.
- **Escort:** The College may provide an escort to ensure safe movement between campus activities.
- **Academic and Employment Arrangements:** The College will assess the need for any academic or employment arrangements. Upon request the College will provide notification of the options and will accommodate the request if those changes are reasonably available. In some cases the College may initiate these changes without a request. These may include a change in class or work schedule, academic accommodations, and/or a voluntary leave of absence.

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- Emotional Support: The College will assist in providing counseling services through student services or will assist in providing a referral to off-campus support agencies.

As a general rule, measures that impinge upon the respondent will not be implemented unless and until that individual is determined to be responsible for a policy violation. BCCC reserves the right at all times, however, to take whatever measures it deems necessary to protect its students' and employees' rights and personal safety. Such measures may include, but are not limited to, modification of class schedules and interim suspension from campus pending a hearing.

Investigation

BCCC is committed to investigating reports of sexual misconduct promptly and thoroughly. The goal of the College is an objective and unbiased process which is fair to the Complainant and Respondent alike. The College seeks to resolve instances of sexual misconduct within ninety days of receiving the initial report whenever possible.

The Title IX Coordinator will investigate incidents of sexual misconduct or assign another trained investigator to do so. While every situation is different, the investigator(s) typically will interview the complainant, the respondent, and any witnesses. Before any initial interview, the Title IX Coordinator will provide a written notice to the responding party of the allegations against him or her. This written notice will include to the extent known the identities of the parties involved, the specific policy violations alleged, the precise conduct at issue, and the date(s) and location(s) of the incident(s). This notice will be provided a minimum of 24 hours in advance to allow the respondent sufficient time to prepare a response before any formal interview. The investigator may need to interview some individuals more than once. The investigator also will review relevant evidence such as electronic communications, photographs, etc. At the conclusion of the investigation, the investigator may provide the Title IX Coordinator with a written report of findings. That report will be made available for review by the complainant and respondent, as well. Both the complainant and the respondent will be kept informed of the investigation's projected end date.

Administrative Resolution

Under appropriate circumstances, usually those involving lesser policy violations or where both complainant and respondent agree as to what occurred, the Title IX Coordinator may propose an administrative resolution. If both parties consent to the proposed administrative resolution, that resolution is implemented, and the matter is closed. If either the complainant or the respondent object to the proposed administrative resolution, however, the matter will be referred to a hearing panel for adjudication.

Adjudication of Allegations of Sexual Misconduct

If a matter proceeds to hearing, both the complainant and respondent will receive a written notice of hearing at least ten calendar days prior to the hearing date. The hearing notice will contain the list of alleged policy violations to be considered by the panel. If the parties have made allegations against one another, all allegations typically will be adjudicated in a single hearing.

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Cases of alleged sexual misconduct are heard by three-member panels made up of BCCC employees who have received special training. At least seven calendar days before the hearing, the complainant and respondent will be provided with the names of the panelists. If either party believes that a panelist would not be an objective adjudicator in the matter, that party has 48 hours to submit a written objection concerning the panelist to the Title IX Coordinator via email. The Title IX Coordinator will determine in his or her discretion whether that panelist should be replaced by an alternate.

Prior to the hearing, the panelists will be provided with the investigator's written report and other pertinent materials such as witness statements, correspondence, and relevant disciplinary history. Both the complainant and the respondent may review all material provided to the panelists. Due to the confidential nature of such material, copies typically are not provided; the material must be reviewed in the office of the Title IX Coordinator or another appropriately supervised location.

At the hearing itself, both the complainant and the respondent will have the opportunity to appear in person and to make a statement to the panelists. Typically, the panelists will pose questions to each party. The complainant and respondent may not be in the hearing room while the other speaks, but each may listen remotely via a speaker phone or similar device. Both the complainant and respondent will have the opportunity to submit written questions to the panelists to be asked of the other party. The decision as to whether to ask any particular question rests in the discretion of the panel chairperson. In the discretion of the hearing chairperson, the complainant and respondent may be granted the opportunity to make a second, closing statement to the panel.

Cases of alleged sexual misconduct will be decided in accordance with a "preponderance of the evidence" standard. Within five calendar days of the hearing, the panel will issue a written decision to both parties stating the policy violations, if any, for which the respondent was found responsible and the corresponding sanctions. Not all instances of sexual misconduct are equally serious, and the college reserves the right to impose different sanctions depending on the severity of the offense. Sanctions include but are not limited to verbal warnings, mandatory training, restitution, probation, suspension, expulsion, termination of employment, and/or being banned from campus.

Appeals

Both the complainant and respondent have a right to appeal to hearing panel's decision based on the following limited grounds: (1) substantial procedural error that materially affected the outcome and/or (2) the discovery of new evidence of material relevance not reasonably available at the time of the hearing. Written requests for appeal must be submitted to the Title IX Coordinator within five calendar days following issuance of the notice of the hearing outcome. Each party may respond in writing to an appeal submitted by the other party. Such responses must be submitted to the Title IX Coordinator within five calendar days of notification of appeal. All appeals and responses thereto will be made available for review by both parties.

Appeals will be considered by a second-level panel consisting of three members of the College's senior staff. The appellate panel's initial responsibility is strictly limited to

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determining whether the request for appeal meets the stated criteria. If it does not, the appeal is denied and the matter is closed.

If the appeal is granted due to substantial procedural error, the second-level panel may re-hear the case or may modify the findings of responsibility or sanctions as appropriate.

If the appeal is granted due to the discovery of new evidence of material relevance not reasonably available at the time of the hearing, the matter will be returned to the original hearing panel for reconsideration in light of the new evidence.

The appellate panel's decision to grant or deny the appeal and any subsequent decisions modifying or sustaining the original decision will be communicated in writing to the complainant and respondent simultaneously.

Decisions made by the appellate panel are final. No further appeals are available.

Advisors

Both the complainant and respondent are entitled to have an advisor of their choice present with them during each stage of the Title IX process, including any investigatory interviews, administrative conferences, or adjudication hearings. The advisor may be a family member, BCCC employee, or any other individual who consents to serve as an advisor. The role of the advisor is to serve as a source of emotional support and private counsel. The advisor is not permitted to answer questions on behalf of the complainant/respondent or otherwise to inject him or herself into the proceedings.

Prevention and Training Programs

BCCC provides sexual harassment, sexual violence and sexual discrimination prevention education for students and employees annually.

All full-time/permanent part-time employees are required to participate in an online primary prevention course that promotes awareness of discrimination, harassment, and sexual-based violence. A certificate is granted upon completion. The employee course can be accessed [here](#).

All part-time adjunct faculty and continuing education instructors are required to participate in an online [Title IX Gender Discrimination & Sexual Misconduct Training course](#). A mandatory quiz is provided at the conclusion of the training course. The quiz results are emailed to the employee and must be provided to their supervisor.

Curriculum students are expected to participate in an online primary prevention course that promotes awareness of discrimination, harassment, and sexual-based violence. A certificate is granted upon completion. The student course can be accessed [here](#). Continuing Education students are strongly encourage to participate in the course.

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References

Legal References: 34 CFR 668.46(a) Code of Federal Regulations
https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term, <https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

SACSCOC References: 3.9.1, 3.11.2

Cross References: [Campus Conduct Policy 6.16.](#)

History

Leadership Council Review/Approval Dates: 12/8/2017, 01/12/2018

Senior Staff Review/Approval Dates: 5/1/17, 11/21/17

Board of Trustees Review/Approval Dates: 06/07/17, 02/06/2018

Implementation Dates: *Enter date(s) here*