

Harassment and Violence Policy (Revised July 29, 2014)

Prohibitions

It is the policy of Butler Community College to maintain a learning and working environment that is free from harassment or violence based on race, religion, sex, sexual orientation, gender identity, national origin, age, or disability, and/or any other status protected by federal, state, or local law. Butler Community College prohibits any form of harassment or violence against an employee or student based on race, religion, sex, sexual orientation, gender identity, national origin, age, disability, and/or any other status protected by federal, state, or local law and/or because the person opposed unlawful discrimination and/or participated in an investigation or complaint concerning unlawful discrimination. For purposes of this policy, these prohibitions also apply to Butler Community College trustees, agents, volunteers, contractors, or persons subject to the supervision and control of Butler Community College.

It is a violation of College policy for any student, faculty member, staff member, administrator or other employee to harass any student, faculty member, administrator, or other College employee because of that person's race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, and/or any other status protected by federal, state, or local law.

It is a violation of College policy for any student, faculty member, staff member, or administrator or other employee to inflict, threaten to inflict, attempt to inflict, and/or to aid in inflicting violence upon any student, faculty member, staff member, administrator or other College employee because of that person's race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, and/or any other status protected by federal, state, or local law.

Definitions:

Sexual harassment is a form of sexual discrimination that violates Title VII of the Civil Rights Act of 1964 and/or Title IX of the Education Amendments of 1972. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment or of obtaining College programs (classroom activities) and/or other College sponsored activity; or
- Submission to or rejection of that conduct or communication by an individual is a factor in decisions affecting that individual's employment or education; or
- That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or a student's ability to participate in or benefit from a College program (classroom activity) and/or other College sponsored activity or creating an intimidating, hostile, or offensive employment environment or educational or on-campus living environment.

Sexual harassment may also include, but is not limited to:

- **Gender Harassment:** Generalized sexist statements and behavior that convey insulting or degrading attitudes including acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping or a

person's failure to conform to stereotypical notions of masculinity or femininity even if those acts do not involve conduct of a sexual nature. Examples include suggestive or sexually explicit posters, calendars, photographs, graffiti, cartoons; email, voicemail, and social media including but not limited to Facebook and twitter; and sexually explicit jokes or humor focused toward a particular gender.

- **Seductive Behavior:** Unwanted, inappropriate and offensive sexual advances. Examples include repeated unwanted sexual invitations, insistent requests for dinner, drinks or dates, persistent letters, phone calls and other invitations.
- **Sexual Bribery:** Solicitation of sexual activity or other sex-linked behavior by promising a reward (a better grade, promotion, etc.) for performing the activity or behavior. The proposition may be either overt or subtle.
- **Sexual Coercion:** Coercion of sexual activity or other sex-linked behavior by threat of punishment. Examples include negative performance evaluations, withholding promotions, threats of termination, or threats of a failing or lower grade.
- **Sexual Imposition:** Deliberate assaults or molestation, or unwanted physical contact such as patting, pinching, "friendly" arms around the shoulder or intentionally brushing against another person's body.
- **Other** conduct or behavior of a sexual nature deemed inappropriate by College employee and/or student.

Sexual Violence is prohibited and as specifically addressed in the Violence Against Women Reauthorization Act of 2013, Section 304, Campus Sexual Violence Act provisions amending Section 485(f) of the Higher Education Act of 1965 (the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act). Sexual violence refers to physical sexual acts perpetrated against a person's consent or where a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape, acquaintance rape, domestic violence, dating violence, sexual assault, stalking, as well as aiding acts of sexual violence.

- **Consent:** Clear, knowing and voluntary participation in sexual conduct by person of the age and intellectual capacity to give lawful consent, and may be given by words or actions, as long as words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) the sexual activity.
- **Domestic Violence:** Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Kansas.
- **Dating Violence:** Violence committed by a person:
 - (A) who is or has been in a social relationship of a romantic or intimate nature with the victim;
 - (B) where the existence of such a relationship is determined based on a consideration of the following factors:
 - (i) the length of the relationship,
 - (ii) the type of relationship.

- (iii) the frequency of interaction between the persons involved in the relationship; and
- (C) may occur any time even if first and only date.
- **Sexual Assault:** Subjecting another person to sexual touching that is unwanted.
- **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - (A) fear for his or her safety or the safety of others; or
 - (B) suffer substantial emotional distress.

Racial, religious, national origin, age, and disability harassment:

Physical or verbal conduct relating to an individual's race, color, religion, national origin, age, and/or disability when the conduct:

- Has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment; or
- Has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
- Otherwise unlawfully and adversely effects an individual's employment or ability to participate in or benefit from College programs (classroom activities) and/or other College sponsored activity.

