

Section 8-4 HARASSMENT POLICY

- A. CASC is committed to providing students, employees, and visitors educational and working environments free from harassment, both in and out of the classroom. Through enforcement of this policy, CASC seeks to prevent, correct and discipline behavior that violates this policy. CASC strongly encourages students, visitors and employees to promptly report any form of Harassment.

CASC is committed to providing students, employees, and visitors educational and working environments free from Discrimination, both in and out of the classroom. CASC does not tolerate discrimination on the basis of race, color, national origin, sex, age, religion, disability, or veteran status. With the exception of discrimination based on sex, any allegation of other discriminatory behavior listed here may be processed through the Discrimination Policy in Section 8-3 of the CASC Policies & Procedure Manual. The Human Resources Director is responsible for civil rights compliance and questions and concerns can be directed to 918-647-1373 or 1507 S McKenna, Poteau, OK 74953, or F L Holton Business Center, BC866D.

The Title IX Coordinator and Deputy Coordinator have been designated to handle inquiries regarding sex discrimination, including sexual harassment, sexual assault, pregnancy, domestic violence, and stalking. Inquiries can be directed to: title9@carlalbert.edu

This policy will prohibit conduct that is also addressed in the Title IX Policy but with differing definitions in compliance with distinct federal law regulations. For example, dating violence, domestic violence, retaliation, sexual harassment, and stalking are addressed in this policy and the Title IX policy. Due to these federal law regulations, CASC is required to address the above prohibited conduct differently depending on the circumstances of the alleged behaviors. The Title IX policy is Section 5-12 of the Policies & Procedures Manual and posted individually on the Human Resources website. The Human Resources Director will work with the Title IX Coordinators in determining which policy a complaint falls under.

B. DEFINITIONS

1. The "Complainant" is an employee, student, or visitor who informs the CASC Human Resources Office that the employee, student, or visitor believes he or she has been subjected to Sexual Harassment or discriminatory harassment.

Complainant does not include a CASC supervisor, administrator, employee or official who reports harassment that he or she has observed or a complaint he or she received involving other persons.

2. The "Respondent" is the employee, student, or visitor who allegedly sexually harassed or discriminatorily harassed another person in violation of this policy.
3. "Retaliation" means any action or failure to act with respect to an individual based on that individual's making a complaint, participating in the investigation of a complaint, or participating in the process under this policy, where such action or failure to act could have the effect of dissuading a reasonable person from participating or assisting with this policy.

Retaliatory actions include threats or actual violence against the person or that person's property, adverse educational or employment consequences, ridicule, intimidation, bullying, or ostracism. The College will impose outcomes on any faculty, student, or staff member found to be engaging in retaliation, or on individuals who encourage third parties to retaliate on their behalf.

This policy is in keeping with the spirit and intent of various local, state and federal guidelines, which address the issue of fair employment procedures. It is further understood that false accusations of harassment will not be condoned. Accusations of sexual harassment are indeed grievous and can have serious and far-reaching effects upon the careers and lives of individuals.

4. Harassment is a form of discrimination that is defined as verbal or physical conduct that is directed at an individual on the basis of race, color, national origin, sex, age, religion, qualified disability, status as a veteran, when such conduct is severe, pervasive, or persistent, and objectively and subjectively offensive, such that it, has the effect of creating an intimidating, hostile, or offensive

environment that limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.

5. For purposes of this policy, Sexual Harassment is a form of gender discrimination as outlined by state and/or federal laws, which may consist of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when;
 - a. Quid Pro Quo: Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's employment, education, or participation in a CASC program or event; or
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, or participation in a CASC program or event.
 - b. Hostile Environment: Such conduct that is severe, pervasive, or persistent, and objectively offensive, such that it, has the effect of creating an intimidating, hostile, or offensive environment that limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.
 - c. No specific intent to sexually harass an individual need be present for Sexual Harassment to occur; however, the verbal or physical conduct of a sexual nature must be unwelcome.
 - (i) Examples of verbal or physical conduct prohibited by this policy include, but are not limited to, the following: Persistent unwelcome flirtation, advances, sexual or romantic attention, and/or propositions of a sexual nature; Repeated insults, humor, jokes, and/or anecdotes that belittle or demean an individual's or a group's gender, sexuality or sex; Gratuitous and unwelcome comments of a sexual nature about an individual's body or clothing or other lewd or sexually suggestive comments; Repeated remarks about sexual activity and/or speculation about sexual experiences; Unwarranted displays of sexually suggestive or sexually explicit objects or pictures, including but not limited to, email, text-messages, websites, videos, downloads, screensavers, greeting cards, articles, books, magazines, catalogs, graffiti, or cartoons; Intentional unnecessary touching, such as patting, pinching, hugging, or repeated brushing against an individual's body; Suggestions that submission to or rejection of sexual advances will affect decisions regarding such matters as an individual's employment, work assignments or status, salary, academic standing, grades, receipt of financial aid, or letters of recommendation; and
 - (ii) The individual who is sexually harassed and the harasser may be female or male and may be of the same sex or of opposite sexes;
 - (iii) The harasser may be the supervisor of the individual who is sexually harassed, a supervisor in another area, a co-worker, a subordinate, a faculty member, a student, or a non-employee;
 - (iv) The Complainant does not have to be the specific person to whom the sexually harassing conduct is directed, but must be a person who was affected by the offensive conduct of the harasser.
 - (v) Conduct may constitute Sexual Harassment in violation of this policy even in the absence of economic injury to, academic injury to, or discharge of the individual who is sexually harassed.
6. Sexual Misconduct: Engaging in non-consensual contact of a sexual nature. Sexual misconduct may vary in its severity and consists of a range of behaviors. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation or gender identity of those involved.
 - a. Sexual assault (to include domestic and dating violence and stalking). Verbal or physical conduct may violate this policy regardless of the level of authority and gender of the individuals involved.

