

SECTION: Compliance with Federal Law
SUBJECT: Policy Against Harassment and Discrimination
SOURCE REFERENCE: ACCS BOT Policy 601.04

NUMBER E/1.5

HARASSMENT

1. Gadsden State Community College is committed to providing both employment and educational environments free of harassment in any form. Employees shall adhere to the highest ethical standards and professionalism and refrain from any form of harassment. Both employees and students shall strive to promote an environment that fosters personal integrity where the worth and dignity of each human being is respected. Any practice or behavior that constitutes harassment shall not be tolerated.
2. Harassment can be defined as but is not limited to:
 - Disturbing conduct which is repetitive;
 - Threatening conduct;
 - Intimidating conduct;
 - Inappropriate or offensive slurs, jokes, language, or other verbal, graphic, or other like conduct;
 - Unwelcome sexual advances, requests for sexual favors, or sexual based offenses;
 - Assault;
 - Repeated contact solicited during non-traditional business hours which may be perceived as harassment by recipient unless it is specifically associated with work related duties.
3. Employees and students who are found in violation of this policy shall be disciplined as deemed appropriate by the investigating authority.
4. Harassment of employees or students by non-employees is also a violation of this policy.
5. This policy encourages faculty, students, and employees who believe that they have been the victims of harassment to contact the Title IX Coordinator or Director of Human Resources at the institution within ten days of when the alleged incident occurred. Any reprisals shall be reported immediately to the Title IX Coordinator, Director of Human Resources. Any employee or student who becomes aware of any harassment shall report the incident to the Title IX Coordinator or Director of Human Resources. Failure to act, which includes initial investigation, shall be deemed in direct violation of this policy.
6. 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 College-wide educational program shall be utilized to assist all members of the College community to understand, prevent and combat harassment.

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Gadsden State Community College will provide annual training related to harassment, including sexual harassment.

7. Complaints or Reports concerning sexual harassment should be made, processed and addressed under E-1.7 – Title IX Sexual Harassment Complaint Procedures.

Title IX Sexual Harassment Complaint Procedures

A. INTRODUCTION

Gadsden State Community College is committed to providing a workplace and campus community free of sexual misconduct and harassment. As required by Title IX of the Education Amendments of 1972, the College does not discriminate on the basis of sex in its education programs and activities. This includes discrimination affecting employees of the college and applicants for employment, students and applicants for admission, or members of the public. All members of the College community are expected to conduct themselves in a manner that does not infringe upon the rights of others, whether on college premises or at any College owned off campus location and while participating in any educational program or activity of the College.

Sexual harassment, which includes sexual misconduct and sexual assault, is a form of sex discrimination which is prohibited under Title IX of the Education Amendments of 1972 and the Violence Against Women Act. This policy is intended to reaffirm the College's commitment to address sexual harassment and take steps to prevent its reoccurrence and preserve or restore equal access to the College's education programs and activities. Dating violence, domestic violence, and stalking may also be considered forms of sexual discrimination. Due to the seriousness of these offenses, the College has adopted specific policies and procedures, outlined in the Student Handbook, employment policies, and webpage, to address alleged instances of sexual harassment, sexual misconduct, sexual assault, dating violence, domestic violence, and stalking. The College believes that no person should bear the effects of sexual harassment alone. When such conduct occurs, the College's paramount concern is for the safety and well-being of those impacted. To support and assist students, the College provides a range of resources.

Under Title IX, individuals reporting allegations related to sexual harassment and/or sexual violence, have the right to a resolution of their complaint, to have the college conduct a prompt, thorough and impartial investigation, and to receive supportive measures to ensure the safety and wellbeing of the individuals involved and the college community.

When allegations of sexual harassment and/or sexual violence in any form are brought to the attention of the Title IX Coordinator, and if a responding party is found to have violated this policy, serious sanctions will be used to prevent its reoccurrence. Gadsden State Community College does not tolerate or condone retaliation. Individuals wishing to report sexual harassment and/or sexual violence and/or to make inquiries concerning the application of Title IX at the College may contact:

Dr. Tera Simmons
Executive Vice President
405 East Cardinal Drive
Gadsden, AL 35903
256-549-8230
tsimmons@gadsdenstate.edu

and/or

Assistant Secretary
U.S. Department of Education
Office for Civil Rights
Lyndon Baines Johnson Department of Education Building
400 Maryland Avenue, SW
Washington, DC 20202-1100
Telephone: 800-421-3481
Fax: 202-453-6012; TDD: 800-877-8339
Email: OCR@ed.gov (mailto: OCR@ed.gov)

Information regarding the Title IX Coordinator and their role will be provided to all faculty, staff, students, applicants for admissions, and applicants for employment. Also, this information is available on the College website at gadsdenstate.edu under the Title IX webpage.

