

# BISHOP STATE COMMUNITY COLLEGE

**VIOLENCE AGAINST WOMEN  
REAUTHORIZATION ACT (VAWA)  
Sexual Misconduct Policy  
2015 - 2017**



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A Member of the Alabama Community College System

# **VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT (VAWA) Sexual Misconduct Policy**

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## **Introduction**

### **Statement of Prohibition**

This policy prohibits all forms of sexual or gender-based harassment, discrimination, or misconduct, including, but not limited to, sexual harassment, sexual assault, sex offenses, sexual exploitation, dating violence, stalking, intimate partner violence, and domestic violence. Sex discrimination in any form, including any form of sexual misconduct, is contrary to Bishop State Community College's values and is prohibited by college policies as well as local, state, and federal laws, and the policies of the Alabama Community College System Board of Trustees. These behaviors are harmful to the well-being of our college community, the learning/working environment, and collegial relationships among our students, faculty, staff, and visitors. Any individual who is found to have violated this policy may face disciplinary sanctions up to, and including, expulsion or termination of employment and referral to law enforcement authorities.

### **Commitment to Address Sexual Misconduct**

Bishop State Community College is committed to providing an environment that is safe and conducive for learning and employment. Any behavior that threatens this environment is a violation of college policy. All members of the college community are strongly encouraged to report any incident of sexual harassment, sexual assault, sex offenses, sexual exploitation, dating violence, stalking, intimate partner violence, and domestic violence directly to the Title IX Coordinator. Violations may also be reported to any "Responsible Employee" as outlined in this policy.

Upon receipt of a report, the College will take prompt and effective action by providing interim remedies to issues that threaten the safety and security of the victim and offering appropriate support. Additionally, the College will conduct a thorough review and investigation in an effort to address the alleged misconduct.

Retaliation against any person who makes a complaint or participates in the complaint process is a violation of college policy, and should be reported to the Title IX Coordinator. A finding of retaliation may result in disciplinary action in addition to any sanctions that may be imposed as a result of the underlying allegations of discrimination and/or harassment.

## **Scope of Policy**

### **Jurisdiction of the Policy**

This policy applies to related conduct occurring on college campuses and sites, college property or at college-sanctioned events or programs that may take place off campus. In particular, off-campus conduct that is likely to have a substantial adverse effect on or poses a threat of danger to any member of the college community or the College as a whole is covered under this policy.

### **Individuals Covered by the Policy**

The policy applies to all members of the college community, including students, faculty, staff, administrators, volunteers, vendors, independent contractors, visitors, and any individuals regularly or temporarily employed, studying, conducting business or having any official capacity with the College or on college property.

### **Statement of Confidentiality**

The College encourages victims of sexual violence to talk to a college official regarding alleged incidents so that the support needed may be provided and the College can respond appropriately. The College will make every effort to maintain confidentiality where possible and practical. Details regarding confidential resources are outlined further in this policy.

## Title IX Coordinator and Responsibilities

### Title IX Coordinator

Mrs. Madeline Stokes  
 Baker-Gaines Central Campus  
 (251) 405-4457  
[mstokes@bishop.edu](mailto:mstokes@bishop.edu)

**Responsibilities:** It shall be the responsibility of the Title IX Coordinator to review and investigate reported incidents of sexual misconduct in accordance with this policy and recommend an appropriate solution to the President. It shall also be his or her responsibility to implement appropriate interim steps for the victim and the alleged perpetrator to preserve the safety and security of the victim and the college community.

The Title IX Coordinator can assist students and employees in filing formal complaints, or if a formal complaint is not desired, he or she will work with the complainant to address any concerns. The Coordinator will also assist the complainant in notifying Campus Police or local law enforcement authorities, if requested or deemed necessary. Additionally, the Coordinator will assist the complainant in seeking appropriate assistance or making referrals by:

- Identifying health care options;
- Ensuring that the victim is aware of the options for seeking treatment for injuries, preventative treatment for sexually transmitted diseases, and other health services;
- Discussing the option for seeking medical treatment in order to preserve evidence;
- Identifying where/how to get a rape kit or find a Sexual Assault Nurse Examiner (SANE); and
- Assisting in contacting an advocate who can accompany a victim to the hospital or health care provider.

### Prohibited Conduct and Definitions

The College prohibits all forms of sexual and gender-based harassment, including sexual harassment, sexual assault, sex offenses, sexual exploitation, dating violence, stalking, intimate partner violence, and domestic violence. Any of the prohibited conduct defined in this policy can be committed by individuals of any gender, and it can occur between individuals of the same or different gender. Each of the terms defined herein encompasses a broad range of behaviors. Within these broad contexts, the College prohibits the following conduct:

- a. **Sexual Harassment.** Sexual harassment may involve the behavior of a person of either sex against a person of the opposite or same sex and occurs when such behavior constitutes unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal or physical behavior of a sexual nature. Sexual harassment is either hostile environment or quid pro quo when:
  - Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment or academic advancement (quid pro quo);
  - Submission to or rejection of such conduct by an individual is used as the basis for decisions affecting an individual's employment or academic standing (quid pro quo);
  - Such conduct has the purpose or effect of unreasonably interfering with a person's work or academic performance or creating an intimidating, hostile, or offensive work, learning, or social environment (hostile environment).

A third party may also file a complaint under this policy if the sexual conduct of others in the education or work environment has the purpose or effect of substantially interfering with the third party's welfare or academic or work performance.

