

# Anti-Harassment Policy

Calhoun Community College has a commitment to providing both employment and educational environments free of harassment or discrimination related to an individual's race, color, gender, religion, national origin, age, or disability. Not only is such harassment or discrimination a violation of the policies of the Alabama Community College System, it is an institutional policy that any practice or behavior that constitutes such harassment or discrimination shall not be tolerated on any Calhoun campus or site, or in any division or department, by any employee, student, agent, or non-employee on any College property or while engaged in any College-sponsored activity. It shall also be a violation of this policy for a person to engage in such harassment or discriminatory practice or behavior through the use of any College owned or College controlled communication process, system or device.

For these purposes, the term "harassment" includes, but is not necessarily limited to:

Language, behavior, or other activity that has the intent or effect of unduly demeaning, embarrassing, or discomfoting any person, or creating an environment that is unduly demeaning, embarrassing, or discomfoting to any person or persons of reasonable sensitivity.

Harassment of employees or students by persons who are not employees or students shall also be 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.

Such discrimination may or may not be in the form of harassment, per se. However, as with incidents of harassment, any employee or student who becomes aware of the unduly adverse treatment of any person on the basis of that person's race, color, gender, religion, national origin, age, disability, or any other impermissible factor, shall report such situation to an appropriate College official.

Sexual harassment is a form of misconduct that is considered under the law to be both harassment and 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 such innocent conduct as occasional compliments on another's appearance; it refers to behavior with sexual connotations that would have the effect of interfering with, or the tendency to interfere with, the work, educational, or social environment of its victims. Sexual harassment may involve the behavior of a person of either sex toward a person of the opposite or the same sex, and occurs when it consists of unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature, when

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational opportunities;
2. Submission to or rejection of such conduct is used as the basis for employment or academic decisions affecting that individual;
3. 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.

Sexual harassment may include, but is not be limited to, any of the following:

1. Physical assault, or attempted physical assault, of a sexual nature.
2. Direct propositions of a sexual nature;
3. Subtle pressure for sexual activity;
4. Threats or coercion used for the purpose of soliciting sexual favors;
5. Displaying pictures or other objects which are sexual in nature that would have the tendency to create a hostile or offensive environment and serve no legitimate business purpose;
6. Repeated conduct that has the effect of causing, or intent to cause, discomfort or humiliation, or both, that includes comments of a sexual nature or sexually explicit statements, questions, jokes, or anecdotes;
7. Repeated conduct that has the effect of causing, or the intent to cause, discomfort or humiliation in the form of (i) touching, patting, pinching, hugging, or brushing against another's body; (ii) comments of a sexual nature about another's clothing or appearance; or (iii) remarks about sexual activity or prior sexual experiences.

Any student who is the victim, or intended victim, of sexual harassment should report the matter to the office of the Vice President of Student Services as soon as possible after the situation occurs. If the matter is determined by the Vice President to involve sexual harassment, it shall also be reported to the President of the College and to the Vice Chancellor for Legal and

Human Resources, who shall also be kept informed of the progress and results of the investigation of the complaint. Any subsequent adverse treatment incurred by the reporting party that appears to be retaliation of, or related to, the report of sexual harassment should also be brought to the attention of the office of the Vice President of Student Services.

With further regard to relationships of a physical nature, Calhoun Community College employees determine the ethical and moral tone for this College 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 College personnel of different ranks which involve partiality, preferential treatment, or other improper use of position shall not be tolerated. Consensual amorous relationships that might be appropriate in other circumstances are inappropriate when they occur between an instructor and a student for whom he or she has responsibility, or between any supervisor and an employee where preferential treatment results. Furthermore, such relationships have the potential of undermining the atmosphere of trust on which the educational process depends. Implicit in the concept of professionalism is the recognition by those in positions of authority that in their relationships with students or subordinate employees there is always an element of power. Therefore, it is incumbent on those with authority not to abuse the power with which they are entrusted.

**In order to accommodate the resolution of such situations, Calhoun Community College offers the following grievance procedures as the appropriate course of action for settling disputes and resolving problems.**

#### **A. INITIAL STEPS**

Any student of Calhoun Community College who has a grievance against another student or a member of the Calhoun faculty, staff, or administration concerning any form of discrimination (Title VI, Civil Rights Act of 1964), sexual harassment (Title IX of the Educational Amendments of 1972), or violation of the rights of the disabled (Sec. 504 of the Rehabilitation Act of 1973) should first attempt to resolve his/her situation with the individual involved. However, a student who believes herself or himself to have been subjected to sexual harassment is not required to first speak to or attempt to resolve the situation with the perpetrator of sexual harassment before filing a complaint. If for some reason resolution of the grievance is not possible, the student should make his/her grievance known to the immediate superior of the individual against whom the student has a grievance, and/or to the Vice President of Student Services in order to seek an informal resolution to the problem. If, after the discussion between the student and the respective College official or representative it is determined that the complaint is valid, the College official or representative will take appropriate action to resolve the complaint using a formal "plan of resolution."