POLICY

The U.S. Department of Education’s [Office for Civil Rights](#) (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

B. DEFINITIONS RELATING TO SEXUAL HARASSMENT

Many terms are used in the context of sexual harassment. The following will provide some common definitions and examples.

Actual knowledge: The notice of sexual harassment or allegations of sexual harassment to the Title IX Coordinator or any official of the College who has authority to institute corrective measures of behalf of the College shall be deemed actual knowledge on the part of the College.

Complainant: is an individual who is alleged to be the victim of conduct that could constitute sexual harassment. For the purposes of this procedure a Complainant may be an individual applying for admission or employment, an employee, a student or an individual otherwise participating in or attempting to participate in the College’s education programs and activities.

Respondent: is an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

Formal complaint: is a document filed by the complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the College investigate the allegation of sexual harassment. Note: At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in an educational program or activity of the College at which the formal complaint is filed.

Consent: “Consent” must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

Incapacitation: An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily consent. Incapacitation may also exist because of a mental or developmental disability that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

Sexual Misconduct: Committing sexual abuse, sexual assault, sexual harassment, sexual exploitation, or statutory rape, as defined below or under Alabama state law.

Harassment: The striking, shoving, kicking, or otherwise touching or making physical contact in regard to another for the purpose of harassing, annoying or alarming; and/or directing abusive or obscene language or making an obscene gesture toward someone for the purpose of harassing, annoying, or alarming. Example: Making or using persistent derogatory comments, epithets, or slurs that place a person in a hostile or fearful environment or where the person’s safety is in jeopardy.

Sexual harassment: Conduct on the basis of sex that satisfies one or more of the following:

- A school employee conditioning education benefits on participating in unwelcome sexual conduct (i.e. quid pro quo);
- Unwelcomed conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity; or
- Stalking, dating violence, domestic violence or sexual assault.

Definitions of Sexually Based Offenses

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 cohabitating with or has cohabitated with the victim as a spouse, 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 (34 U.S.C.12291(a)(8)).

In Alabama, domestic violence includes felony and misdemeanor crimes of violence committed by a current or former spouse, parent, child, any person with whom the defendant has a child in

common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant (Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees).

Dating Violence:

Means 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 will 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 (34.S.C.12291(a) (10).

In Alabama, dating violence is covered under Alabama Code Section 13A, Article 7 Domestic Violence in 1st, 2nd, and 3rd Degrees.

Stalking:

Means 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 34 U.S.C.12291(a)(30).

In Alabama, stalking is when a person intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm (13A-6-90 Stalking in the first degree) or a person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct (Section 13A-6-91 Stalking in the second degree).

Sexual assault:

Means an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation 20 U.S.C.1092 (f)(6)(A)(v).

Victims Option to Report

Students and employees who are victims of crime including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, are encouraged by the College to report but do have the option not to report the incident to campus law enforcement, or local law enforcement. In those cases, the victim may still seek assistance confidentially from any victim service agency of their choosing.

Formal Complaint Process

A. INITIAL STEPS

Any student or employee of the College or applicant for employment or admission who has a complaint against a student or a member of the College faculty, staff, or administration concerning sexual harassment (Title IX of the Educational Amendments of 1972) or has knowledge of any conduct constituting sexual harassment in an educational program or activity of the College or which occurred on property owned by the College or controlled by the College should report the complaint to the campus Title IX Coordinator. An educational program or activity of the College includes, but is not limited to locations, events or circumstances over which the College exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes buildings owned or controlled by a student organization that is officially recognized by the College.

B. REPORTING A COMPLAINT

Any individual may report a sexual harassment incident to the Title IX Coordinator in person, by email, by telephone, or in writing. The report must include the names of the Complainant(s) and Respondent(s), approximate date of incident, facts of the incident, and contact information for the person submitting the complaint.

The Title IX Coordinator will respond in writing to the person submitting the complaint as soon as practicable, but not exceeding five (5) business days. If the person submitting the complaint is not the Complainant, the Title IX Coordinator will also contact the Complainant within five (5) business days.

If after a discussion with the Complainant, the Title IX Coordinator determines that the complaint does not qualify as a Title IX Complaint, the Title IX Coordinator will notify the Complainant in writing and may redirect the Complaint to the appropriate committee.

If after a discussion between the Complainant and the Title IX Coordinator, the Title IX Coordinator determines that the complaint meets the criteria of a Title IX Complaint and the Complainant requests to file a formal complaint, the Title IX Coordinator will initiate the formal complaint process.

C. SUPPORTIVE MEASURES

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the College's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of

deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The College must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the College to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures will be offered to the Complainant within five (5) business days of receipt of the complaint.

Supportive measures will be offered to the Respondent simultaneously with the Notice of Allegations.

