

4. Federal Policies and Employee Rights

4.1 Title IX and Sexual Harassment Policy

Harassment on the basis of sex is illegal and a violation of Title VII of the Civil Rights Act of 1964, as amended.

Southeast Arkansas College is committed to providing an education and work environment that is free of discrimination. Harassing actions or comments based on an individual's gender, race, national origin, age, religion, disability or any other legally protected characteristic will not be tolerated. Employees, students, or other individuals who feel aggrieved because of conduct that may constitute sexual harassment are *encouraged* to immediately inform the person engaging in such action that the conduct is offensive and must stop.

The policy below defines sexual harassment and establishes a procedure whereby alleged sexually harassed faculty, staff, and students may lodge a complaint immediately and confidentially to the EEOC Compliance Officer or designee for informal resolution or to address formal written complaints. Sexual harassment is a violation of the College policy as well as state and federal law and is neither permitted nor condoned.

Education and Work Environment

Within the education or work environment, sexual harassment is prohibited between employees, students and campus guests.

General Definitions:

Sexual harassment occurs when unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature:

1. Is made either explicitly or implicitly a term or condition of an individual's educational status or employment;
2. Is used as a basis for educational or employment decisions affecting the individual;
3. Has purpose or effect of unreasonably interfering with an individual's educational/work performance or creating an intimidating, hostile, or offensive educational, social or working environment.

Examples that may constitute sexual harassment:

For the purpose of further clarification, sexual harassment includes, but is not limited to:

1. Unsolicited written, electronic, verbal, physical and/or visual contact with sexual overtones. Examples include suggestive comments, slurs, jokes, e-mail, text or epithets; Physical examples include assault, touching, impeding, or blocking movement; Visual examples include leering, gestures, display of sexually suggestive objects or pictures, cartoons, or posters.
2. Continuing to express sexual interest after being informed that the interest is unwelcome. Reciprocal attraction is not considered sexual harassment.
3. Reprisals, threats of reprisal, or implied threats of reprisal following a negative response to sexual interest.

4. Engaging in implicit or explicit coercive sexual behavior that is used to control, influence, or affect the career, salary, and/or work environment of another employee.
5. Engaging in implicit or explicit coercive sexual behavior, which is used to control influence or affect the educational opportunities, grades, and/or learning environment of a student.
6. Offering favors, educational benefits, or employment benefits such as grades, promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.

Note: Southeast Arkansas College investigation is conducted independently of any action (or inaction) on the part of law enforcement and criminal justice authorities. Disciplinary sanctions for violation of this policy may include warnings, restrictions, probation, reprimands, suspensions, expulsion, and/or termination of employment. Any disciplinary action taken will depend upon the severity of the offense and based on the outcome of the investigation.

If the TITLE IX COMPLIANCE Officer is named in the harassment complaint or has a personal relationship with those involved, an alternative investigator will be appointed.

At every step of the procedure, confidentiality will be maintained to the extent possible to protect the individuals involved. Employees or students who disclose confidential information or who knowingly provide false information will be subject to disciplinary action.

INFORMAL COMPLAINT RESOLUTION

Before pursuing the formal complaint process, every reasonable effort should be made to resolve issues with students, faculty, staff, or administrators. Whenever possible and safe, the problem or complaint should first be discussed with the individual involved in the complaint. If satisfactory resolution is not reached after discussion with the individual, the complainant should contact the individual's direct supervisor to resolve the complaint. If these efforts are unsuccessful, the formal complaint process may be initiated. The College does not require a complainant to contact the person involved or that person's supervisor if doing so is impracticable, or if the complainant believes that the conduct cannot be effectively addressed through informal means.

FORMAL COMPLAINT / GRIEVANCE PROCEDURES

Responsibility to Report

Any student, faculty, staff, administrator, or visitor to the campus who has experienced or witnessed sexual harassment is strongly encouraged to report the incident. The College must know about incidents of sexual harassment in order to stop them, protect victims, and prevent future incidents.

It is the responsibility of faculty, administrators, and supervisors to report complaints of sexual harassment they receive and of possible sexual harassment of which they become aware. When there is a relationship that involves legally recognized professional confidentiality between the complainant and the person to whom the harassment is reported, the report may be withheld at the request of the

complainant.

