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Student Services

Title IX

The college seeks to comply with Title IX of the Higher Education Amendments of 1972.

Title IX and Rehabilitation Act of 1973, Sec. 504

In student grievances arising under Title IX, Higher Education Amendments of 1973 (sex discrimination) and/or the Rehabilitation Act of 1973, Sec. 504, the student may appeal the provost's decision to the college Title IX and/or Sec. 504 student grievance officer (Dean of Student Services). The grievance officer will make such investigations, finding of fact, and conclusions as are supported by the evidence and recommend a disposition to the campus provost.

Appeals of Title IX, Sec 504 Matters

In student grievances arising under Title IX, Higher Education Amendments of 1972 (sex discrimination) and/or the Rehabilitation Act of 1973, Sec 504 (disability discrimination), the student may appeal the provost's decision to the college Dean of Student Services. The grievance officer will make such investigations, findings of fact, and conclusions as are supported by the evidence and recommend a disposition to the provost.

Sexual Harassment

Sexual harassment is defined as unwelcome sexual advances, a request for sexual favors, and/or other verbal or physical conduct or written communications of a sexual nature, which are intimidating, hostile, or offensive.

Reports of harassment of a sexual nature should be made to the campus Dean of Student Services or other appropriate administrator, a Women's Center or other counselor, or a security officer. Evidence of the alleged crime should be preserved. Allegations will be investigated and referred for prosecution, civil action, or institutional action, with the assistance of college staff, if requested. Community or institutional support resources will be engaged at the victim's request. The college will make changes in a student's academic schedule after an alleged sex offense if such changes are requested and are reasonable.

Both the accused and the accuser have the same opportunity to have others present during a hearing; both shall be informed of the final disposition, including any penalty. Campus disciplinary procedures and sanctions are set forth under *Plenary Disciplinary Procedure*.

CONDUCT GUIDELINES

Prohibited Conduct

Students may be subject to disciplinary action for on-campus or off-campus conduct. Federal, state and local laws apply on campus. Disciplinary action may be initiated for the following

conduct, which also may constitute conduct leading to criminal charges, in the following circumstances:

1. **Criminal Charges.** When you are formally charged with the commission of a crime.
2. **Threat to Health or Safety.** When your continued presence at the college is deemed to constitute a threat to the health, safety, or welfare of members of the campus community.
3. **Bomb Threat, Fire Alarm.** When you activate a fire alarm, or make a threat to damage or bomb college property, or encourage, incite, entice, or solicit any person to commit such a threat, you shall be disciplined by the college and recommended for criminal prosecution to the full extent of the law.
4. **Weapons.** When you possess, on your person or in your car, or use weapons, to include guns, knives, etc.
5. **Obscenity, Profanity.** When you utter obscene or profane words.
6. **Assault, Battery, Fighting.** When you engage in assault or battery, or fight.
7. **Sexual Assault, Stalking.** When you engage in sexual assault or stalking.
8. **Hazing, Harassment.** When you engage in hazing, psychological abuse, racial, sexual or other harassment.
9. **Theft.** When you engage in theft, larceny, embezzlement, or the temporary taking of the property of another.
10. **Property Destruction.** When you destroy, damage, deface, or misuse public or private property.
11. **Illegal Entry.** When you illegally enter or occupy state property.
12. **Riot.** When you engage in a riot or a disorderly assembly.
13. **Gambling.** When you engage in unauthorized gambling or gaming.
14. **Alcoholic Beverages.** When you possess, consume, or display behavior arising out of the consumption of alcoholic beverages.
15. **Drugs.** When you engage in the possession, use, sale, or manufacture of illegal or controlled drugs.
16. **Forgery.** When you forge, alter, or misuse college documents or records, to include student identification cards.
17. **Computer Security.** When you make unauthorized use of computer resources, or make unauthorized efforts to penetrate or modify any computing hardware or software, or use computer resources to effect any of the acts prohibited by the *TCC Student Handbook*.

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Disciplinary action by the college is not a criminal process, and the double jeopardy doctrine does not apply to student discipline. The college may elect to process a charge of misconduct even if the student may be or has been charged with a criminal offense arising out of the same act. The college will not delay its processing of a matter because of pending criminal charges, a trial, or an appeal.