D. Standard of Evidence for Determining Responsibility

For the purposes of the College's Title IX procedures, the College will use a "preponderance of evidence" standard for determining responsibility. Preponderance of the Evidence means evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is evidence which as a whole shows that the fact sought to be proved is more probable than not.

E. FORMAL COMPLAINT PROCESS

A formal complaint must be submitted in electronic (email) or written format to the Title IX Coordinator and must be signed by the Complainant. In the event that, under the circumstances, a formal complaint should be pursued notwithstanding a Complainant's desire not to file a formal complaint, the Title IX Coordinator may sign the complaint.

The complaint must include the following:

- the date of the original complaint,
- names of Complainant and Respondent,
- facts and description of the complaint, and
- the request to investigate complaint.

A Complainant must be participating in or attempting to participate in a College sponsored program or activity at the time the complaint is filed.

F. DISMISSAL OF FORMAL COMPLAINT

The College may dismiss a formal complaint or allegations therein if:

- the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the formal complaint or allegations therein,
- the Respondent is no longer enrolled or employed by the school, or
- specific circumstances prevent the school from gathering sufficient evidence to reach a determination.

The College must dismiss a formal complaint or allegations therein if:

- the allegations do not meet the definitions of sexual harassment
- the alleged conduct did not occur within the United States, or
- the alleged conduct did not occur within a College sponsored program or activity.

If the College determines the formal complaint or allegations therein will be dismissed, the Title IX Coordinator will provide written notice to both parties of the dismissal of allegations, the reason for dismissal within five (5) business days of the decision to dismiss the complaint and the Complainant's right to Appeal, if applicable.

G. NOTICE OF ALLEGATIONS

The Title IX Coordinator will provide simultaneous written notice of allegations, including sufficient details, and intent to investigate to the Complainant and Respondent no later than ten (10) calendar days after receipt of the formal complaint. The Title IX Coordinator will also provide both parties with the formal complaint, grievance and appeal process, possible sanctions and remedies, and availability of advisors. The written notice shall include a statement that the respondent is presumed not responsible for the alleged conduct, that the parties and their advisors may review and inspect evidence, and advise the parties of the provisions of the Student Handbook relating to making false statements or submitting false information during the grievance process.

The Title IX Coordinator will additionally notify the Title IX investigator of the pending investigation and provide a copy of the formal complaint.

H. ADVISORS

In addition to providing the Complainant and Respondent with written notice of allegations and intent to investigate, the Title IX Coordinator will inform the parties of the availability of advisors. Both parties shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative advisor. In the alternative, either or both parties may also request an advisor provided by the College.

Only an advisor may conduct cross-examination during the live hearing.

I. INVESTIGATION PROCEDURE

The Title IX investigator is responsible for conducting an investigation of the submitted formal complaint. The Title IX investigator will have received Title IX investigator training within the current academic year.

The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rests on the College and not on the parties.

The Title IX investigator will notify the Complaint and Respondent in writing of the intent to investigate within five (5) business days of receipt of the formal complaint and will commence interviews within ten (10) business days of receipt of the formal complaint. The Title IX investigator will notify the Complainant and Respondent and their respective advisors in writing of all individuals the investigator intends to interview.

Either party may identify other witnesses with relevant information for interview or other evidence for review by the investigator.

The Title IX investigator will conduct a factual investigation of the formal complaint and shall research applicable statutes, regulations, and/or policies, if any. The Title IX investigator will notify any interviewees in writing of the intent to interview. Interviewees will have at least five (5) business days' notice of an interview. Notice will include the participants, date, place, purpose, and time of the interview.

The College will provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory (tending to establish fault or guilt) and exculpatory (clearing or tending to clear from alleged fault or guilt) evidence.

Creditability determinations may not be based on a person's status as a complainant, respondent or witness.

The College will provide the parties with the same opportunities to have others present during any grievance proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or grievance proceeding; however, the College may establish restrictions regarding the extent to which the advisor may participate in proceedings, as long as the restrictions apply equally to both parties.

The College will provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the College does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

The College will make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal access opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

Prior to the completion of the investigative report, the Title IX investigator will submit all reviewed evidence to the Title IX Coordinator.

The Title IX Coordinator will provide copies of all evidence reviewed during the investigation to the Complainant, Respondent, and their respective advisors. All parties will have ten (10) business days to review the evidence and respond in writing to the Title IX Coordinator.

Subsequent to the ten (10) business day review period, the Title IX Coordinator will direct any responses from the Complainant, Respondent, or their respective advisors to the Title IX Investigator for additional review. The Title IX Investigator will submit a final report and the reviewed evidence to the Title IX Coordinator. At least 10 days prior to the live hearing, the Title IX Coordinator will simultaneously provide the Complainant, Respondent, their respective advisors, with the final report and all reviewed evidence for their review and written response. The President will select a Hearing Officer to conduct the live hearing.

