

Harassment/Sexual Harassment

I. Introduction

The Alabama Community College System is committed to providing both employment and educational environments free of harassment or discrimination related to an individual's race, color, gender, religion, national origin, age, disability, or any other protected class. Such harassment is a violation of Alabama Community College System policy. Any practice or behavior that constitutes harassment or discrimination shall not be tolerated on any campus or site, or in any division, or department by any employee, student, agent, or non-employee on any institution's property and while engaged in any institutionally sponsored activities.

It is within this commitment of providing a harassment-free environment and in keeping with the efforts to establish an employment and educational environment in which the dignity and worth of members of the community are respected, that harassment of students and employees is unacceptable conduct and shall not be tolerated at Beville State Community College.

A nondiscriminatory environment is essential to the mission of Beville State. An abusive environment inhibits, if not prevents, the harassed individual from performing responsibilities as student or employee and creates a hostile work/learning environment. It is essential that institutions maintain an environment that affords equal protection against discrimination, including sexual harassment. Beville State Community College shall take all the necessary steps to ensure that harassment, in any form, does not occur. Employees and students who are found in violation of this policy shall be disciplined as deemed appropriate by the investigating authority as to the severity of the offense with final approval from the President.

Employees and students of Beville State shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is realized, where democratic principles are promoted, and where efforts are made to assist colleagues and students to realize their full potential as worthy and effective members of society. Administrators, professional staff, faculty, and support staff shall adhere to the highest ethical standards to ensure professionally functioning institutions and to guarantee equal educational opportunities for all students.

Grievances against students will be handled according to usual and customary student discipline procedures as outlined in the handbook; with the exception of students charged with violating the SEXUAL ASSAULT AND VIOLENCE POLICY. A student charged with this conduct violation will be immediately referred to the Grievance Procedures and Resolution of Harassment, Discrimination and Sexual Violence Complaints section of the college catalog. Sanctions for this violation may range from probation to expulsion, depending on the severity of the incident.

II. Definitions of Harassment

For these purposes, the term "harassment" includes, but is not necessarily limited to: Slurs, jokes, or other verbal, graphic, or physical conduct relating to an individual's race, color, gender, religion, national origin, age, disability, or any other protected class.

Any contact solicited during non-traditional business hours may be perceived as harassment by recipient unless it is specifically associated with work related duties.

Harassment of employees or students by non-employees is also a violation of this policy. Any employee or student who becomes aware of any such harassment shall report the incident(s) to the appropriate institution official. Failure to act, which includes initial investigation, shall be deemed in direct violation of this policy.

Harassment also includes unwelcome sexual advances, requests for sexual favors, and other verbal, graphic, or physical contact if perceived as such by the recipient.

Sexual harassment, including sexual violence, is a form of sex discrimination which is illegal under Title VII of the Civil Rights Act of 1964 for employees and under Title IX of the Education Amendments of 1972 for students. Sexual harassment does not refer to occasional compliments; it refers to behavior of a sexual nature which interferes with the work or education of its victims and their co-workers or fellow students. Sexual harassment may involve the behavior of a person of either sex against a person of the opposite sex or the same sex, and occurs when such behavior constitutes unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature, when perceived by the recipient that:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational opportunities;
- Submission to or rejection of such conduct is used as the basis for employment or academic decisions affecting that individual;
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or creates an intimidating, hostile, or offensive work or educational environment;
- Any incident of harassment shall be reported to the grievance officer as promptly as possible after the harassment occurs.

Sexual harassment can be verbal, visual, or physical. It can be overt, as in the suggestions that a person could get a higher grade or a raise by submission to sexual advances. The suggestion or advance need not be direct or explicit; it can be implied from the conduct, circumstances, and relationship of the individuals involved. Sexual harassment can also consist of persistent, unwanted attempts to change a professional or educational relationship to a personal one. Sexual harassment is distinguished from consenting or welcome sexual relationships by the introduction of the elements of coercion; threat; unwelcome sexual advances; unwelcome requests for sexual favors; other unwelcome sexually explicit or suggestively written, verbal, or visual material; or unwelcome physical conduct of a sexual nature.