Disciplinary action may also be initiated when you are reported to college officials for conduct prejudicial to the academic or other functions of the college. Such conduct includes, but is not limited to, the following:

1. **Disruption.** Disruption of a classroom, laboratory, library, office, public student space (such as a student center), meeting, or hearing.
2. **Cheating.** Academic cheating or plagiarism, or assisting in such.
3. **False Information.** Providing false information to the college.
4. **Registration Data.** Tampering with student registration data, or misuse of the student registration PIN number.
5. **Debt.** Issuing bad checks or failing to pay a debt owed to the college.
6. **Children on Campus.** Failure to comply with college policy regarding children on campus.
7. **Smoking.** Smoking tobacco or similar products inside college buildings, or in areas of the college grounds where smoking is prohibited.
8. **Littering.** Littering college grounds or buildings.
9. **Traffic Rules.** Failure to obey traffic and parking rules, or failure to obey commands of college security staff.
10. **Failure to comply.** Failure to comply with an official and proper order of a duly designated college official, or with any college policy or procedure.

In summary, rights and responsibilities are equal for all persons. Freedom of speech includes the freedom not to listen. Federal, state, and local laws apply on the campuses. Rights and responsibilities are irrevocably intertwined. Personal conduct, both on and off campus, reflects equally upon the student, the student's family, and the college. Disorderly conduct will not be tolerated. The college places primary responsibility for student conduct on the student. Students are also responsible for the conduct of their guests at college events.

Children on Campus

TCC has no facilities to provide care for the children of students or visitors. Children cannot be left unattended on the grounds, in automobiles, snack bars, lounge areas, administrative offices, registration sites, or Learning Resources Centers. Children cannot be taken into classrooms or laboratories. Failure to comply with this policy will lead to disciplinary action or to referral to appropriate law enforcement officials.

Destruction of College Property

Destruction of state (college) property must be reported to the Virginia State Police for their investigation and prosecution. Once committed, the criminal act of destroying public property cannot be undone. The act of destroying state or private property is not rescinded by an apology or by restitution.

Drug and Alcohol Abuse Policy

The unlawful possession, use, or distribution of drugs and alcohol by students and employees on college property or as a part of any college activity is prohibited.

The legal sanctions under federal and state law for unlawful possession, use, or distribution of illicit drugs and alcohol include fines and imprisonment.

Substantial health risks have long been associated with the use of illicit drugs and alcohol. These include death; severe impairment of respiratory, circulatory, and other systems; damage to various organs, including, but not limited to, the liver and the brain; and a host of other drug and alcohol induced health risks.

Drug and alcohol counseling, treatment, or rehabilitation programs are available by contacting each campus Counseling Center, or may be obtained from the Community Services Board in the student's or employee's city of residence, or from any private provider.

Students attending a community college may not possess, sell, use, give away, or otherwise distribute illegal drugs. Students violating this policy are subject to suspension, expulsion, or other appropriate discipline. College charges will be processed against students in the normal manner provided by the college rules.

Faculty members, staff members, or any employee of a community college may not possess, sell, use, give away, or otherwise distribute illegal drugs. Faculty members, staff members, or any employees of a community college violating this rule are subject to suspension or other appropriate discipline as provided in the policies, procedures and regulations of the State Board for Community Colleges and/or the State Personnel Statutes and/or the laws of the Commonwealth of Virginia, the counties, and city governments.

In cases where the president or the president's designee believes that the continued presence of a person charged with possession, sale, use or distribution of illegal drugs presents a serious and immediate threat to the welfare of the college community, the students, faculty members, or staff members will be afforded due process and a hearing as soon as possible, after which appropriate action will be taken.

The college is pledged in every way possible to help individuals achieve a realistic understanding of the consequences of drug use for themselves and society. Only informed men and women can hope to make the responsible decisions required to prevent the proliferation of drug abuse. Literature concerning drugs is available from the counselors. Counseling assistance is also available on a confidential basis for any member of the college community who needs this help.

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Partisan Political Activity, Assembly

Students may conduct political activities on the campuses, but such activities must be conducted with respect for the rights of all students, without disturbing classes or administration of the college and consistent with statutes and regulations governing partisan use of public property.

The right of free speech irrevocably includes the right to speak, the right to listen, the right to be quiet, and the right not to listen. The right to peaceably protest or demonstrate irrevocably includes the right not to agree and the right not to participate.

It is permissible for members of college organizations to state their position on controversial matters. However, each organization must file a completed Campus Event Form in the campus Provost's Office 96 hours in advance of any demonstration. The form is available in the Campus Dean of Student Services (or designee's) Office.