J. LIVE HEARING PROCEDURE

Upon completion of the final investigative report, the Hearing Decision Maker(s) will schedule a live hearing. The Hearing Decision Maker(s) will have completed Decision Maker training during the current academic year. If there are multiple Hearing Decision Maker(s), one shall be designated as the Primary Decision Maker. The Hearing Decision Maker(s) will notify the Complainant, Respondent, their respective advisors, Title IX Coordinator, Title IX Investigator, and witnesses named in the final report of the live hearing date. The live hearing date must provide the Complainant, Respondent, and their respective advisors with no less than ten (10) business days to review the final investigative report and all supporting evidence.

The hearing must be a live, recorded hearing with the opportunity for both advisors to conduct cross-examinations. The hearing shall be recorded by either a court reporter or on audio or video tape or by other electronic recording medium. In addition, all items offered into evidence by the parties, whether admitted into evidence or not, shall be marked and preserved as part of the hearing record.

Upon request, the Complainant and Respondent may participate in the hearing via on-campus video conferencing provided that all parties, including the Decision Maker(s), are able to see and hear the party or witness answering questions in real-time.

The Hearing Decision Maker(s), Complainant, Respondent, and their respective advisors will attend the hearing. The Title IX investigator, Title IX Coordinator and witnesses will be called to provide testimony if requested by the Hearing Decision Maker(s), parties or their respective advisors.

If a party does not have an advisor present at the live hearing, the College shall provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be an attorney. Neither party may dismiss a College appointed advisor.

The hearing process will consist of:

- Opening statement by Hearing Decision Maker (or Primary Decision Maker)
- Review of hearing procedures, formal complaint and notice of allegations by Hearing Decision Maker (or Primary Decision Maker)

- Review of potential hearing outcomes and sanctions by Hearing Decision Maker (or Primary Decision Maker)
- Complainant Testimony
- Cross-examination of Complainant by Respondent advisor
- Testimony of Witnesses of Complainant
- Cross-examination of Complainant Witnesses by Respondent advisor
- Respondent Testimony
- Cross-examination of Respondent by Complainant advisor
- Witnesses of Respondent Testimonies
- Cross-examination of Respondent Witnesses by Complainant advisor
- Decision Maker inquiries
- Review of appeal process by Hearing Decision Maker (or Primary Decision Maker)
- Closing statement by Hearing Decision Maker (or Primary Decision Maker)
- Dismissal of parties
- Decision Maker deliberations

At the hearing, the Hearing Decision Maker (or Primary Decision Maker) shall read the hearing procedures, notice of allegations, formal complaint, potential hearing outcomes, and potential sanctions. After the Hearing Decision Maker (or Primary Decision Maker) concludes opening statements, the Complainant shall have the opportunity to present such oral testimony and offer such other supporting evidence as deemed relevant to the formal complaint. Subsequent to Complainant testimony, the Respondent advisor may conduct cross-examination. The Decision Maker(s) may question the Complainant after the cross-examination.

The Complainant may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Respondent advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

The Respondent shall then be given the opportunity to present such testimony and offer such other evidence as deemed relevant to the Respondent's defense against the formal complaint. Subsequent to Respondent testimony, the Complainant advisor may conduct cross-examination. The Decision Maker(s) may question the Respondent after the cross-examination.

The Respondent may call witnesses to provide testimony as deemed appropriate to the formal complaint. The Complainant advisor may conduct cross-examination of the witnesses. The Decision Maker(s) may question the witnesses after the cross-examination.

Only relevant cross-examination and other questions may be asked of a party or witness.

During cross-examination, the advisor will pose each question orally to the Hearing Decision Maker(s). The Hearing Decision Maker (or Primary Decision Maker) will determine if the Complainant, Respondent, or witnesses may respond to the question. If the Hearing Decision Maker (or Primary Decision Maker) determines that the question is not relevant, the Hearing Decision Maker(s) (or Primary Decision Maker) will explain the rationale for dismissing the question. Rape shield protection is provided for Complainants which deems irrelevant questions

and evidence about a Complainant's prior sexual behavior unless offered to prove that someone other than the Respondent committed the alleged misconduct or if the questions and evidence concern specific incidents of Complainant's prior sexual behavior with respect to the Respondent and offered to prove consent.

If a witness or party is not available or otherwise refuses to attend the hearing or attends but declines cross-examination, the statements of that witness or party, whether given during the investigation or the hearing may be considered by the Hearing Decision Maker(s) in reaching a determination regarding responsibility. The Hearing Decision Maker(s) shall not draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Upon conclusion of the presentation of the evidence and cross-examinations, the Hearing Decision Marker (or Primary Decision Maker) shall read the appeal process and closing statements. The Complainant, Respondent, their respective advisors and all witnesses shall be dismissed.