Examples of verbal or physical conduct prohibited within the definition of sexual harassment include, but are not limited to:

- Physical/sexual assault;
- Rape;
- Sexual battery;
- Sexual coercion;
- Direct or implied threats that submission to or rejection of requests for sexual favors will affect a term, condition, or privilege of employment or a student's academic status;
- Direct propositions of a sexual activity;
- Subtle pressure for sexual activity;
- Repeated conduct intended to cause discomfort or humiliation, or both, that includes one or more of the following: (i) comments of a sexual nature or (ii) sexually explicit statements, questions, jokes, or anecdotes;
- Repeated conduct that would cause discomfort and/or humiliate a reasonable person at whom the conduct was directed, including one or more of the following: (i) touching, patting, pinching, hugging, or brushing against another's body; (ii) commentary of a sexual nature about an individual's body or clothing; or (iii) remarks about sexual activity or speculations about previous sexual experience(s);
- Intimidating or demeaning comments to persons of a particular sex, whether sexual or not;
- Displaying objects or pictures which are sexual in nature and that would create a hostile or offensive employment or educational environment and serve no educational purpose related to the subject matter being addressed.

Sexual violence refers to physical acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.

Further stated sexual violence includes the following definitions as put forth by the Violence Against Women Reauthorization Act (VAWA effective March 7, 2014)

Domestic Violence: Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim:

- By a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with;

- The victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction; or
- By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating Violence: Violence committed by a person:

A. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

B. Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship.
- The type of relationship.
- The frequency of interaction between the persons involved in the relationship.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

A. Fear for his or her safety or the safety of others; or

B. Suffer substantial emotional distress.

III. Sexual Assault and Violence Policy

Bevill State Community College does not tolerate sexual misconduct such as sexual harassment, sexual assault, stalking, and intimate partner violence. Sexual violence refers to physical acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.

The following behaviors are prohibited and are considered acts of sexual misconduct as put forth by the Violence Against Women Reauthorization Act (VAWA effective March 7, 2014). All forms of sexual misconduct are serious offenses and will be subject to appropriate College disciplinary procedures. Sexual misconduct involving force, duress, or inducement of incapacitation, or where the perpetrator has deliberately taken advantage of another person's state of incapacitation, will be deemed especially obvious and may result in academic expulsion, or termination of employment. The consumption of alcohol or the use of illegal substances does not constitute a mitigating circumstance when it contributes to a violation.

Non-Consensual Sex (Rape) or Sexual Activity:

- Consent is a voluntary agreement to engage in sexual activity;
- Someone who is incapacitated cannot consent;
- Past consent does not imply future consent; silence or an absence of resistance does not imply consent;
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another;
- Consent can be withdrawn at any time; and
- Coercion, force, or threat of either invalidates consent.

Domestic Violence Includes:

- Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim;
- Committed by a person with whom the victim shares a child in common;
- Committed by a person who is cohabitating with or has cohabitated with, the victim as a spouse;
- Committed by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction; or
- Committed by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Retaliation:

Any attempt to seek retribution against, or cause harm or undue discomfort to an individual or group of individuals involved in filing a complaint or report under this policy, filing an external complaint, participating in a disciplinary process, or opposing in a reasonable manner an action believed to constitute a violation. Retaliation can take many forms, including abuse or violence, threats, and intimidation. Actions in response to a good faith report or response under this policy are considered retaliatory if they have a materially adverse effect on the working, academic or College controlled living environment of an individual; or if they hinder or prevent the individual from effectively carrying out their College responsibilities. Any individual or group of individuals can engage in retaliation and will be held accountable.

Violence Against Women's Act (VAWA) did not affect, in any way, Title IX of the Education Amendments of 1972. Title IX prohibits discrimination on the basis of sex or gender at Bevill State Community College. The College will respond to complaints or reports about conduct prohibited under this policy with measures designed to stop the behavior, eliminate any such gender discrimination, prevent the recurrence of the prohibited conduct, and remediate any adverse effects of such conduct on campus or in college related programs or activities.

The College has an obligation to make reasonable efforts to investigate and address complaints or reports of sexual misconduct, whenever it becomes aware of such complaint or report. Once made aware, the College must conduct an investigation regardless of how the information was brought to the College's attention or the extent to which the complainant wishes to participate or be involved. All individuals have access to resources that they may use for support and guidance without initiating college action. Retaliation against anyone involved in the internal disciplinary process, or opposing in a reasonable manner an act believed to constitute a violation of this policy, is prohibited and will not be tolerated. In light of these commitments, the College will follow the Grievance Procedures and Resolution of Harassment, Discrimination and Sexual Violence Complaints, which includes investigation and disciplinary procedures that will be followed in response to allegations of sex or gender discrimination, including sexual misconduct such as sexual harassment and sexual assault, intimate partner violence, stalking, and related retaliation.

Policy Terminology

Victim: A person who has been the subject of prohibited conduct, regardless of whether that individual makes a complaint or seeks disciplinary action.

Complainant: An individual who has made a complaint of a violation or on whose behalf a complaint was made or a disciplinary action was initiated.

Alleged Offender: The alleged offender refers to the individual who has been accused of prohibited conduct.