If the student's complaint requires a formal "plan of resolution," a written report must be submitted to the Vice President of Student Services. The report shall be submitted by the College official or representative within ten business days of the initial complaint and shall detail the complaint and the plan to resolve the complaint. If a student's complaint cannot be resolved in the manner described above, an unresolved complaint shall be termed a "grievance."

#### **B. INTERIM RESOLUTION**

If the Vice President of Student Services should determine that the grievance is of a nature that there should be imposed an interim resolution pending the outcome of the grievance procedure, the Vice President of Student Services shall recommend such an interim resolution to the President or designee. The President or designee shall have the discretion to impose or not impose an interim resolution.

#### **C. FORMAL GRIEVANCE PROCESS**

A student who submits a complaint to the appropriate College official or representative in the manner described above and who is not informed of a satisfactory resolution or plan of resolution within ten business days after the complaint's initial submission shall have the right to file, within ten business days, a formal grievance statement. The written grievance statement shall be filed using Grievance Form A, which will be provided by the Grievance Officer and shall include the following information:

1. Date the original complaint was reported;
2. Name of the person to whom the original complaint was reported;
3. Facts of the complaint; and,
4. Action taken, if any, by the receiving official to resolve the complaint.

The grievance statement shall also contain any other information relevant to the grievance the Grievant wants to be considered by the Vice President of Student Services. Any grievance must be filed within 45 calendar days of the occurrence

of the alleged discriminatory act or the date of which the Grievant became aware that the discriminatory act took place.

The Vice President of Student Services will notify the student ora member of the Calhoun faculty, staff or administration of the charge(s) against him/her within five business days of receiving the formal grievance statement. If after a reasonable attempt to notify the student, faculty member, staff member, or administrator of the charges against him/her, the Vice President of Student Services is unable to do so, then the Vice President of Student Services may suspend the student, or the President of the College or his/her designee may suspend with pay the faculty member, staff member, or administrator until a hearing is held and decision rendered.

The College shall have thirty (30) calendar days from the date of receipt by the Vice President of Student Services of the grievance to conduct an investigation of the allegation(s), hold a hearing on the grievance, and submit a written report to the Grievant of the findings arising from the hearing. Grievance Form A shall be used to report both the grievance and the hearing findings.

#### **D. INVESTIGATION PROCEDURE**

The Vice President of Student Services shall have the right to conduct such preliminary hearing(s) as the Vice President of Student Services or designee shall deem necessary to complete his/her investigation. The Vice President for Student Services shall conduct a factual investigation of the grievance allegations and shall research each applicable statute, regulation, and/or policy, if any. The Vice President of Student Services shall determine, after completion of the investigation, whether or not there is substantial evidence to support the grievance. The factual findings in the investigation and the conclusion of the Vice President of Student Services (Grievance Officer) shall be stated in a preliminary written report which shall be submitted to the Grievant and to the party or parties against whom the complaint was made and shall be made a part of the hearing record, if a hearing is subsequently conducted. Each of the parties shall have the opportunity to file written objections to any of the factual findings and, if there is a hearing, to make their objections part of the hearing record. If the Grievance Officer finds the grievance is supported by substantial evidence, he or she shall make a recommendation in the report as to how the grievance should be resolved. Upon the receipt of the Grievance Officer's preliminary report, the Grievant and the Respondent shall have three (3) business days to notify the Grievance Officer of the respective party's request for a hearing. The Vice President of Student Services may, nevertheless, at his/ her discretion, schedule a hearing on the grievance if to do so would be in the best interest of the College. In the event that no hearing is to be conducted, the Grievance Officer's report shall be deemed a final report and shall be filed with the President, with a copy to be provided to the Grievant.

#### **E. HEARING PROCEDURE**

In the event that the Vice President of Student Services schedules a hearing, the Vice President of Student Services or designee will appoint a qualified five-person committee. The Vice President of Student Services shall serve as the nonvoting chairperson. A quorum shall consist of four members of the committee and the chairperson. Unless the President or Vice President determines otherwise, or both parties agree in writing for the hearing to be public, the hearing shall not be open to the public.