The Hearing Decision Maker(s) will deliberate to determine if the Respondent is deemed responsible and submit a written hearing report which contains:

- identification of the allegations potentially constituting sexual harassment;
- a description of the procedural steps taken from the receipt of the formal complaint through determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
- findings of fact supporting the determination;
- conclusions regarding the application of the College's code of conduct to the facts;
- a statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the College imposes on the respondent, and whether remedies designed to restore or preserve equal access to the College's education program or activity will be provided by the College to the complainant; and
- the College's procedures and permissible bases for the complainant and respondent to appeal.

The Hearing Decision Maker (or Primary Decision Maker) will submit the hearing report to the Title IX Coordinator within ten (10) business days of the live hearing.

The Title IX Coordinator will submit the hearing report simultaneously to the Complainant, Respondent, and their respective advisors within three (3) business days of receipt of the hearing report.

The College must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the College provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

The Title IX Coordinator will retain the recording of the hearing, the hearing report, the investigative report, and all evidence obtained during the investigation and all evidence offered at the hearing.

K. APPEAL PROCEDURE

Appeals of a determination regarding responsibility and from the College's dismissal of a formal complaint or any allegations therein are available to both parties on the following grounds: (1) procedural irregularity that affected the outcome of the matter; (2) new evidence that was not reasonably available at the time the decision regarding responsibility or dismissal was made, that could affect the outcome; and/or (3) the Title IX Coordinator, Investigator, or a Decision Maker had a conflict of interest or bias that affected the outcome.

The President of Gadsden State Community College or his/her designee shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Hearing Decision Maker(s). The President or his/her designee shall not be bound in any manner by the recommendation(s) of the Hearing Decision Maker(s), but shall take it (them) into consideration in rendering his/her decision.

Either party may file a written request with President requesting that the President (or his/her designee) review the decision of the Hearing Decision Maker(s). The written request must be filed within ten (10) business days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the tenth (10th) business day following the party's receipt of the report, the party's opportunity to appeal shall have been waived.

As to all appeals, the College will:

- notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
- ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator.
- ensure the decision-maker(s) for the appeal complies with the standards set for in 34 C.F.R. § 106.45(b)(iii);
- give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
- issue a written decision describing the result of the appeal and the rationale for the result; and
- provide the written decision simultaneously to both parties.

A decision on a party's appeal shall be rendered within 30 calendar days of the initiation of the appeals process. The time for decision may be extended for exigent circumstances or as may be otherwise agreed by the parties.

If the Complainant is also an employee of the College, the individual may also file a claim with the Equal Employment Opportunity Commission within 180 days of the alleged discriminatory act.

Informal Resolution. The College may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with this section. Similarly, the College may not require the parties to participate in an informal resolution process under this section and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the College may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the College does the following:

- (i) provides to the parties a written notice disclosing: the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
- (ii) obtains the parties' voluntary, written consent to the informal resolution process; and
- (iii) does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

L. RETALIATION PROHIBITED

Neither the College nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted under this policy. Complaints alleging retaliation may be filed according to the grievance procedures included in the formal complaint process. The College shall keep confidential the identity of any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness except as may be permitted by FERPA statute, 20 U.S.C. 1232g or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

M. Range of Possible Sanctions – On final determination of responsibility the following sanctions may be imposed against a respondent:

For Students:

1. Disciplinary Reprimand. This may be an oral or written warning. It notifies a student that any further violation of College regulations may subject the student to more severe disciplinary actions.
2. Disciplinary Probation. This is designated to encourage and require a student to cease and desist from violating College regulations. Students on probation are notified in writing that any further misconduct on their part will lead to more severe action.
3. Disciplinary Suspension. This excludes a student from the College for a designated period of time. While on suspension, a student will not be allowed to take any course at the College. At the end of the designated period of time, the student must make formal reapplication for admission.
4. Class Suspension. A student may be suspended from attending one or more specified courses for improper behavior. Class suspensions are for the remainder of the semester, and the student will be assigned a letter grade of "F" for each course from which he/she is suspended. The student will not be allowed to attend any college-sponsored event or activity.
5. Building/Facility/Area Suspension. A student may be suspended from a specified college area/building/facility for improper or disruptive behavior.
6. No Contact Order. A no contact order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
7. Restitution. Repayment for theft or damage
8. No Trespass Order. A no trespass order may be issued for individuals who have been accused of and/or found in violation of sexual harassment.
9. Disciplinary Expulsion. This is the strongest disciplinary action. This category of severe penalty generally indicates the recipient may not return to the College.