Notification

Students, faculty, administrators, staff, or visitors to the College are strongly encouraged to report allegations of discrimination or harassment to the Title IX Compliance Officer or designee. Sexual discrimination or harassment reports should be made as soon as possible to facilitate an effective response.

Upon receipt of the complaint/grievance the TITLE IX COMPLIANCE Officer or Designee will open a formal case file, begin the investigation process and at the appropriate time notify the respondent. The Title IX Compliance Officers are:

Vice President for Academic Affairs
Dr. Kaleybra Morehead
Administration Building Room 850

Vice President Student Affairs
Dr. Michael Gunter
Student Services Building Room 157

Investigation

1. The TITLE IX COMPLIANCE Officer or designee will investigate and work with others as needed.
2. The EEOC Compliance Officer or designee will:
 - Be trained and secure training for faculty/staff and administrators as needed
 - Identify the correct policies allegedly violated
 - Conduct an immediate initial investigation to determine if there is reasonable cause to justify the allegations and determine an incident has occurred
 - *If there is insufficient evidence to support reasonable cause, the grievance should be closed with no further action
 - Meet with the complainant to finalize the grievance
 - Prepare the notice of allegations on the basis of initial investigation
 - Develop a complete investigation plan which may include a witness list, an evidence list, an intended timeframe, and an order of interviews for all witnesses, including the respondent
 - Conduct a thorough, reliable and impartial investigation. Witnesses may or may not be given notice prior to the interview
 - Complete the investigation promptly, and without unreasonable deviation from the intended timeline.
 - Make a finding on the case, based on a preponderance of the evidence which indicates that a policy violation has or has not occurred
 - Present the findings to the individual alleged accused party to have committed discrimination or harassment or the complainant who may accept/reject the findings or accept/reject the findings in part (See Appeals below)
 - Share the findings and update the complainant on the status of the investigation and the outcome.
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Appeals Before Hearings

If either the grievant or respondent is dissatisfied with the findings of the investigation report, they may file an appeal with the Title IX Compliance Officer. The appeal must be in writing, signed by the person making the appeal, and must be delivered to the Title IX coordinator within five calendar days of the date the report was delivered to the person who is filing the appeal.

Hearings will only be granted by the Compliance Officer in exceptional circumstances.

Because the original finding and sanctions are presumed to have been decided reasonably and appropriately, the party requesting an appeal must show error. The ONLY grounds for appeal are as follows:

1. A procedural or substantive error occurred that significantly affected the outcome of the hearing (E.g. substantiated bias, material deviation from established procedures, etc.).
2. New evidence has been found which was unavailable during the original hearing or investigation that could substantially affect the original finding or sanction. A summary of this new evidence and its potential impact must be included.
3. The sanctions imposed are substantially disproportionate to the severity of the violation.

If the TITLE IX COMPLIANCE Officer/Designee determines that an error occurred, the Officer may review the evidence or collect additional evidence. The Title IX Compliance Officer may refer the grievance to a Hearing Committee with instructions to consider the error.

Appeals Following a Hearing

After the hearing, either the complainant(s) or respondent(s) may appeal the findings and/or sanctions only under the grounds described below. All sanctions imposed by the original hearing body will be in effect during the appeal. The complainant or respondent may seek an appeal by contacting the TITLE IX COMPLIANCE Officer/Designee, in writing, within five (5) business days following receipt of the Letter of Determination. The appeal will go to the President. The President will review the complaint, investigation, sanctions or actions and determine if the internal due process of the College has been followed. The original finding and sanctions will stand if the appeal is not timely or substantively eligible, and the decision is final.

Because the original finding and sanction are presumed to have been decided reasonably and appropriately, the party requesting an appeal must show error. The ONLY grounds for appeal are as follows:

1. A procedural or substantive error occurred that significantly affected the outcome of the hearing (E.g. substantiated bias, material deviation from established procedures, etc.).

2. New evidence has been found which was unavailable during the original hearing or investigation that could substantially affect the original finding or sanction. A summary of this new evidence and its potential impact must be included.
3. The sanctions imposed are substantially disproportionate to the severity of the violation.