To prevent misunderstanding, the chancellor has issued the following clarifications:

- When an assembly on campus of students not authorized by the college has been requested to disband by the president or another designated officer, those refusing to comply will be subject to immediate suspension and/or dismissal and legal action.
- In the event that an assembly appears to be a demonstration related to grievances, those present should be advised that orderly procedures for the hearing of grievances are available to which adherence is mandatory. College officials will not negotiate with such groups under conditions of duress, such as unauthorized occupation of college property.
- Any unauthorized occupation of buildings and/or college property constitutes reason for immediate suspension and/or dismissal from the institution of students who may be involved. Furthermore, legal action will be brought against any student involved in illegal acts on community college property.
- Any person currently not a student is not allowed to participate in demonstrations on the campuses.
- All formal disciplinary actions taken under this policy are grievable and the accused may pursue the finding through the appropriate grievance procedure.

Racial Harassment

The harassment of students, faculty, or staff due to their race or national origin is prohibited. College disciplinary procedures or grievance procedures will be utilized when allegations of racial harassment are made. The college will utilize the Notice of Investigative Guidance on Racial Harassment, promulgated by the US Office of Education's Office of Civil Rights, in addressing such matters.

Sexual Harassment and Misconduct

The harassment of students, faculty, or staff due to their sex is prohibited. College disciplinary or grievance procedures will be utilized when allegations of sexual harassment are made. The college will utilize the Notice of Investigative Guidance on Sexual Harassment, published by the U.S. Office of Education's Office of Civil Rights, in addressing such matters.

Tidewater Community College's position is that sexual assault and sexual harassment are forms of misconduct that undermine the integrity of the student and employment relationship. No student or employee—either male or female—should be subject to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical. Sexual misconduct does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive, that debilitates morale, and that, therefore, interferes with work and academic effectiveness. Such behavior may result in disciplinary action up to and including dismissal. Additionally, a student or employee charged with sexual misconduct can be prosecuted under Virginia criminal statutes.





DISCIPLINARY PROCESS

Application of Law; Double Punishment

The laws of the United States; the laws of Virginia; the ordinances of the cities of Chesapeake, Norfolk, Portsmouth, Suffolk, and Virginia Beach; and Virginia Community College System regulations are fully applicable on the campuses concerned. These laws and regulations were not written by the college and cannot be altered or suspended by college officials.

A single act may simultaneously violate a federal law, a state law, a county ordinance, a city ordinance, and a college regulation. Judgment and punishment by one governmental agency for a violation of its laws and a second judgment and punishment by a different governmental agency for a violation of its laws, even though based on the same act, do not constitute double jeopardy.

Application of College Regulations

Tidewater Community College, in common with other educational institutions, has for its orderly and effective conduct, special regulations in addition to the laws of the land. Developed by the college and approved by the Tidewater Community College Board and Student Government Association, these regulations supplement, but do not supersede, higher laws and regulations. Regulations in addition to those published in this *Handbook* may originate with the Student Government Association, the faculty, and/or the administration.

Concurrent Criminal Prosecution and College Discipline

The policy of the college in cases of violation of federal, state, county, or city laws is to state the facts to the appropriate, duly constituted authorities and to press neither for, nor interfere with, investigation, trial and punishment. Separate action by the college for violation of college rules will be conducted without reference to the action of other authorities.

ACADEMIC MISCONDUCT POLICY

Definition

Academic misconduct includes, but is not limited to, the following actions:

- Cheating on an examination or quiz — either giving or receiving information
- Copying information from another person for graded assignments
- Using unauthorized materials during tests
- Collaboration during examinations
- Buying, selling or stealing examinations

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- Arranging a substitute for oneself during examinations
- Substituting for another person, or arranging such a substitution
- Plagiarism — the intentional or accidental presentation of another’s words or ideas as your own
- Submission of work other than your own for written assignments
- Collusion with another person or persons in submitting work for credit in class or lab, unless such collaboration is approved in advance by the instructor

Faculty Disposition of Academic Misconduct

Faculty members processing an instance of apparent academic misconduct in which the penalty sought is not dismissal from the college will employ the following procedure:

Faculty members who have reliable evidence of academic misconduct will (1) investigate the matter, and (2) review the facts of the matter and the proposed penalty with the appropriate academic dean. They may then take one or more of the following actions:

- Require the work to be accomplished again
- Give no credit for the test, paper or exercise
- Assign a grade of W or F for the course
- Refer the matter to the campus Dean for Student Services or designee for possible disciplinary sanction through the college’s disciplinary procedure

If the faculty member chooses to refer the matter to the campus dean or designee for disposition, the *Plenary Disciplinary Procedure* shall be followed, and dismissal from the college is a possibility.