**Examples of Prohibited Behavior.** Prohibited acts that constitute sexual harassment may take a variety of forms and may include, but are not limited to, the following examples:

- Unwelcome sexual propositions, invitations, solicitations, and flirtations;
- Unwelcome verbal expressions of a sexual nature, including graphic sexual commentaries about a person's body, dress, appearance, or sexual activities; the unwelcome use of sexually degrading language, jokes, or innuendoes; unwelcome, suggestive, or insulting sounds or whistles; obscene phone calls;
- Sexually suggestive objects, pictures, videotapes, audio recordings, or literature placed in the work or study area that may embarrass or offend individuals. Such material, if used in an educational setting, should have an educational purpose;
- Unwelcome and inappropriate touching, patting, pinching, or obscene gestures;
- Letters, notes or electronic communications, including social media, containing comments, words, or images of a sexual nature; and
- Gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex stereotyping, even if those acts do not involve conduct of a sexual nature.

**Consensual Relationships.** Bishop State Community College believes that consensual romantic and sexual relationships between faculty and staff members and students are generally deemed very unprofessional and very unwise because such relationships may result in a conflict of interest and/or a power differential between members of the college community. A faculty or staff member who enters into a sexual relationship with a student where a professional power differential exists must realize that if a charge of sexual harassment is subsequently lodged, it will be exceedingly difficult to prove immunity on the grounds of mutual consent.

Bishop State Community College regards as inappropriate any and all romantic relationships between students and instructors or staff members who have any power over students. The College urges all faculty and staff members to refrain from beginning or continuing all such relationships since such behavior may be perceived as unwelcome, even if consensual, and can be seen at the time or later as sexual harassment. The College expects compliance with the position above by all instructors and staff members and hereby notifies the same that any violation of this policy leading to an allegation of sexual harassment may result in sanctions. Faculty or staff members must also be aware that Bishop State Community College is potentially liable if sexual harassment can be proven.

- b. Sexual Assault.** Having or attempting to have sexual intercourse with another individual by force or threat of force without effective consent; or where that individual is incapacitated or incapable of consenting.
- **Non-Consensual Sexual Contact.** Any sexual touching other than non-consensual sexual penetration without consent. Examples of non-consensual sexual contact may include: genital-genital or oral-genital contact not involving penetration; contact with breasts, buttocks, or genital area, including contact over clothing; removing the clothing of another person; and kissing;

- Non-Consensual Sexual Penetration (commonly referred to as rape). Any act of vaginal or anal penetration by a person's penis, finger, other body parts or an object; or oral penetration by a sex organ, without consent; and
  - Sodomy. Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his or her age or because of his or her temporary or permanent mental or physical incapacity.
- c. Sex Offenses.** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
- Rape. The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim;
  - Fondling. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity;
  - Incest. Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law; and
  - Statutory Rape. Sexual intercourse with a person who is under the statutory age of consent.
- d. Sexual Exploitation.** Any act whereby one person violates the sexual privacy of another or takes unjust or abusive sexual advantage of another who has not provided consent and that does not constitute non-consensual sexual penetration or non-consensual sexual contact. Examples include, but are not limited to, recording, photographing, transmitting, viewing or distributing intimate or sexual images or sexual information without the knowledge and consent of all parties involved; and voyeurism (i.e., spying on others who are in intimate or sexual situations).
- e. Dating Violence.** The term dating violence is not defined by Alabama law as such. However, the term is incorporated into the definition of the domestic violence because the definition of domestic violence includes dating or engagement relationships.
- f. Stalking.** A course of physical or verbal conduct directed at another individual that could cause a reasonable person to feel fear for her or his safety or the safety of others or to suffer substantial emotional distress. Stalking may include, but is not limited to, pursuing or following a person in person or through electronic media (cyber-stalking); non-consensual (unwanted) communication by any means (i.e., letters, cards, photos, text messages, phone calls, emails, or other documentary or electronic communications); unwanted gifts; trespassing; and surveillance or other types of observation.
- g. Intimate Partner Violence.** Intimate partner violence is often referred to as dating violence, domestic violence or relationship violence. It includes any act of violence or threatened act of violence sexual or otherwise against a partner of a current or former sexual, dating, domestic or other intimate relationship with that person.
- h. Domestic Violence.** Domestic violence is any incident resulting in the abuse, assault, harassment or the attempt or threats thereof, between families, households or dating or engagement relationship members.

## Other Definitions and Terms

1. **Consent.** Consent is an act of reason and deliberation. A person who possesses and exercises sufficient mental capacity to make an intelligent decision demonstrates consent by performing an act recommended by another. In the matter of sexual misconduct, consent is a voluntary agreement to engage in sexual activity by an individual who has the capacity to do so. Someone who is incapacitated cannot provide consent. Past consent does not imply future consent; silence or an absence of resistance does not imply consent; consent to engage in sexual activity by one person does not imply consent to engage in sexual activity with another; the manner in which an individual is dressed does not imply consent; the existence of a prior or current relationship does not imply consent; accepting a meal, a gift, or invitation for a date does not imply or constitute consent to further activity; consent can be withdrawn at any time (no means no); and coercion, force, or threat of either invalidates consent.
2. **Incapacitation.** Incapacitation is a state or condition that renders an individual unable to make qualified and rational decisions (i.e., a condition resulting from the use of drugs or alcohol, when a person is asleep or unconscious or because of an intellectual or other disability that prevents him or her from having the capacity to give consent.)
3. **Victim.** A person who has been the subject of a prohibited conduct, regardless of whether that individual makes a complaint or seeks disciplinary action.
4. **Complainant.** A victim who has made a complaint of a violation of the *Violence Against Women Reauthorization Act (VAWA) - Sexual Misconduct Policy* or on whose behalf a complaint was made or disciplinary action initiated.
5. **Respondent.** The individual(s) who is accused of a prohibited conduct.