At the hearing, the Grievant and the Respondent(s) shall be read the grievance statement. After the grievance is read into the record, the Grievant shall have the opportunity to present such oral testimony and offer such other supporting evidence as he/she shall deem appropriate to his/her claim. Each Respondent shall then be given the opportunity to present such testimony and offer such other evidence as he/she deems appropriate to the Respondent's defense against the grievance. In the event that the College, or the administration of the College at large, is the party against whom the grievance is filed, the President shall designate a representative to appear at the hearing on behalf of the College.

Any party to a grievance hearing shall have the right to retain, at the respective party's own cost, the assistance of legal counsel or other personal representative. However, the respective attorney or personal representative, if any, shall act in an advisory role only and shall not be allowed to address the hearing body or question any witness. In the event that the College or its administration at large is the Respondent, the College representative shall not be an attorney or use an attorney unless the Grievant is also permitted to be assisted by an attorney or other personal representative.

A student does not forfeit any of his/her constitutional rights upon his/her admission into Calhoun Community College, nor does a faculty member, staff member, or administrator forfeit his/her constitutional rights upon employment with Calhoun Community College. The Committee shall not have the authority to compel any witness to testify. However, insofar as it is not contrary to law, the Committee may take into account the refusal of a witness to testify when deliberating the evidence. With regard to a College employee, the President shall have the authority to direct the employee to testify at a hearing if, in the discretion of the President, such testimony could be material to an accurate determination of the facts in the case.

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.

## **F. REPORT OF FINDINGS AND CONCLUSIONS**

Within five (5) working days following the hearing, there shall be a written report from the chairperson on the findings of the hearing committee (with a copy forwarded to the President, the Grievant, and each Respondent). The report shall contain at least the following:

1. Date and place of the hearing;
2. The name of each member of the hearing committee;
3. A list of all witnesses for all parties to the grievance;
4. Findings of facts relevant to the grievance;
5. Conclusions of law, regulations, or policy relevant to the grievance;
6. Recommendations(s) arising from the grievance and the hearing thereon.

## **G. RESOLUTION OF GRIEVANCE**

In the event of a finding by the Committee that the grievance was supported, in whole or in part, by the evidence presented, the Vice President of Student Services shall meet with the Grievant, the Respondent(s) and the appropriate College representative(s) and attempt to bring about a reasonable agreed upon resolution of the grievance. If there is no mutual resolution, the President shall impose a resolution of the grievance which shall be final and binding.

## **H. APPEAL PROCEDURE**

The President of Calhoun Community College shall be the appeal authority in upholding, rejecting, or modifying the recommendations of the Grievance Committee. The President shall not be bound in any manner by the recommendation(s) of the hearing committee, but shall take it (them) into consideration in imposing his/her decision. The charged student, faculty member, staff member, or administrator may file a written request with the Vice President for Academic Affairs of the College and Vice President of Student Services requesting that the President of the College review the decision of the Grievance Committee. The written request must be filed within 15 calendar days following the party's receipt of the hearing report. If the appeal is not filed by the close of business on the fifteenth day following the party's receipt of the report, the party's opportunity to appeal shall have been waived. If the appeal does not contain clear and specific objections to the hearing report, it shall be denied by the President. The President of the College shall issue his/her opinion to accept, reject, or modify the decision of the Grievance Committee within 15 calendar days of the initiation of the appeal process. If the decision of the Grievance Committee does not satisfy the complainant and should the grievance allege discrimination (Title VI), sexual harassment (Title IX), or violation of the rights of the handicapped (Sec. 504), the complainant may file a written grievance with:

1. The Alabama Community College System pursuant to Alabama Community College System policies and procedures, with respect to Title IX violations;
  - a. If, after exhausting all available institutional processes, a student's complaint remains unresolved, the student may appeal to the Alabama Community College System using the System's official Student Complaint Form available at ([calhoun.edu/ACCSComplaint](http://calhoun.edu/ACCSComplaint)) or at the ACCS website ([www.accs.cc](http://www.accs.cc)). Students may submit completed complaint forms by printing the form, signing it, and then either (1) scanning it and e-mailing it to [complaints@accs.edu](mailto:complaints@accs.edu) or (2) mailing it to:  
  
Alabama Community College System  
Attention: Office of the Vice Chancellor  
for Instructional and Student Services  
P.O. Box 302130  
Montgomery, AL 36130-2130
  - b. The Vice Chancellor for Instructional and Student Services or an appropriate administrator designated by the Vice Chancellor will investigate the complaint within 30 days of receipt.
  - c. The institution which is the subject of complaint has 30 days to provide a written response to questions and/or concerns raised during the investigation. Such response may or may not contain a resolution.