- (i) Incidents involving sexual assault of CASC students, staff, and faculty are also addressed under the Title IX Policy (Sec 5-12 & Student Handbook).
 - b. Non-Consensual Sexual Contact: Unwelcome sexual touching of intimate parts (such as genitalia, groin, breast, buttocks, mouth, or clothing covering the same); touching an unwilling person with one's own intimate parts; or forcing an unwilling person to touch another's intimate parts.
 - c. Non-Consensual Sexual Intercourse: Non-consensual sexual intercourse with another individual without their effective consent or by force, which could include, penetrating any bodily opening with an object or body part. Sexual intercourse includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.
 - d. Sexual Exploitation: Sexual exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited.
 - e. Sexual Exposure: Engaging in indecent exposure, sexual acts in a public place, or voyeurism.
- C. INITIATING A COMPLAINT:
1. Employees, students, or visitors who believe they (or someone they have witnessed), have been subjected to Harassment in violation of this policy should report the incident to the CASC Human Resources Office using the Campus Concern/Grievance Form. The Campus Concern/Grievance Form includes the Complainant's name and contact information, identify the complained-of individual, and describe the complained-of conduct, including but not limited to dates, times, places, and witnesses, if any, along with the Complainant's preferred outcome for resolving the matter.
 2. The complaint should be turned into the CASC Human Resources Office no later than one hundred eighty (180) calendar days after the last complained-of incident, unless the harassment falls within the definition of Sexual Harassment in the Title IX Policy, which holds no time limits.
 3. Any CASC supervisor, administrator, or employee who receives a complaint or otherwise becomes aware of conduct he or she believes to be Harassment in violation of this policy must notify the Human Resources Office as soon as possible, but no later than ten (10) Working Days after the supervisor, administrator, or employee learns of the conduct.
 4. The CASC supervisor, administrator, or official must also inform the individual making the Harassment complaint of this policy and refer them to the Human Resources Office.
 5. Upon notice of a report of harassment or retaliation, the Human Resources Director will assess whether a complaint will proceed through this policy. Reasons to forego a formal investigation process may include, but not limited to:
 - a. Anonymous correspondence;
 - b. A complaint is speculative, conclusory, incoherent, or fails to describe in enough detail to infer harassment based on a protected class;
 - c. The conduct described in this complaint is not covered by this policy;
 - d. The facts alleged in the report do not rise to the level of a policy violation;
 - e. An appropriate resolution or remedy has already been achieved, or has been offered and rejected;
 - f. The College has no authority over the Respondent;
 - g. The allegation was not filed timely within 180 calendar days of the date of the alleged harassment;
 - h. The complaint was withdrawn.

If an assessment determines the College will not proceed with a resolution and investigation, the Complainant will be notified in writing. If the Human Resources Director determines there is no further action, then the decision is non-appealable.

D. COMPLAINT RESOLUTION: The Human Resources Department will determine, whether a complaint of Sexual Harassment will be resolved by formal or informal means.

1. INFORMAL RESOLUTION:

- a. An informal resolution can include three different approaches:
 - (i) When the parties agree to resolve the matter through an alternate resolution mechanism (i.e. negotiated resolution or administrative resolution); or
 - (ii) When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process; or
 - (iii) When the Human Resources Director or a Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.
- b. The informal resolution process is appropriate where the complained-of conduct is not sufficiently serious or repetitive to rise to the level of unlawful Sexual Harassment. No formal investigation is conducted. Neither the Complainant nor the Respondent may have an attorney or representative present during the informal resolution process. The Complainant and/or Respondent is responsible for presenting their own case.
- c. The Human Resources Office shall attempt to resolve the Harassment complaint using the informal resolution process, within 30 days or a reasonable time after the complaint has been submitted. When needed, the Human Resources Office shall conduct an investigation and attempt to resolve the matter informally.
- d. At any time during the Informal Resolution process, the Human Resources Office or the Complainant or the Respondent may request a formal resolution process.