## Confidentiality

The College is committed to protecting the privacy of all individuals involved in a report of sexual misconduct. All college employees who are involved in the College's Title IX response process have received specific instructions about respecting and safeguarding private information. Throughout the process, every effort will be made to protect the privacy of all individuals involved in a manner that allows the College to conduct a thorough review of the issue.

### “Responsible Employees”

A “Responsible Employee” is a college employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who as a student, could reasonably believe has this authority or duty.

Responsible Employees at the College include:

- Title IX Coordinator
- Campus Police Officers
- Full-time Faculty, Staff, and Administrators
- College Counseling Staff (source for confidential reporting)

When a victim tells a Responsible Employee about an incident of sexual misconduct or violence, the victim has the right to expect the College to take immediate and appropriate steps to investigate what happened, and to resolve the matter promptly and equitably.

A Responsible Employee must report to the Title IX Coordinator all relevant details about the alleged sexual violence shared by the victim and that the College will need to determine what happened – including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident. To the extent possible, information reported to a Responsible Employee will be shared only with people responsible for handling the College’s response to the report. A Responsible Employee should not share information with law enforcement without the victim’s consent or unless the victim has also reported the incident to law enforcement.

Before a victim reveals any information to a Responsible Employee, the employee should ensure that the victim understands the employee’s reporting obligations – and, if the victim wants to maintain confidentiality, direct the victim to a source for confidential reporting. Confidential sources are outlined further in this policy. (*See Options for Assistance following An Incident of Sexual Misconduct.*)

If the victim wants to tell the Responsible Employee what happened but also wishes to maintain confidentiality, the employee should tell the victim that the College will consider the request, but cannot guarantee that the College will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the Responsible Employee will also inform the Title IX Coordinator of the victim’s request for confidentiality.

Responsible Employees will not pressure a victim to request confidentiality, but they will honor and support the victim’s wishes, including requesting that the College fully investigate an incident. By the same token, Responsible Employees will not pressure a victim to make a full report if the victim is not ready to do so.

## **Requesting Confidentiality from the College:**

### ***How the College Will Weigh the Request and Respond***

If a victim discloses an incident to a Responsible Employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the College must weigh that request against the College’s obligation to provide a safe, non-discriminatory environment for all students, faculty, and staff, including the victim. Although rare, there are times when the College may not be able to honor a victim’s request. This is the case when safety and security is a factor. If the College honors the request for confidentiality, a victim must understand that the College’s ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited. In all cases of sexual misconduct that is a crime, the College has an obligation to include the incident in its annual security report in accordance with the Federal Jeanne Clery Act requirements.

It shall be the responsibility of the Title IX Coordinator to evaluate requests for confidentiality once a responsible employee is on notice of alleged sexual violence. When weighing a victim’s request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as whether:
  - There have been other sexual violence complaints about the same alleged perpetrator;
  - The alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
  - The alleged perpetrator threatened further sexual violence or other violence against the victim or others; and

- The sexual violence was committed by multiple perpetrators;
- The sexual violence was perpetrated with a weapon;
- The victim is a minor;
- The College possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence); and/or
- The victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the College to investigate and, if appropriate, pursue disciplinary action. If none of these factors are present, the College will likely respect the victim's request for confidentiality.

If the College determines that it cannot maintain a victim's confidentiality, the College will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the College's response. The College will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and will work with the victim to create a safety plan. Retaliation against the victim, whether by students or college employees, will not be tolerated. The College may not require a victim to participate in any investigation or disciplinary proceeding.

The College will also:

- Assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus (See portion of *Violence Against Women Reauthorization Act (VAWA) - Sexual Misconduct Policy* identifying these services.);
- Provide other security and support, which could include issuing a no-contact order, helping arrange a change of working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests;
- Inform the victim of the right to report a crime to campus police or local law enforcement – and provide the victim with assistance if the victim wishes to do so.

Because the College is under a continued obligation to address issues of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt the College to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted groups; conducting climate assessments/ victimization surveys; and/or revisiting its policies and practices.

If the College determines that it can respect a victim's request for confidentiality, the College will also take immediate action as necessary to protect and assist the victim.

## Privacy and Confidentiality Defined

Privacy and confidentiality have distinct meanings under this policy.

- a. **Privacy:** Privacy generally means that information related to a report of misconduct will only be shared with a limited circle of individuals. The use of this information is limited to those college employees who "need to know" in order to assist in the active review, investigation or resolution of the report. While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

- b. **Confidentiality:** Confidentiality means that information shared by an individual with designated campus or community professionals cannot be revealed to any other individual without the express permission of the individual. These individuals are prohibited from breaking confidentiality unless there is an imminent threat of harm to self or others.
- c. **Requests for Confidentiality:** Where a complainant requests that his/her name or other identifiable information not be shared with the Title IX officer or requests that no formal action be taken, the College will balance this request with its dual obligation to provide a safe and non-discriminatory environment for the college community and to remain true to principles of fundamental fairness that require notice and an opportunity to respond before action is taken against the accused. In making this determination, the College may consider the seriousness of the conduct, the respective ages and roles of the complainant and the accused, whether there have been other complaints or reports of harassment or misconduct against the accused, and the rights of the accused to receive notice and relevant information before disciplinary action is sought.