- d. The Vice Chancellor or designated administrator will adjudicate the matter and write a report or letter to the institution and student detailing corrective action, if any is necessary, or stating that the school has no violation of policies.
  - e. If corrective action is needed the institution will have 30 days to comply or develop a plan to comply with the corrective action.
  - f. The System Office will monitor the institution's compliance to ensure the completion of any required corrective action.
2. The regional office of the Office of Civil Rights of the U.S. Department of Education within 180 days of the discriminatory act;
  3. The Equal Employment Opportunity Commission within 180 days of the discriminatory act.

## **EXCEPTION**

When a complainant or grievant complains of, asserts the existence of, or indicates the possibility of sexual harassment violation of law, Calhoun Community College policy, or standards of appropriate conduct, the President may, in his/her discretion, determine that the matter will not be resolved through procedures set forth above, but will be reasonably, appropriately, and promptly investigated and resolved by the College pursuant to such process as the President determines in accordance with the College's objective of maintaining a work and educational environment free from sexual harassment.

## **Violence Against Women Campus SaVE Act**

In March of 2013, the campus sexual violence elimination act was passed by Congress as part of the reauthorization of the Violence Against Women Act (Campus SaVE Act). The new law is aimed at increasing transparency by expanding the types of sexual violence incidents that must be disclosed in the annual security report (ASR) submitted by colleges and universities. The new law represents a regulatory emphasis on specific categories of sexual abuse suffered by members of the college community.

## **Policy Statement**

Calhoun Community College is committed to providing a safe learning environment that allows individuals to fully maximize their educational potential. Therefore, any form of domestic violence, dating violence, sexual assault, or stalking as defined under Alabama State Law, is strictly prohibited. Furthermore, the use of intimidating or abusive behavior that is directed at bullying (menacing) individuals with the intent of victimizing them is prohibited. The College will provide preventive educational programs that are designed to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking.

## **Bystander Intervention**

Effective intervention is the community responsibility of every person. Individuals are encouraged to speak out against attitudes that promote sexual violence and become more supportive of survivors. There are five stages to effective bystander intervention: 1) notice the problem, 2) understand that the problem demands action, 3) feel responsibility to act, 4) choose what form of assistance to provide, and 5) respond.

## **Steps for Reporting Offenses**

Any sexual offense crime committed on campus should be reported directly to Campus Police by dialing 256-306-2575 or 2575 from any extension on the Decatur campus, and 256-890-4711 or 4711 from any extension on the Huntsville campus. Any person reporting a sexual offense crime should take immediate steps to preserve the evidence. All incidents will be investigated and a report will be filed by the investigating officer; victims will be notified of their options to notify law enforcement. In the event of a sexual crime, assistance is available through the Student Services Office for making referrals to counseling services.

## Campus Sexual Assault Victim Bill of Rights

- Victims shall be notified of their options to notify law enforcement when reporting a crime of domestic violence, dating violence, or stalking
- Reasonable changes to academic and campus work situation
- Referrals to counseling, assistance in notifying law enforcement
- Same opportunity as accused to have others present at disciplinary hearing
- Unconditionally notified of outcome of hearing, sanctions, and terms of sanctions in place
- Speak (or choose not to speak) to anyone regarding the outcome
- Name and identity information kept confidential (FERPA)

## REFERENCE

**Title VI of the Civil Rights Act of 1964**, "No person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

**Title IX of the Educational Amendments of 1972**, "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."

**Section 504 of the Rehabilitation Act of 1973** as amended in 1974, "No otherwise qualified handicapped individual in the United States, as defined in Section 706 (6) of this title, shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

**Title IX Section 304** of the Campus Sexual Violence Elimination Act (Campus SaVE Act), requires institutions of postsecondary education eligible to participate in federal student aid programs to adopt and disclose in their Annual Security Report a summary of a policy regarding sexual assault (an existing requirement of the Clery Act) and other intimate partner violence defined to include stalking, dating violence, sexual violence, or domestic violence.

*It is the official policy of the Alabama State Department of Education, including Postsecondary institutions under the control of the State Board of Education, that no person in Alabama shall, on the grounds of race, color, disability, sex, religion, creed, national origin, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, activity, or employment.*