Procedure for Handling Complaint

The following procedure is established for investigating complaints of harassment or violence by a student, faculty member, staff member, administrator, or other College employee because of race, color, sex, sexual orientation, gender identity, religion, national origin, age, disability, and/or other status protected by federal, state, or local law, including cases of alleged domestic violence, dating violence, sexual assault, or stalking and for determining appropriate disciplinary action. It is the College's intent that this procedure will provide a prompt, fair, and impartial investigation and resolution process and will be conducted by College officers who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation process that protects the safety of victims and promotes accountability. If the investigating officer determines to interview the complainant and/or of the accused individual, the person so interviewed may elect to have another person present during the interview, including the opportunity to be accompanied by an advisor of his or her choice and at his or her expense. But in no event may such election interfere with the interview or disrupt the complaint procedure process provided herein.

Confidentiality

As the College's procedure for handling complaints is initiated and completed, all involved parties will be expected to respect the sensitive nature of the matter and to protect, to the extent possible consistent with the College's legal obligations, the confidentiality of the complainant, the person accused, and all those involved in the investigation. Butler Community College will respect the privacy of the complainant, the individual(s) against whom the complaint is filed, and the witnesses as much as possible, consistent with the College's legal obligations to investigate and to take appropriate action. Only people who need to know will be told, and information will be shared only as necessary with investigators, witnesses, and the accused individual.

Butler Community College will act to investigate all complaints, either formal or informal, to take appropriate action based on the weight of the totality of the evidence, against any student, faculty member, staff member, administrator, or other College employee when it is determined that it is more probably true than not that harassment or violence in violation of this policy has occurred.

Certain College officials have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (such as pursuant to the Clery Act). All personally identifiable information is kept confidential, but statistical information must be reported to College law enforcement regarding the type of incident, date, and the location of the incident (using Clery location categories) and the Clery crime category.

Victims of sexual misconduct should also be aware that College administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The College will make every effort to ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the danger.

Complaint Procedure

It is the College's intent that this procedure will provide a prompt, fair, and impartial investigation and resolution process. The College recognizes that time is of the essence in the investigation, decision making, and appeal processes. The College will make every reasonable effort to conclude its full investigation of a complaint, decision by the Title IX Coordinator, and processing of any appeal within sixty (60) calendar days from its receipt of a complaint. The time periods specified in paragraphs numbered 2, 3, and 4 below and in paragraph numbered 2 in the Appeal section are institutional expectations. The Title IX Coordinator will document the reason for extending any specified time period and will provide to the complainant and to the person accused (respondent) periodic written notice of any extension of a specified time period and of the status of the investigation.

The College's Title IX Coordinator may appoint a Deputy Title IX Coordinator to act in his/her absence and/or to facilitate the timely resolution of a complaint.

1. Any person who believes he or she has been the victim of harassment or violence by a student, faculty member, staff member administrator, or other College employee because of race, color, sex, sexual orientation, gender identity, religion, national origin, age, disability, and/or other status protected by federal, state, or local law should report the conduct to the College **Title IX Coordinator, Vice-President of Finance, 316-322-3103. kwilliams@butlercc.edu**.

Students are also encouraged to speak to any member of the College full-time faculty or professional staff as these individuals are mandatory reporters of student complaints. The College considers notice of a student complaint to a full-time faculty member and /or professional staff member to be official notice to the College. The faculty member or professional staff member receiving the complaint is required to notify the Title IX Coordinator in writing immediately.

Any person with knowledge or belief of conduct which may constitute harassment or violence toward a student, faculty member, staff member administrator, or other College

employee because of that person's race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, and/or any other status protected by federal, state or local law should report the alleged conduct immediately to his or her supervisor or to the College Title IX Coordinator, Vice-President of Finance.