The College will take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation, but its ability to do so may be limited based on the nature of the request by the complainant. Where the College is unable to take action consistent with the request of the complainant, the Title IX Coordinator will inform the complainant about the chosen course of action, which may include the College seeking disciplinary action against the accused. Alternatively, the course of action may also include steps to limit the effects of the alleged harassment and prevent its recurrence that do not involve formal disciplinary action against the accused or revealing the identity of the complainant.

### **Privileged and Confidential Communications**

This section of the policy is intended to make students and employees aware of other reporting and confidential disclosure options available to them so they may make informed choices about where to turn should they become a victim of sexual violence or harassment. The College encourages victims to talk to someone identified in one or more of these college groups if they wish to keep their identity confidential.

- a. **College Counseling Staff** - Individuals who work in the counseling office on all campuses, including the clerical staff, are available to talk to and assist a victim. A victim can seek assistance and support from these individuals without triggering a college investigation that could reveal the victim's identity or the fact that the victim has disclosed the incident. While maintaining a victim's confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report – which includes no information that would directly or indirectly identify the victim – helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so he or she can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses on behalf of the College. Before reporting any information to the Title IX Coordinator, the individual will consult with the victim to ensure that no personally identifying details are shared during the reporting process.
- b. **Professional Counselors or Agency Resource Groups acting on behalf of the College** – Professional, licensed counselors, and referral agencies who provide mental-health counseling and support to members of the college community (including those who act in that role under the supervision of a licensed counselor) are not required to report any information about an incident to the Title IX Coordinator without a victim's permission.

**Note:** A victim who speaks to a professional counselor, agency resource group, or college counselor must understand that, if he/she wants to maintain confidentiality, the College will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator. Even so, these counselors and advocates will still assist the victim in receiving other necessary protection and support, such as victim's advocacy; academic support or accommodations; disability, health or mental health services; and changes to working environment or course schedules.

A victim who at first requests confidentiality may later decide to file a complaint with the College or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors and advocates will provide the victim with assistance if the victim wishes to change his or her mind.

It is further noted that while these professional counselors, agency resource groups, college counselors, and advocates may maintain a victim's confidentiality regarding an incident of sexual misconduct, they may have reporting or other obligations under state law such as mandatory reporting requirements to law enforcement in the case of minors; imminent harm to self or others; and the requirement to testify if subpoenaed in a criminal case. Specifically, when a report involves suspected abuse of a minor under the age of 18, the College is required by law to notify local law enforcement and the local agency for child protective services.

Additionally, if the College determines that the alleged perpetrator(s) poses a serious and immediate threat to the college community or Campus Police will be called upon to issue a timely warning to the college community. Any such warning should not include information that identifies the victim.

## **Options for Assistance Following an Incident of Sexual Misconduct**

Immediately upon notice of an incident, the College will make every effort to assist the victim in seeking assistance from on-campus and off-campus advocates and counselors who can provide a response. On-campus advocates, which include the college counseling staff and Title IX Coordinator, will assist by providing support in navigating the reporting process and providing information regarding resources that may be utilized by sexual assault victims.

Assistance may be obtained through the following resources:

### **Title IX Coordinator**

Mrs. Madeline Stokes  
Baker-Gaines Central Campus  
(251) 405-4457  
[mstokes@bishop.edu](mailto:mstokes@bishop.edu)

### **Campus Police Chief**

Mr. Lloyd Washington, Chief  
Main Campus  
(251) 405-7062  
[lwashington@bishop.edu](mailto:lwashington@bishop.edu)

### **Campus Police Offices\***

Main Campus – (251) 405-7060

Carver Campus – (251) 662-5399

Baker-Gaines Central – (251) 405-4478

Southwest Campus – (251) 665-4080

**\*Dial 9-1-1 in case of extreme emergency if Campus Police staff is unavailable.**

### **Community Resources**

#### ***Local Law Enforcement Official***

- City of Mobile Police Department (251) 208-7211

#### ***Medical Facilities***

- Mobile Infirmary Medical Center – (251) 435-2400
- Providence Hospital – (251) 633-1000
- Springhill Memorial Hospital – (251) 344-9630
- The University of South Alabama Medical Center – (251) 471-7000
- USA Children’s and Women’s Hospital – (251) 415-1000

#### ***Sexual Assault Crisis Assistance***

- Rape Crisis Center, Mobile, Alabama – (251) 473-7273

### **Ongoing Assistance**

The counseling staff at the College will assist victims of sexual assault with ongoing support by providing appropriate counseling or referral services. Students will be assisted with any academic accommodations that may be necessary including, but not limited to, schedule modifications, withdrawal from class, modifications in work-study schedules, etc.

## **Reporting Procedures**

The following procedures are in place at Bishop State Community College to provide recourse for any student, faculty or staff member who has been the victim of sexual misconduct. The College recognizes two distinct levels of action: complaints and grievances.