For Employees:

Any employee who violates the terms of this policy or who impedes or unreasonably refuses to cooperate with an investigation regarding allegations of Prohibited Harassment will be subject to appropriate disciplinary action, up to and including termination.

For Individuals other than employees or student:

Sanctions will be determined by federal, state, and local law.

A no trespass may be issued for individuals who have been accused and/or found in violation of sexual harassment.

At any time in the grievance process the College may impose a temporary delay or limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness, concurrent law enforcement activity, or the need for language assistance or accommodation of disabilities. Neither the College assigned Investigator or Decision Makers and any person who facilitates an informal resolution process shall require, rely upon, or otherwise use questions or evidence that constitute or seek disclosure of information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

The College's Title IX Coordinators, Investigators, Decision Makers shall all have received training for their respective roles prior to participating in a Title IX Complaint or grievance process. All materials used to train the Title IX Coordinators, Investigators, Decision Makers and any person who facilitates an informal resolution process may be found on the College's website at gadsdenstate.edu.

SECTION: Personnel Policies and Procedures / Conflict of Interest and Ethics
SUBJECT: Conflict of Interest and Ethics Policy and Procedures
SOURCE REFERENCE: Board of Trustees Policy 615.01

NUMBER: F/2.1

Conflict of Interest and Ethics

Conflict of Interest and Ethics: Policy and Procedures

Alabama Community College System Board of Trustees Policy 615.01 specifies:

1. Honesty and professional integrity are expected of all employees. It would be a serious violation of this trust if the interests of any institution under the direction and control of the Alabama Community College System were to be disregarded in the course of performing professional duties. The use of official position and influence to further personal gain or that of families or associates is unacceptable behavior.
2. All employees have the right to acquire and retain status of a professional, personal, or economic nature. In a community as diverse and complex as the institutions that comprise The Alabama Community College System, there is always the possibility that the pursuit of individual interest may result in a conflict with those of the employing institution. This places an important responsibility on faculty and staff to recognize potential conflicts and prevent them. It is not expected that every employee will have a complete and current knowledge of the laws and regulations that apply to conflict of interest. However, all persons, particularly those with significant exposure to potential conflict of interest situations, should develop sensitivity to this issue and seek guidance when appropriate.

Scope of Policy

The above policy applies to all employees of Gadsden State Community College, including part time, and is inclusive of the following provisions:

Definitions

Conflict of Interest

The term "conflict of interest" in this policy refers to situations in which financial or other personal considerations compromise, or has the appearance of compromising, an individual's professional judgment and ability to perform his or her responsibilities to Gadsden State Community College. Employees should not only consider situations that are unacceptable, but should also consider gray areas that might involve the appearance of conflict. The appearance of a conflict can be just as serious and damaging.

Close Relation

A "Close Relation" is defined as a spouse, financial dependent, significant other, or person in an intimate relationship; a child, parent, sibling, in-laws, step-relations, grandparent, grandchild, niece or nephew, aunt, uncle, cousin.

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Substantial Financial Interest

The ownership of an interest of more than 5% in a company is considered a substantial financial interest. However, any ownership or management role in a company, e.g., officer, creates an appearance of conflict equivalent to owning a substantial financial interest.

Conflict of Interest in Employment and Business Practices

Employees must not allow a personal or outside interest to interfere with their duties and responsibilities to Gadsden State Community College. Even the appearance of a conflict of interest should be avoided. Any arrangements or relationships that may pose a conflict should be disclosed.

Although not an all-inclusive list, examples of conflicts of interest that should be disclosed under this policy include:

- a. Conducting business with an individual or entity in which you or your Close Relation have a personal, managerial or substantial financial interest;
- b. Maintaining an external consulting or other business or employment relationship with a supplier, vendor or competitor of Gadsden State Community College which would impair your independence of judgment in the performance of your duties at Gadsden State Community College;
- c. Competing with Gadsden State Community College, or competing with other external vendors for Gadsden State Community College business, whether as an individual, as an employee of another organization, or through a separate entity owned or operated by you or your Close Relation that exists outside of your employment duties with the College;
- d. Directly supervising or evaluating the work of a Close Relation;
- e. Unauthorized use of confidential, privileged or proprietary information obtained in connection with your position, or use of such information for your personal benefit or the personal benefit of another;
- f. Making use of any Gadsden State Community College asset, including the Gadsden State Community College name and trademark, resources, or supplies outside the scope of employment;
- g. Participating in any way in any negotiation or transaction between Gadsden State Community College and a business entity in which you or your Close Relation has a personal, managerial or substantial financial interest;
- h. Participating in any decision, such as decisions concerning initial appointment, retention, termination, promotion, salary, or leave of absence, that involves either a direct benefit or a detriment to a Close Relation;
- i. Soliciting personal gifts or special favors from individuals or entities that provide, or seek to provide, services or supplies to Gadsden State Community College;

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Conflict of Commitment

Employees owe professional loyalty to Gadsden State Community College and shall be alert to the possibility that outside obligations, financial interests, or employment can affect that commitment. Any involvement in personal business ventures shall be conducted outside the work environment and not during times when the employee is required or expected to perform the duties and responsibilities of his or her position.