2. Within two (2) calendar days (excluding weekends and federal holidays) of the receipt of the complaint, the Title IX Coordinator shall designate the incident investigating officer or officers who will investigate the complaint (such individual or individuals shall not be the party charged with having committed the alleged harassment and/or violence).
3. A written statement from the complainant shall be obtained by the designated officer(s) within two (2) calendar days (excluding weekends and federal holidays) of their designation and request complainant have no contact with the respondent pending the investigation. The investigating officer will then immediately contact the respondent, inform the person of the basis of the complaint and provide the person an opportunity to respond with a written statement. The investigating officer shall specifically request that the respondent have no contact with the complainant pending the investigation. The respondent will then have two (2) calendar days (excluding weekends and federal holidays) from the date of notification to make a written response to the investigating officer.
4. Upon receipt of the response(s), the investigating officer shall report in writing to the Title IX Coordinator the fact findings of the investigation and shall notify the complainant and the respondent of said fact findings in writing within fourteen (14) calendar days (excluding weekends and federal holidays) of the appointment of the investigating officer. The Title IX Coordinator shall review the written fact findings to determine, by the weight of the evidence, taking into account the totality of all reported evidence, if it is more probably true than not that harassment or violence in violation of this policy has occurred. Upon completion of the review and determination by the Title IX Coordinator, both the complainant and the respondent shall be notified separately in person and in writing by the Title IX Coordinator of his/her decision within seven (7) calendar days (excluding weekends and federal holidays) of receiving the investigating officer's report. The complainant and the respondent shall be notified if the Title IX Coordinator is unable to meet with them in person within seven (7) calendar days (excluding weekends and federal holidays) and a meeting will be scheduled as soon as possible. The Title IX Coordinator will meet separately with the complainant and with the respondent and will address any questions concerning the determination or resolution with each individual during the respective meeting.
5. If it is determined it is more probably true than not that a violation of College policy has occurred, the Title IX Coordinator will forward his/her written decision to the appropriate administrator who will take appropriate disciplinary action.

Disciplinary Action

The College reserves the right to take whatever measures it deems necessary in response to a complaint of harassment or violence by a student, faculty member, staff member, administrator, or other College employee because of race, color, sex, sexual orientation, gender identity, religion, national origin, age, disability, and/or other status protected by federal, state, or local law. Such measures include as to employees discipline up to and including recommending termination of employment and as to students include, but are not limited to, modification of on-

campus housing arrangements, interim suspension from campus pending a decision, expulsion, and reporting the matter to the Department of Public Safety. Not all forms of sexual misconduct will be deemed to be equally serious offenses and the College reserves the right to impose different sanctions, ranging from verbal warning to expulsion of enrollment or to termination of employment, depending on the severity of the offense. The College will consider the concerns and rights of both the complainant and the respondent.

Appeal

1. The individual, in accordance with the College policy, the Master Agreement, the Student Handbook, or the Employee Handbook whichever applies, may appeal any disciplinary action resulting from this procedure.
2. In the event the complainant and /or the respondent is dissatisfied with the Title IX Coordinator's decision, the individual may appeal in writing to the Title IX Appeal Team within five (5) calendar days (excluding weekends and federal holidays) of the receipt of Title IX Coordinator's decision. The Title IX Appeal Team will consider the appeal within fourteen (14) calendar days (excluding weekends and federal holidays) of its receipt of the written appeal. The Title IX Appeal Team's decision will be the College's final determination. Within five (5) calendar days (excluding weekends and federal holidays) of its determination, the Title IX Appeal Team will provide written notification of its decision to the complainant and to the individual who made the appeal and to other party (either the complaint or the respondent).

Butler Community College will discipline or take appropriate action against any student, faculty member, staff member, administrator, or other College employee who retaliates against any person who reports harassment or violence under this policy.

Any student or employee of the College who retaliates against another for testifying, assisting, or participating in any investigation or proceeding relating to harassment or violence under this policy will be subject to discipline. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

Title IX requires notification be made to the College's Title IX Coordinator (Vice President of Finance) of the resolution of any potential sexual harassment issues involving students.

Education Programs

Butler Community College will conduct education programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking, which shall include:

- primary prevention and awareness programs for all incoming students and new employees, which will include:
 - (A) a discussion of this Policy;
 - (B) safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault, or stalking against a person other than such individual;
 - (C) information on risk reduction to recognize warning signs of abusive behavior and how to avoid potential attacks;
 - (D) the procedures set forth in this Policy for handling a complaint;

- (E) possible sanctions or protective measures the College may impose following a final determination after a College investigation of reported incident of rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking;
 - (F) procedures victims should follow if a sex offense, domestic violence, dating violence, sexual assault, or stalking has occurred, including information about:
 - (I) the importance of preserving evidence as may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order;
 - (II) to whom the alleged offense should be reported;
 - (III) options regarding law enforcement and campus authorities, including the victim's option to:
 - (aa) notify proper law enforcement authorities, including on-campus and local police;
 - (bb) be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
 - (cc) decline to notify such authorities; and
 - (IV) the rights of victims and the College's responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders issued by a criminal and/or civil court;
 - (G) notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, and other services available for victims both on-campus and in the community; and
 - (H) information concerning options victims have for available assistance, if applicable, in changing academic classes, on-campus living, and working situations, if so requested by the victim and if such accommodations are reasonably available, regardless of whether the victim chooses to report the incident to campus police or to local law enforcement, and
- ongoing prevention and awareness campaigns for students and faculty that will include the above information.