Third Party: The term third party refers to any individual who is not a college student, a faculty member or a staff member (e.g., vendor, alumni, or local residents). Being a third party does not preclude a person from coverage by this policy. A third party who is a victim shall have the right to report and have investigated any complaint made. A third party who is an alleged offender found to have violated the policy may be permanently barred from the College campuses and/or activities of the College.

Sexual Assault Victim Bill of Rights

1. The Right to Human Dignity

Victims shall:

- Be treated with fairness and respect for their dignity;

- Have their privacy honored;
- Have their allegations of sexual assault or misconduct treated seriously;
- Be free from any suggestion that they are responsible for the assault or other misconduct committed against them;
- Be free from any threats of retaliation or other attempt to prevent the reporting of sexual misconduct;
- Be free from unwanted pressure from college personnel to report sexual assaults or other misconduct if they do not wish to do so. Report sexual assaults as less serious offenses. Refrain from reporting sexual assaults or other sexual misconduct for any reason, including the fear of unwanted personal publicity.

2. The Right to Resources On and Off Campus

Victims of whom the College has become aware shall:

- Receive notice describing options to pursue a criminal complaint with the appropriate law enforcement agency, to pursue the College's disciplinary process, or to pursue both processes simultaneously;
- Be notified of existing campus and community – based medical, counseling, mental health services for victims of sexual assault whether or not the assault is formally reported to the college, campus or civil authorities;
- Have the right to know there will not be a charge for filing criminal or college disciplinary complaints;
- Be informed of and assisted in exercising any rights to confidential or anonymous testing for sexually transmitted infections, HIV, and pregnancy, and any rights that may be provided by law to obtain the communicable diseases test results of sexual assaults suspects.

3. The Right to Campus Judicial Proceedings

Victims have the right to:

- Written and advance notice about a disciplinary hearing involving the person or persons accused of sexually assaulting them or engaging in other misconduct toward them is covered by this policy;
- Have the opportunity to present witnesses and other evidence, to receive notice of the process, information about procedures, and written notice of the outcome in a manner that is equivalent to the process of the accused;
- Have a person of their choice accompany them throughout the disciplinary hearing;
- Remain present during the entire proceeding, whenever possible. Alternative arrangements may be made for those who do not want to be present in the same room as the accused during the disciplinary hearing;
- Be heard at the proceeding;
- Be assured that their irrelevant past sexual history will not be discussed during the hearing;

4. The Right to Law Enforcement and Campus Intervention

Reports of sexual assault will be subject to being investigated and evaluated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported. Victims shall receive full and prompt cooperation and assistance of campus personnel in notifying the proper authorities.

Victims shall receive full, prompt and victim sensitive cooperation of campus personnel in obtaining, securing and maintaining evidence, including a medical examination when it is necessary to preserve evidence of a reported sexual assault. A "no contact order" shall be issued promptly and in writing to all parties of a reported sexual assault after the College receives notice of a complaint.

Campus personnel shall take reasonable and necessary actions to prevent further unwanted contact by any victim's alleged assailant.

Victims shall be notified of the options for and provided assistance in changing academic situation if such changes are reasonably available.

Other Policy Statements

Confidentiality

Above all, confidentiality of victims must be protected. Identifying information of a victim will be protected as much as possible. This means that a victim's name will not be published or otherwise publicized without her/his permission. When a person makes an official complaint to authorities, all possible protections will be afforded this individual, whether or not she/he participates in any investigation. When the College needs to act to protect the safety of others, absolute confidentiality may not be possible. For absolute confidentiality, contact the National Sexual Assault Hotline at 1800656-HOPE or chat online at <http://hotline.rainn.org>.

Reporting Options

Emergency Situations Contact

Bevill State has APOST certified police officers at all campuses. Certified police officers carry weapons and have arrest authority on and off campus by authority of the Code of Alabama as amended 16-22-1, 16-22-2. These certified police officers are vested with all powers, authority, and responsibilities of any state law enforcement officer.

In emergency situations, if there is a suspected crime in progress, or imminent or serious threats to the safety of anyone, students, faculty, and staff members must immediately call 9-1-1 then contact the College Police Department:

Dispatcher:	205-387-0549 or 387-0511, ext. 5866
Fayette:	205-438-1733
Hamilton:	205-442-1567
Jasper:	205-438-1734
Sumiton:	205-282-1346
Pickens Co.:	205-259-0673

After office hours call 911.