Faculty and staff must be careful that their work for others does not conflict with their obligations and commitments to Gadsden State Community College. Faculty members who seek to be educators at other institutions concurrent with their holding a full-time position at Gadsden State Community College must seek permission in advance. Full-time faculty and staff may not hold other full-time concurrent positions elsewhere, except as part of an approved leave and/or where advance permission has been granted.

Personal Conflicts of Interests

Faculty or staff should take all reasonable steps to avoid a conflict of interest or the appearance of a conflict of interest in his or her work that could arise from a family or intimate relationship with a Close Relation employed by Gadsden State Community College or with whom Gadsden State Community College has contracted to provide goods or services. In particular, a faculty or staff member shall not participate in any decision that involves either a direct benefit or a detriment to a Close Relation, as defined under this policy.

When in doubt concerning the possibility of a personal conflict of interest, consult your immediate supervisor.

Teaching a close relation could be seen as a conflict of interest; therefore, close relations of instructors may not enroll in their courses. Exceptions require Dean's approval.

Disclosure

If an employee believes or suspects that a conflict of interest may exist, it should be disclosed to the employee's immediate supervisor, who shall then make disclosure to the appropriate Cabinet member.

Remedial Action for Non-Compliance

Failure to disclose conflicts of interest under this policy may be cause for disciplinary action in accordance with the Employee Conduct Code as stated in the Employee Handbook and Alabama Community College System Board of Trustees Policies.

*(Procedure for Managing Potential Conflicts of Interests and forms are included as **Form F/2.1-A.**)*

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I have read, understand, and will fully comply with the Conflict of Interest and Ethics Policy and Procedure.

Employee's Name (print)

Employee's Signature

Date

This policy cannot regulate or eliminate all situations of conflict of interest, but is intended to enable faculty and staff to recognize situations that raise an appearance of impropriety and to ensure that such situations are properly reviewed and resolved. All Gadsden State Community College employees must disclose actual or perceived conflicts so that they can be managed appropriately. Disclosure will not necessarily restrict or preclude an individual's activities. In most cases, problems arise when the conflict is not disclosed, or when it is not assessed or managed.

Expressive Activities by the Campus Community

Purpose

- A. Gadsden State Community College's primary function is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate. To fulfill that function, the College will strive to ensure the fullest degree possible of intellectual freedom and free expression.
- B. It is not the proper role of the College to shield individuals from speech protected by the First Amendment to the United States Constitution and Article I, Section 4 of the Constitution of Alabama of 1901, including without limitation, ideas and opinions they find unwelcome, disagreeable, or offensive.
- C. Students, administrators, faculty, and staff are free to take positions on public controversies and to engage in protected expressive activity in outdoor areas of the campus, and to spontaneously and contemporaneously assemble, speak, and distribute literature.
- D. The College shall support free association and shall not deny a student organization any benefit or privilege available to any other organization based on the expression of the organization, including any requirement of the organization that the members of the organization affirm and adhere to an organization's sincerely held beliefs, statement of principles, or standard of conduct.
- E. Gadsden State will strive to remain neutral on the public policy controversies of the day, except for administrative decisions that are essential to the day-to-day functioning of the College. The College will not require students, faculty, or staff to publicly express a given view of a public controversy.
- F. The College should prohibit all forms of harassment which includes expression so severe, pervasive, and objectively offensive that it effectively denies access to an educational opportunity or benefit provided by the College.

II. Speech and Expression in Outdoor Areas

- A. For purposes of this policy, the Gadsden State College Community includes students, administrators, faculty, staff, invited guests, and recognized student organizations, including organizations seeking recognition.

SECTION: Compliance with Federal Law
SUBJECT: Expressive Activities by the Campus Community
SOURCE REFERENCE: BOT Policy 224.01