### **Complaint Procedures (Informal Resolution)**

Students or employees who desire to file a complaint regarding a violation of the *Violence Against Women Reauthorization Act (VAWA) - Sexual Misconduct Policy* may report the incident to the Title IX Coordinator. Incidents may also be reported to any Responsible Employee at any time; however, individuals are encouraged to report incidents within ten (10) working days of an alleged violation. This will maximize the College’s ability to effectively investigate and act upon an alleged violation. The college employee will immediately report the incident to the Title IX Coordinator. If the complaint is about the designated Title IX Coordinator, the complaint will be sent directly to the President’s Office. The President will assign the complaint to another administrator.

The purpose of this procedure is to secure, at the lowest possible level, equitable solutions to sexual misconduct complaints. This process will be kept as informal and confidential as may be appropriate. The 10-day request is in no way intended to limit a complainant's right to assistance after that time period, but rather is to ensure a timely resolution of any complaint.

After receiving notice of allegations of sexual misconduct, the Title IX Coordinator will schedule an intake meeting with the complainant in order to provide the general information regarding the policy and the reporting process, advise the individual of his/her rights, identify any interim intervention measures that may be appropriate, and identify resources for obtaining immediate support. During the intake meeting, the Title IX Coordinator and the complainant will discuss alternatives for proceeding with the complaint, including whether the complainant wishes to pursue an informal resolution, file criminal charges, if appropriate, or whether the complainant wants to pursue a resolution of any kind.

It shall also be the responsibility of the designated college compliance officer to attempt to secure a solution to the complaint. The compliance officer will meet with the parties involved and attempt to solve the problem or address the concern in an informal session. If, after discussion, it is determined that the complaint can be resolved immediately, the designated college compliance officer will take action to resolve the complaint and will submit a written report to the President within 10 working days of receipt of the complaint. The report shall contain the original written complaint, a brief summary of any information essential to an understanding of the problem, and a description of the action taken. Copies will be sent to all parties involved in the discussion. Confidentiality will be observed in this process where possible and practical.

If appropriate, the Title IX Coordinator will schedule a meeting with the accused in order to provide him/her with an overview of the policy, advise him/her of associated rights, and identify forms of support or immediate intervention available to him/her.

In all complaints of alleged sexual misconduct, the College will conduct an investigation, if appropriate, and take prompt action to support and protect the complainant, including taking steps to provide interim actions before a final resolution to the complaint has been reached. Interim actions to ensure safety and security and provide assistive services may include but not be limited to:

- Imposing a no-contact order;
- Arranging schedule adjustments, including changing course sections, making arrangements for online instruction or withdrawing;
- Rescheduling exams and/or assignments;
- Providing increased monitoring or supervision;
- Adjusting work environment or job assignments; and
- Providing medical services.

The Title IX Coordinator will recommend interim measures and coordinate them with appropriate offices.

### **Associated Rights**

Bishop State will afford any student or employee who reports that he or she has been the victim of an incident of sexual violence, either on campus or off-campus during a college-sanctioned activity, with the following information and rights:

- Possible sanctions or protective measures that may result from an institutional disciplinary proceeding (See *Complaint and Hearing Proceedings* for additional information.);
- Procedures that should be followed in the event of an incident of sexual violence including:
  - The importance of preserving evidence for proof in criminal proceedings;
  - To whom the offense should be reported;
  - Options for reporting to law enforcement. College officials will assist victims in reporting to the appropriate authorities;
  - The right to decline to report to law enforcement; and
  - Information about no contact orders issued by a court.
- Notification about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available on and off-campus;
- Notification that the College will comply with requests for interim accommodations made by a victim where reasonably available whether or not a formal report is filed. Interim accommodations are addressed earlier in this policy;
- In addition to reporting to law enforcement, victims also have the option to seek protective or disciplinary action directly with the College.
- Proceedings will be conducted by officials who receive annual sexual violence training and training on conducting investigations.
- Both the victim and respondent are entitled to the same opportunities to have others present during proceedings, including the opportunity to be accompanied to any related meeting or hearing by an advisor of their choice.
- Both the accuser and accused shall be simultaneously informed, in writing, of:
  - The outcome of any college disciplinary proceeding;
  - The procedures for the accused and the victim to appeal the results of the proceeding;
  - Any change to the results; and
  - When such results become final.
- Notification will be given that in addition to any criminal or civil actions which may be pending or in process, the College reserves the right to separately pursue appropriate disciplinary action against a respondent(s). The College also reserves the right to place an accused employee on paid administrative leave during the investigation and/or hearing of any allegation of violation of this policy.

### **Recommendations Imposed by Title IX Coordinator**

During the complaint process, the Title IX Coordinator shall have the authority to recommend any sanction that will result in the resolution of the complaint to include the following:

- **Reprimand** – written notice that continuation or repetition of improper conduct may be cause for further disciplinary action.
- **Restitution** – Compensation for damages to property owned by the College, limited to actual cost of repair or replacement.
- **Probation** – This sanction is for a designated period of time, which may include exclusion from privileges, such as extracurricular activities and/or on-campus driving privileges. Furthermore, if the student is determined by any of the disciplinary procedures herein to be in subsequent violation of the *Code of Student Conduct* during the probationary period, the student may be either suspended or expelled. Provisions of the probationary period shall be determined and expressed by the Title IX Coordinator.
- **No Contact Orders** – Written notice to cease all contact with an alleged victim of sexual misconduct.