Non-Emergency Situation Contact

In non-emergency situation, students, faculty and staff must promptly report suspected violations to the appropriate officials as follows: Director of Facilities & Security Randy Stults, 205-387-0511 Ext. 5844; Fayette Campus Director of Student Services Sherry Terry, 205-932-3221 Ext. 5103; Hamilton Campus Director of Student Services Jill Preuninger, 205-921-3177 Ext. 5385; Jasper Campus Director of Student Services Beth Roberts, 205-387-0511 Ext. 5770; Sumiton Campus Director of Student Services Jana Kennedy, 205-648-3271 Ext. 5201; Pickens County Educational Center Director Steven Koon, 800-648-3271 Ext. 5632; Director of Human Resources: Mary Kinard, 205-387-0511 Ext. 5784.

Timely Warnings

Any timely warning that is broadcast through Bear Alert, websites or emails for the safety of our community will not identify a victim by name.

Support Resources

A complainant or witness has many options, including external counseling, filing an internal complaint, and/or filing a criminal complaint. The College recognizes that deciding among these options can be difficult. Complainants and witnesses are encouraged to seek assistance before deciding how to proceed.

No Contact or Protective Orders

The College will honor any protective order that an individual may have acquired through the local courts. A copy of any such court order should be given to the College Police for their information and enforcement. In addition, an administrative "no contact order" may be created by the Title IX Coordinator once the incident is reported to that office.

Preserving Physical Evidence

It is extremely important to preserve all evidence of an assault. Individuals should go to a local hospital as a result of a rape to have a medical examination performed which will collect evidence. As required by VAWA, the College will rely upon the preponderance of evidence in sexual violence cases.

Fair and Impartial Investigation and Resolution

The College investigation will offer a fair and just procedure as the Title IX Coordinator follows the process outlined in this policy. All members of the College community are expected to cooperate fully with the investigation and disciplinary procedures, including the preservation of all material evidence by the alleged victim. The College recognizes that an individual may be reluctant to participate in the process; nevertheless, any student or member of the faculty or staff who refuses to cooperate in an investigation may be subject to discipline. Refusal to cooperate includes delaying or failing to acknowledge requests from College officials for information, and delaying or failing to make oneself available for meetings with College officials.

It is understood that there may be circumstances in which a complainant wishes to limit their participation. The complainant retains this right and will not be subject to discipline, although the College may be obligated to conduct an investigation regardless of the complainant's wishes.

If an alleged offender chooses not to answer any or all questions in an investigation for any reason, the College process will continue, findings will be reached in accordance with the preponderance of evidence standard with respect to all available credible evidence in support of or contrary to the alleged conduct, and the College will take such action or actions as are appropriate to findings supported by the evidence. The College will not, however, draw any adverse inference from an alleged offender's silence.

Community Resources

Since Beville State does not offer mental health counseling to students or employees, it is important to be aware of community resources that are both free and confidential. The Northwest Mental Health Center may be contacted 24-hours a day, 1-800-489-3971.

IV. Definitions of Personal Conduct

The employees of Beville State Community College determine the ethical and moral tone for the institution through both their personal conduct and their job performance. Therefore, each employee must be dedicated to the ideals of honor and integrity in all public and personal relationships. Relationships between institution personnel of different ranks, including that of instructors and students, which involve partiality, preferential treatment, or the improper use of position shall be avoided. Further, such relationships may have the effect of undermining the atmosphere of trust on which the educational process depends. Implicit in the idea of professionalism is the recognition by those in positions of authority that in their relationships with students or employees there is always an element of power. It is incumbent on those with authority not to abuse the power with which they are entrusted.

All personnel shall be aware that any romantic relationship (consensual or otherwise) or any otherwise inappropriate involvement with another employee or student makes them liable for formal action against them if a complaint is initiated by the aggrieved party in the relationship. Even when both parties have consented to the development of such a relationship, it is the supervisor in a supervisor-employee relationship, the faculty member in a faculty-student relationship, or the employee in an employee-student relationship who shall be held accountable for unprofessional behavior.

This policy encourages faculty, students, and employees who believe that they have been the victims of harassment or reprisals to contact the Title IX Coordinator.

This policy shall be distributed, communicated and implemented in a manner which provides all interested parties the opportunity to be informed of this policy. A system wide educational program shall be utilized to assist all members of the college community to understand, prevent and combat harassment.

A harassment educational program may consist of seminars, workshops, videos, and/or printed materials. Through dissemination of this policy and by providing a training program, this policy seeks to achieve the following goals: (1) ensure that all administrators, faculty, students, and employees are made aware of their rights concerning sexual harassment; (2) notify individuals of conduct that is prohibited; (3) inform administrators and supervisors about the proper procedures in addressing complaints. This program must be administered annually. The Chancellor will issue guidelines to ensure the adherence to, implementation of, and enforcement of this policy.