2. FORMAL RESOLUTION: The formal resolution is appropriate where the complainant alleges a serious or repetitive violation of this policy, or where no resolution is reached through the informal resolution process. Neither the Complainant nor the Respondent may have an attorney or representative present during the formal resolution process. The Complainant and/or Respondent is responsible for presenting his/her own case.

- a. Initiating the Formal Resolution Process: The Complainant must have previously submitted to the Human Resources Office a signed written statement (Campus Concern/Grievance Form)
- b. A good faith effort will be made to complete the Formal Resolution Process shall be completed within sixty (60) business days or reasonable time from the date of the Complainant's signed written statement is received. Additional time may be required based on unusual circumstances, including but not limited to the unavailability of the Complainant, Respondent, information or witnesses.
- c. The President shall appoint an investigator(s) to examine all written complaints of Harassment against employees, students, and visitors. The investigator(s) may or may not be CASC employees, but should include someone trained in Title IX.
- d. In the course of the investigation, a copy of the written complaint will be given to the Respondent. The Respondent shall have ten (10) Working Days in which to submit a signed, written response to the complaint.
- e. The investigator(s) interviews separately the Complainant and the Respondent as soon as reasonably possible after receipt of the written complaint and written response, if any.
- f. The Respondent will not take any action against the Complainant or any witnesses or other persons, in retaliation for their initiation of or participation in the complaint process. Retaliation is a separate violation of this policy and may result in discipline even where the original complaint of Harassment is unfounded.
- g. The investigator(s) may interview any other persons considered to have information relevant to the complaint.
- h. The investigator(s) may receive, gather, and review any documents and physical evidence related to the complaint.

- i. Where necessary, the investigator(s) may recommend to the Vice President for Academic Affairs temporary adjustments to the Complainant's class schedule, if a student, or to the Human Resources Director for work environment adjustments if an employee, pending conclusion of the investigation.
 - j. Recordings: Meetings may be audio recorded by the investigator. The investigator will inform participants prior to beginning any recording. All recordings are the property of the College. Others will not be permitted to make a recording of any type.
 - k. The investigation of complaints against visitors may differ from the investigation described herein based on the circumstances.
 3. Investigator(s) Report and Recommendations: Within 10 days after completing the investigation, the investigator prepares a written report and provides Complainant and Respondent, by hand delivery or other traceable means of delivery, a copy of the written report.
 - a. The President shall appoint a three-person committee to review the Report and Recommendations. Committee members will be appointed on a case-by-case basis.
 - b. The Complainant and Respondent shall have ten (10) working days to submit a "written reply" regarding the investigation report to the Human Resources Office. The Human Resources Office shall provide the Committee with a copy of the Complainants and Respondent's "written reply," if any.
 - c. Within twenty (20) days after receiving the written investigation report, the Committee shall review the written report, and review the Complainants and Respondent's "written reply" to the investigation report, if any.
 4. The committee shall make one of the following determinations:
 - a. Return the written investigation report to the investigator(s) for additional investigation.
 - b. Dismiss the complaint on finding that the complained-of conduct did not occur or that the complained-of conduct did not violate this policy and notify the Complainant and Respondent of the determination.
 - c. Determine that it is more likely than not that a violation of this Harassment or Retaliation policy did occur.
 5. If it is determined that this policy was violated, the committee will recommend appropriate discipline action against the Respondent including but not limited to expulsion or termination.
- E. APPEALS: The Complainant or the Respondent may appeal the determination, based on substantive and/or procedural grounds, as follows:
 1. The appeal must be in writing, directed to the President and must state the grounds for the appeal. The written appeal must be received within ten (10) Working Days of the date of delivery of the written determination.
 2. The President shall thoroughly review the matter and issue a written decision within twenty (20) Working Days of the appeal receipt date. The President may accept or reject the committees' investigation report and may accept, modify or reject any discipline imposed. The President's decision on appeal shall be the final institutional decision.
- F. CONFIDENTIALITY: Complaints of Harassment and investigations into Harassment allegations are kept confidential to the extent possible consistent with the need to investigate the complaint and come to a thorough and effective resolution.
- G. RETALIATION PROHIBITED: Any employee, student, or visitor who retaliates in any way against an individual who has initiated or participated in the resolution of a good faith complaint of Harassment is subject to discipline, up to and including termination of employment, suspension, or expulsion from CASC, even if no Harassment is found.

- H. FILING OF FALSE COMPLAINTS AND STATEMENTS: Anyone who knowingly or intentionally files a false complaint or false statement under this policy is subject to discipline, up to and including termination of employment, suspension or expulsion from CASC.
- I. EFFECT ON PENDING DISCIPLINARY ACTIONS: Filing a Harassment or retaliation complaint will not prevent, delay or affect any non-retaliatory evaluation or discipline of the Complainant for conduct, performance, or academic deficiencies or for violation of CASC policies and procedures.
- J. Policy on Relations between faculty, staff, or any other CASC employee or representative and Students.
See section 4-52 Consensual Relationships.
(Board amended 9-17-13; 9-15-15; 12-5-17, 9-15-20)