- **Cease and Desist Orders** – The alleged perpetrator will be directed by written notice to cease and desist any activity noted by the alleged victim as offensive or threatening and that may be a violation of the *Violence Against Women Reauthorization Act (VAWA) - Sexual Misconduct Policy*.
- **Voluntary Withdrawal** – A student may be given the option to voluntarily withdraw from a class or from the College in lieu of disciplinary action. The Title IX Coordinator, in some circumstances, may recommend a period of time before the student may apply for readmission or reenroll in a class or classes. To qualify for readmission, the student must receive approval from the *Dean of Students* and meet the academic standards for readmission. Students will not be eligible for any refund from the College. (If a student withdraws before disciplinary procedures are carried out, the student will be subject to discipline as may be imposed by the designated College official at the time of reentry into the College.)
- Other requests of the victim as deemed appropriate.
- For violations of this policy by faculty or staff members, disciplinary penalties may include some of the sanctions listed above as appropriate, in addition to other penalties (in accordance with the employment laws, regulations, and policies governing the employee in question):
  - Counseling or training;
  - Written warning; and
  - Reprimand.

All sanctions recommended by the Title IX Coordinator must be approved by the President. If a student or employee complaint cannot be resolved at the complaint level, or if more stringent sanctions are appropriate, such an unresolved issue shall be termed a grievance.

## Grievance Procedures (Formal Resolution)

The following grievance procedures are in place at Bishop State to provide recourse for students or employees who believe that they have been the victim of sexual misconduct and who have not been able to resolve the situation at the informal level. The steps below shall be followed:

1. The original and two copies of **Grievance Form A** must be filed with the Title IX Coordinator within thirty (30) calendar days following the date of the complaint. The alleged violation(s) must be clearly and specifically stated. (Complainant is advised to keep a copy of all forms used in steps 1-6 for his or her files.)
2. The Title IX Coordinator will immediately notify the President of receipt of **Grievance Form A**. The Title IX Coordinator will have thirty (30) calendar days following the date of receipt of Grievance Form A to investigate and study the complainant's allegations, hold formal meetings with the accused, witnesses, and other parties involved, and make a written report of findings to the complainant. Grievance Form A must be used for the report. Copies of Grievance Form A must be provided to the President. The complainant's copy must be mailed to his or her home address by certified mail, return receipt requested.
3. The complainant must, within fifteen (15) calendar days following receipt of the Title IX Coordinator's report, file with the President and the Title IX Coordinator written notice of acceptance or appeal of the report. If a notice of appeal is filed, **Grievance Form B** must be used. Complainant must state clearly and specifically on Grievance Form B the objections to the findings and/or decision of the Title IX Coordinator. Copies of Grievance Form B must be provided to the Title IX Coordinator and the President. If the complainant fails to file notice of appeal by 5:00 p.m. on the 15th calendar day following receipt of the Title IX Coordinator's report, the right to further appeal will be forfeited.
4. The President or designee will have thirty (30) calendar days following the date of receipt of the complainant's notice of appeal to investigate and study the complainant's allegations, the report

of the Title IX Coordinator, and make a written report of findings to the complainant. **Grievance Form B** must be used for the report. Copies of Grievance Form B must be provided to the Title IX Coordinator and the Chancellor of the Alabama Community College System. The complainant's copy must be mailed to his or her home address by certified mail, return receipt requested.

5. The complainant must, within fifteen (15) calendar days following receipt of President's or designee's report, file with the President or designee and Title IX Coordinator a written notice of acceptance or appeal of the report. If notice of appeal is filed, appeal **Grievance Form C** must be used. The complainant must state clearly and specifically on Grievance Form C objections to the findings and/or decisions of the President or designee. Copies of Grievance Form C must be provided to Title IX Coordinator and the Chancellor by the complainant. If the complainant fails to file notice of appeal by 5:00 p.m. on the 15th calendar day following receipt of the President's report, the right to further appeal will be forfeited.
6. The Chancellor or his/her designee will have thirty (30) calendar days following the date of receipt of the complainant's notice of appeal to investigate and study the complainant's allegations and report of the President or designee, hold a formal hearing, if appropriate, and make written report of findings to the complainant. **Grievance Form C** must be used for the report. Copies of Grievance Form C must be provided to the Title IX Coordinator. The complainant's copy must be mailed to his or her home address by certified mail, return receipt requested.

Note: If the last day for filing the notice of appeal falls on either Saturday, Sunday, or a legal holiday, the complainant will have until 5:00 p.m. on the first working day following the 15th calendar day to file.

Appropriate forms for filing a grievance under this policy may be found on the College Web site under the *Violence Against Women Reauthorization Act (VAWA) - Sexual Misconduct Policy* link. Visit [www.bishop.edu](http://www.bishop.edu).

## Hearing Procedures

If a hearing is scheduled within the time frame designated by the Title IX Coordinator, the President shall designate a qualified, unbiased person or committee to conduct each grievance hearing. The Title IX Coordinators will not be required to serve as hearing officers. The hearing officer or committee shall notify the complainant and each respondent of the time and place of the hearing, the witness list, and the right to have an attorney or representative present. The only individuals present at meetings of this committee shall be committee members, parties to the action being considered by the committee, and their representatives (not to exceed two), and witnesses actually testifying before the committee. The institution and complainant may have an attorney present, at the respective party's expense, during the hearing. Attorneys may only advise; they may not cross examine, question, or address the committee, complainant, or the respondent in any way.