NUMBER: E/1.8

- B. Members of the College Community shall be permitted to engage in expressive activities in outdoor areas of the College with general access during regular hours of College operation, subject to limitations. Expressive activities are defined as those activities protected under the First Amendment to the United States Constitution and Article I, Section 4 of the Alabama Constitution, including any lawful verbal, written or electronic communication of ideas; lawful forms of peaceful assembly, protests, and speeches; distributing literature; carrying signs; and circulating petitions.
- C. Outdoor areas where expressive activities are not allowed include areas of restricted access as identified by the College, which may include but are not limited to areas adjacent to classrooms or places of residence; athletic facilities; areas being used as outdoor classrooms or educational training; or areas where access is restricted due to operational or safety protocols.
- D. Except for Section II.H. below, this policy does not apply to expressive activities that take place in indoor areas of College property including, but not limited to, classrooms or classroom buildings; interior hallways and breezeways; administrative buildings or offices; auditoriums; performing arts venues; events centers; and recreational facilities. Expressive activities in these areas are governed by College policies related to academic freedom, facilities use, and other applicable policies and protocols.
- E. Members of the College Community who engage in expressive activities in permitted areas may do so freely, spontaneously, and contemporaneously as long as the conduct is lawful, in accordance with laws applicable to conduct and activities on College property, and does not materially and substantially disrupt the functioning of the College or infringe upon the rights of others to engage in expressive activities.

SECTION: Compliance with Federal Law
SUBJECT: Expressive Activities by the Campus Community
SOURCE REFERENCE: BOT Policy 224.01

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- F. Conduct that may materially and substantially disrupt the functioning of the College or infringe upon the rights of others to engage in expressive activities may include:
1. Obstruction of vehicular, bicycle, pedestrian, or other traffic;
 2. Obstruction of entrances or exits to buildings or driveways or impeding entry or exit from any building or parking lot or vehicular path;
 3. Violations of a state, federal or local law, regulation, or ordinance;
 4. Threats to passersby or the use of fighting words, which are words that by their mere utterance inflict violence or would tend to incite a reasonable person to violence or other breach of the peace;
 5. Following, badgering, or forcibly detaining individuals;
 6. Interference with scheduled College classes, ceremonies or events, including memorials, dedications or classroom activities, whether indoors or outdoors;
 7. Damage to property, including buildings, benches, sidewalks, fixtures, grass, shrubs, trees, flowers, or other landscaping;
 8. Use of sound amplification, including bullhorns, except within reasonable limits that will not disrupt normal College operations;
 9. Use of placards, banners, or signs that are dangerous or cause obstruction as described in subsections 1 and 2 above;
 10. Engaging in expressive activities prohibited or restricted areas.
 11. Any other interference with College operations beyond a minor, brief, or fleeting nonviolent disruption that is isolated or brief in duration; or
 12. Any other conduct or activity not protected by the First Amendment to the United States Constitution and Article I, Section 4 of the Alabama Constitution, or other state law.

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- G. Nothing herein shall be construed to limit the application of laws related to disruptions, disturbances, or interference with the functions of the College.
- H. The College may employ police and security officers and use other security measures to ensure the safety of all participants.
- I. Individuals or groups from the College Community planning to engage in expressive activity that they anticipate will require the assistance of security, should provide notice at the time of scheduling the event to the President or the President's designee, and to the Director of Physical Plant.
- J. Individuals or groups who engage in expressive activity in outdoor areas on College property are subject to College policies relating to the use and operation of College facilities, including without limitation policies relating to firearms and weapons, alcohol, smoking, and trespass. The College may limit the possession or use of clubs, bats, weapons, open flames, or other material objects on campus property during such events.
- K. Gadsden State will not permit members of the College Community to engage in conduct that materially and substantially disrupts protected expressive activity or infringes on the right to engage in expressive activity. Any act of reprisal, interference, coercion, or restraint, by a student or employee, of protected expressive activity, violates this policy and will result in appropriate disciplinary action.
- L. Nothing in this policy shall be construed to prevent Gadsden State from regulating and restricting expressive activity that is not protected by the United States Constitution, the Constitution of Alabama 1901, including, but not limited to:
 - 1. Violations of state or federal law, including, but not limited to, actions that damage College property.
 - 2. Expressions that a court has deemed unprotected defamation.
 - 3. Harassment.
 - 4. True threats, which are defined as statements meant by the speaker to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.
 - 5. An unjustifiable invasion of privacy or confidentiality not involving a matter of public concern.

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6. An action that unlawfully disrupts the function or security of College operations.
 7. Any constitutional time, place, and manner restrictions for outdoor areas when they are narrowly tailored to serve a significant institutional interest and when the restrictions employ clear, published, content-neutral, and viewpoint-neutral criteria, and provide for ample alternative means of expression.
- M. Complaints or questions regarding the application of this policy should be addressed by use of the complaint process posted on the College's website.

III. Commercial Activity on Campus

Individuals, organizations and groups, both internal and external to a College, may not conduct commercial transactions or engage in commercial speech on College property unless authorized and approved in accordance with the College policies. Commercial speech means speech in which the speaker is engaged in commerce, the intended audience is commercial or actual or potential consumers, and the content of the message is commercial. Fundraising, including political fundraising, is considered solicitation and is therefore deemed commercial speech under this policy.