If the TITLE IX COMPLIANCE Officer/Designee determines that an error occurred, the Officer may return the grievance to the Hearing Committee with instructions to reconvene to consider the error.

The appeal procedure and determination will typically be completed within 20 business days. The procedures governing the hearing of appeals include the following:

- Sanctions imposed are implemented immediately unless the party determining the sanction stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- All parties should be informed in a timely manner of the status of requests for appeal, the status of the appeal consideration and the results of the appeal decision
- Appeals are not intended to be full rehearing of the complaint. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal
- The President will render a written decision on the appeal to all parties within seven (7) business days, or as soon as possible thereafter from hearing of the appeal.

COMPLAINT AND GRIEVANCE PROCESS PROVISIONS

Time Periods

All effort will be made to make a determination in no more than 60 calendar days of filing a formal complaint/grievance.

A business day is defined to mean normal operating hours, Monday through Friday, excluding recognized national and state holidays and S Southeast Arkansas College closings.

Timelines may be modified in cases where information is not clear, judged to be incomplete, relevant parties are not available for interview, and/or other related circumstances as may arise. In the event that this step is necessary, the TITLE IX COMPLIANCE Officer or designee will notify the complainant who filed the grievance in writing within the set timeline.

No Retaliation

Retaliation against any person who files a complaint of discrimination, participates in an investigation, or opposes a discriminatory employment or educational practice or policy is prohibited by Southeast Arkansas College policy, federal and state law. A person who believes retaliation has occurred should notify the TITLE IX COMPLIANCE Officer as soon as possible.

False Reports

It is a violation of the *Codes of Conduct* governing Southeast Arkansas College to make an intentionally false report of any policy violation, and it may violate state criminal statutes and civil defamation laws.

Office of Civil Rights Complaint

Although complainants are encouraged to attempt to resolve complaints pertaining to discrimination by utilizing this Grievance Procedure, they have the right to file a complaint directly with the U.S. Department of Education, Office for Civil Rights (OCR) (Dallas regional office). Information regarding applicable timelines and procedures is available from OCR.

Office for Civil Rights - U.S. Department of Health and Human Services
1301 Young Street, Suite 1169
Dallas, TX 75202
Voice Phone (800) 368-1019
FAX (214) 767-0432
TDD (800) 537-7697

Effective Date

This Complaint and Grievance Policy will be effective immediately. Southeast Arkansas College reserves the right to make changes and amendments to this policy and procedure as needed, with appropriate notice.

STATEMENT OF THE RIGHTS OF COMPLAINANT/ALLEGED VICTIM

- The right to be treated with respect by College officials
- The right to an investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to College administrators
- The right to have an advisor or advocate to accompany and assist in the campus hearing process. This advisor can be anyone, including an attorney (provided at the complainant's own cost), but the advisor may not take part directly in the hearing itself, though they may communicate with the complainant as necessary. The College should be notified five (5) business days in advance of the hearing if an advisor or advocate will accompany the complainant party
- The right not to be discouraged by College officials from reporting an assault to both on-campus and off-campus authorities
- The right to be informed in a timely manner of the outcome and sanction of any disciplinary hearing involving sexual assault, usually within five (5) business days of the end of the conduct hearing
- The right to be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses. This also includes the victim's right not to report
- The right to be notified of available counseling, mental health or student services for victims of sexual assault, both on campus and in the community