The grievance statement will be formally presented at the meeting. After the grievance is read into the record, the complainant(s) will have the opportunity to present such oral testimony and other supporting evidence as appropriate to the claim. Respondents shall then be given the opportunity to present such oral testimony and other evidence deemed appropriate to the respondents' defense against the charges. No cross examination will be allowed. Either party may ask the hearing officer to ask a question of the other party. The hearing officer may or may not choose to do so.

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 respondent. In the event that the College is the respondent, the college representative shall not be an attorney unless the complainant is assisted by an attorney or other personal representative.

The hearing shall be recorded either by a court reporter or on audio or video tape or by other electronic recording medium as agreed to by all parties in advance of the hearing. 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.

## Report of Findings

Following the hearing, a written report of the findings shall be made to the President, the hearing officer, or the chairperson of the committee. The report shall contain at least the following items:

1. Date and place of the hearing;
2. Name of each member of the hearing committee;
3. List of all witnesses for all parties to the grievance;
4. Findings relevant to the grievance;
5. Decisions and recommended consequences; and
6. Recommendation(s) to the President arising from the grievance and the hearing thereon.  
Any recommendations or sanctions imposed by the hearing committee must be approved by the President.

## Sanctions and Recommendations Imposed by Hearing Committee

- **Reprimand** – Written notice that continuation or repetition of improper conduct may be cause for further disciplinary action.
- **Restitution** – Compensation for damages to property owned by the College, limited to actual cost of repair or replacement.
- **Probation** – This sanction is for a designated period of time, which may include exclusion from privileges, such as extracurricular activities and/or on-campus driving privileges. Furthermore, if the student is determined by any of the disciplinary procedures herein set out to be in subsequent violation of the Code of Student Conduct during the probationary period, the student may be either suspended or expelled. Provisions of the probationary period shall be recommended by the Title IX Coordinator.
- **No Contact Orders** – Written notice to cease all contact with an alleged victim of sexual misconduct.
- **Cease and Desist Orders** – The alleged perpetrator will be directed by written notice to cease and desist any activity noted by the alleged victim as offensive or threatening and that may be a violation of the *Violence Against Women Reauthorization Act (VAWA) - Sexual Misconduct Policy*.
- **Voluntary Withdrawal** – A student may be given the option to voluntarily withdraw from a class or from the College in lieu of disciplinary action. The Title IX Coordinator will recommend a period of time before the student may apply for readmission or reenroll in a class or classes. To qualify for readmission, the student must receive approval from the Dean of Students and meet the academic standards for readmission.
- Students will not be eligible for any refund from the College. (If a student withdraws before disciplinary procedures are carried out, the student will be subject to discipline as may be imposed by the designated College official at the time of reentry into the College).
- **Suspension** - Separation from the College for a definite period of time. A student may be suspended for a specific period of time not to exceed two (2) years. To qualify for readmission after suspension, a student must receive approval from the Dean of Students and meet all

reasonable requirements and academic standards for readmission. Students will not be eligible for any refund from the College.

- **Expulsion** - An indefinite termination of student status from the College for a period of not less than two (2) years. To qualify for readmission after expulsion, a student must receive approval from the Dean of Students and meet all reasonable requirements and academic standards for readmission. Students will not be eligible for a refund from the College. Under certain conditions, expulsion could mean permanent severance from the College.
- Other requests of the victim as deemed appropriate.
- For violations of this policy by faculty or staff members, disciplinary penalties (in accordance with the employment laws, regulations, and policies governing the employee in question) may include:
  - Counseling or training;
  - Written warning;
  - Reprimand;
  - Suspension with or without pay;
  - Demotion;
  - Termination; and
  - Other requests of the victim as deemed appropriate.

### **Non-Retaliation Requirement**

No student, faculty or staff member, administrator, applicant for employment or admission, or member of the public may be subject to retaliation, interference, coercion, intimidation, or reprisal for actions taken in good faith to seek advice concerning any sexual misconduct, ADA, other civil rights, or Title IX matter; to file a complaint or grievance; or to serve as a witness or panel member in the investigation of a complaint or grievance. A finding of retaliation may result in disciplinary action in addition to any sanctions that may be imposed as a result of the underlying allegations of discrimination and/or harassment.

### **Filing a False Report**

It is a violation of college policies for any student, faculty or staff member, or administrator to file a false report against another individual.

### **Coordination with Law Enforcement**

The College encourages complainants to pursue criminal action for incidents of sexual harassment, sexual violence, and intimate partner violence that may also be crimes. The College will assist a complainant in making a criminal report and will cooperate with law enforcement agencies if a complainant decides to pursue the criminal process to the extent permitted by law. Neither law enforcement's determination whether to prosecute or not prosecute an alleged perpetrator, nor the outcome of any criminal prosecution, are determinants of whether a violation of this policy has occurred. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus.

### **Records**

The Title IX Coordinator will retain records of all reports and complaints, regardless of the nature of the resolution. Complaints resolved during the informal complaint process may become part of a student's conduct file, depending on the nature of the offense but will not be included as a part of the academic record or of an employee's personnel file.

Affirmative findings of responsibility in matters resolved through the grievance or formal resolution process will become part of a student's conduct record and an employee's personnel record. Such records shall be used in reviewing any further conduct, or developing sanctions, and shall remain a part of a student's conduct record or an employee's personnel file. Additionally, the College will comply with all requirements under the Federal Jeanne Clery Act as amended and will report crimes associated with the College as required.