- The right to notification of options and assistance for changing academic or employment situations after an alleged sexual assault incident. These changes will be made if they are reasonably available and desired by the victim. No formal complaint, or investigation, campus or criminal, need occur before this option is available. Accommodations may include:
 - o Exam (paper, assignment) rescheduling
 - o Taking an incomplete in a class
 - o Transferring class sections
 - o Temporary withdrawal
 - o Alternative course completion options
 - o Alternative work assignments and/or supervisory changes
- The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing
- The right ***not*** to have any complaint of sexual assault mediated (as opposed to adjudicated)
- The right to make a victim-impact statement at the campus conduct proceeding and to have that statement considered by the Hearing Committee in determining its sanction
- The right to a campus no contact order against another person who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complaining person or others
- The right to have complaints of sexual misconduct responded to quickly and with sensitivity by campus disciplinary officials
- The right to appeal the finding and sanction of the conduct body, in accordance with the standards for appeal established by the institution
- The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law
- The right to be informed of the names of all witnesses who will be called to give testimony, within 48 hours of the hearing, except in cases where a witness' identity will not be revealed to the accused respondent for compelling safety reasons (this does not include the name of the alleged complainant, which will always be revealed)
- The right to preservation of privacy, to the extent possible and allowed by law
- The right to a hearing closed to the public
- The right to petition for removal of members of the Hearing Committee based on demonstrated bias
- The right to give testimony in a campus hearing by means other than being in the same room with the respondent
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses
- The right to be fully informed of campus conduct rules and procedures as well as the nature and extent of all alleged violations contained within the complaint
- The right to be present for all testimony given and evidence presented before the conduct body
- The right to have complaints heard by conduct and appeals officers
- The right to conduct officials comprised of representatives of both genders
- The right to have College policies and procedures followed without material deviation
- The right to be informed in advance of any public release of information regarding the complaint
- The right not to have released to the public any personally identifiable information about the complainant, without his or her consent.

STATEMENT OF THE RIGHTS OF RESPONDENT/ACCUSED PARTY

- The right to an investigation and appropriate resolution of all credible complaints of sexual misconduct to College administrators against the respondent
- The right to be informed of and have access to campus resources for counseling and advisory services
- The right to be fully informed of the nature, rules and procedures of the campus conduct process and to timely written notice of all alleged violations within the complaint, including the nature of the violation and possible sanctions
- The right to a hearing on the complaint, including timely notice of the hearing date, and adequate time for preparation
- The right not to have irrelevant prior sexual history admitted as evidence in a campus hearing
- The right to make an impact statement at the campus conduct proceeding and to have that statement considered by the Hearing Committee when determining its sanctions
- The right to appeal the finding and sanction of the conduct body, in accordance with the standards for appeal established by the institution
- The right to review the complainant's testimony and all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law
- The right to be informed of the names of all witnesses who will be called to give testimony, within 48 hours of the hearing, except in cases where a witness' identity will not be revealed to the respondent for compelling safety reasons (this does not include the name of the alleged complainant, which will always be revealed)
- The right to a hearing closed to the public
- The right to petition that any member of the conduct body be removed on the basis of bias
- The right to have complaints heard by conduct and appeals officers
- The right to have College policies and procedures followed without material deviation
- The right to have an advisor or advocate to accompany and assist the accused party. This advisor can be anyone, including an attorney (provided at the respondent's own cost), but the advisor may not take part directly in the hearing itself, though they may communicate with the respondent as necessary. The College should be notified five (5) business days in advance of the hearing if an advisor or advocate will accompany the respondent
- The right to a fundamentally fair hearing, as defined in these procedures
- The right to a campus conduct outcome based solely on evidence presented during the conduct process. Such evidence shall be credible, relevant, based in fact, and without prejudice
- The right to written notice of the outcome and sanction of the hearing
- The right to conduct officials comprised of representatives of both genders
- The right to be informed in advance, when possible, of any public release of information regarding the complaint.

Referral Services

Southeast Arkansas College's Retention and Advisement Center maintains a Community Resource Manual, which includes contacts for a variety of issues including sexual assaults or counseling services.

If a student reports a sexual assault, which occurred, on campus, the Pine Bluff Police Department as well as Southeast Arkansas College Security will be contacted immediately. The Vice President for Student Affairs will also be included in the chain of command for notification purposes.

JRMC (Jefferson Regional Medical Center) is the local hospital where a victim will be referred for evaluation and medical treatment.

Following are the crisis services contacts we provide as referrals to students, faculty, staff and College guests:

Jefferson County Rape Crisis Hotline-870-541-5384

Pine Bluff -Rape Crisis Services

E-mail:cmenotti@jeffpa.com

(870) 541-5386 or 1-870-541-7100 (hotline)

Southeast Arkansas Behavioral Healthcare 870-534-1834

New Hope Counseling 870-534-8910

CASA Women's Shelter-870-535-0287

Rivendell of Pine Bluff-870-247-3588

Healing Place Ministries-870-535-0101

National Sexual Assault Hotline

Free confidential 24/7 1-800-656-HOPE