## **Prevention and Education**

Bishop State Community College is committed to preserving the safety and security of the College environment and will implement activities designed to prevent incidents of sexual misconduct, inform members of the College community of their rights under the *Violence Against Women Reauthorization Act (VAWA) - Sexual Misconduct Policy*; inform members of prohibited conduct; identify prevention measures, and provide information regarding reporting protocols.

The College's prevention and education program will include, but will not be limited to:

- Annual training and awareness programs for current employees and students;
- Orientation for new employees and students that will educate them about the College's *Violence Against Women Reauthorization Act (VAWA) - Sexual Misconduct Policy* and prevention measures that may be utilized;
- Information regarding the *Violence Against Women Reauthorization Act (VAWA) - Sexual Misconduct Policy* on the College's Web site ([www.bishop.edu](http://www.bishop.edu));
- Information on bystander intervention; and
- Implementation of a campus sexual misconduct awareness campaign.

## **Training**

Bishop State Community College will ensure that all college employees, including those officials involved in redressing incidents of sexual misconduct, are trained on an annual basis through the College's Professional Development process and through external resources when appropriate.

## Form A OFFICIAL STUDENT COMPLAINT

What kind of complaint are you addressing? \_\_\_\_\_ Academic \_\_\_\_\_ Non-Academic

**Please check one:** \_\_\_\_\_ Student \_\_\_\_\_ Parent \_\_\_\_\_ Visitor \_\_\_\_\_ Prospective Student

Name \_\_\_\_\_ Student Number \_\_\_\_\_  
(if applicable)

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Cell (    ) \_\_\_\_\_ E-mail \_\_\_\_\_

**Please check which type of complaint:**

\_\_\_\_\_ **INFORMAL COMPLAINT** The Informal Grievance is where a student complaint should be resolved by filing a Student Grievance form (Informal Complaint) on an informal basis. The Student Grievance Form should be filed with his or her instructor, department chair, campus director, and/or the appropriate dean.

Description of Complaint, including Name(s) or Office(s) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Informal Findings

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Student Signature \_\_\_\_\_ Date \_\_\_\_\_

Official Signature \_\_\_\_\_ Date \_\_\_\_\_

**Where this process does not result in a resolution of the grievance, the student may proceed to the Formal Grievance procedure.**

\_\_\_\_\_ **FORMAL COMPLAINT** The Formal Grievance is filed when a student cannot resolve his or her complaint informally. The student must file a Student Grievance Form (Formal Complaint) in the office of the appropriate dean.

What are you requesting that this office do to assist you? \_\_\_\_\_

\_\_\_\_\_  
Student Signature \_\_\_\_\_ Date \_\_\_\_\_

Official Signature \_\_\_\_\_ Date \_\_\_\_\_

**Return the completed and signed form to the campus director or dean on your campus.** Revised August 2015

**Form B**  
**GRIEVANCE APPEAL**

TO: President, Bishop State Community College

FROM: \_\_\_\_\_

DEPARTMENT/PROGRAM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

**PART I. NOTICE OF APPEAL**

Nature of grievance being appealed: \_\_\_\_\_

Appeal Statement(s): (Please specify objection(s) to finding(s), conclusion(s), or recommendation(s) of Report of the Committee or Title IX Coordinator and/or report arising from grievance hearing. Attach any supporting documents and include photocopy of report. Use additional sheets if necessary.)

Complainant \_\_\_\_\_

COPY TO: President, Bishop State Community College  
Respondent(s) to Grievance (if other than College)

**PART II. PRESIDENT'S REPORT**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

FROM: President \_\_\_\_\_

Date Appeal Received: \_\_\_\_\_ Date of Report: \_\_\_\_\_

Response to Appeal: \_\_\_\_\_

President \_\_\_\_\_

COPY TO: President, Bishop State Community College  
Respondent(s) to Grievance (if other than College)

Revised August 2015

**Grievance Form C  
GRIEVANCE APPEAL TO  
ALABAMA COMMUNITY COLLEGE SYSTEM**

TO: Chancellor, Alabama Community College System

FROM: \_\_\_\_\_

DEPARTMENT/PROGRAM: \_\_\_\_\_

**PART I. NOTICE OF APPEAL TO CHANCELLOR, ALABAMA COMMUNITY COLLEGE SYSTEM**

a) Nature of grievance being appealed: \_\_\_\_\_

b) Appeal Statement(s): This is an appeal of the Chancellor's Response to Complainant's Appeal submitted on Grievance Appeal Form B and a request for a review by the Chancellor of the Alabama Community College System to review the President's report (attached hereto) and the initial grievance report (also attached).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Complainant \_\_\_\_\_

**COPY TO:** President, Bishop State Community College  
Respondent(s) to Grievance (if other than College)

**PART II. REPORT OF CHANCELLOR, ALABAMA COMMUNITY COLLEGE SYSTEM**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ PHONE: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_

FROM: Chancellor, Alabama Community College System

Date Appeal Received: \_\_\_\_\_ Date of Response: \_\_\_\_\_

Response to Appeal: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Chancellor \_\_\_\_\_

**COPY TO:** President, Bishop State Community College  
Chancellor, Alabama Community College System  
Respondent(s) to Grievance (if other than College)