Students may appeal a faculty penalty through the *Student Final Grade Appeal Procedure* when a final course grade is involved, or through the *Student Grievance Procedure* for penalties not involving final course grades.

Interim Removal from Class, Laboratory, or Instructional Facility

The faculty member or appropriate staff/administrative personnel may temporarily bar a student from attending class or using an instructional facility, where conduct may violate college conduct rules. Immediate referral of the student to the campus dean shall occur.

Interim Suspension: Clear and Present Danger

When a student’s conduct poses a clear, present, and immediate threat of harm to him or herself, others, or to college property, the college reserves the right to effect an interim suspension of the student.

The college will hold a plenary (full) discipline hearing on the matter within a reasonable period of time.

PLENARY DISCIPLINARY PROCEDURE

A. Preparation, Filing of Written Complaint

Disciplinary action may be initiated by a complaint in writing filed by any member of the college community, including members of the faculty and student body.

B. Administrator Receiving Complaint

The complaint shall be filed with the campus dean or designee.

C. Investigation

The campus dean or designee shall initiate an immediate investigation, gathering signed statements and interviewing appropriate persons.

D. Authority to Require Students to Appear

The campus dean or designee may require any student to appear for an interview, or to give a written statement. Failure to assist the dean in this manner may subject the student to disciplinary action for obstruction of justice (failure to comply with the official and proper order of a duly designated college authority or agency). Further, a disciplinary hold may be placed on the class attendance, re-enrollment, or record of any student failing to comply with the campus dean's request for an interview or request for a written statement.

E. Action Upon Completion of Investigation; Written Charges

After completing the investigation the campus dean or designee may:

- dismiss the complaint, or
- determine that the complaint is supported by reliable evidence.
- If the campus dean or designee determines that the complaint is supported by reliable evidence, the campus dean or designee may — in the dean's sole discretion —
- hear the matter;
- refer the matter to a disciplinary committee.

F. Charges; Elements of Due Process

The campus dean or designee shall provide a letter to the student, advising the student of the nature of the charges. To ensure that a student's rights to due process are preserved, the following essential legal elements will be made available to the student:

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- Published rules, regulations, and procedures in evidence (current TCC Catalog and/or Student Handbook);
- Due written notice of the charge(s) of violating such rules and regulations;
- A hearing or oral proceeding before an administrative representative or adjudicating body;
- Information regarding witnesses who may give evidence to support the charge(s) and the opportunity to call witnesses in his/her own behalf;
- Right to counsel of his/her own choosing;
- Public hearing (but if disrupted, the hearing can be closed);
- A written record of the hearing;
- A prompt written decision;
- Information regarding the appeal procedures which are available.

G. Dean's Adjudication; Penalties

If the campus dean or designee hears the matter, he or she may immediately adjudicate the matter based on witness statements, witness appearances, and the statements and appearances of the charging party and the student charged. Based on the evidence, the dean may dismiss the charges, or may, based on reliable evidence, invoke the following penalties:

- Dismissal from the college;
- Disciplinary suspension for a specified period of time;
- Disciplinary probation which may or may not be recorded on the student's personal record;
- Administrative reprimand or admonition;
- Restitution for damages;
- Withholding the transcript or degree;
- Bar against readmission;
- Suspension of eligibility for college activities;
- Suspension from a specific class or campus activity, or the use of specific offices or services;
- Work hours;
- Such other penalty or penalties as may be mutually determined.

H. Appeals Procedure (Dean's Adjudication)

A decision of the campus dean or designee may be appealed to the provost. The appeal must be in writing and must be received by the provost's office within five days after the decision of the campus dean or designee. The provost will review the written record and reach a determination. The decision of the provost is final.

I. Disciplinary Committee

If the dean refers adjudication of the matter to a disciplinary committee, the dean will advise the campus provost in writing. The campus provost will, within 3 days of receipt of the dean's notice, appoint a disciplinary committee. The committee shall consist of one faculty member, one administrator, and one student. The dean shall serve as a *ex-officio* member of the committee and shall serve as the hearing examiner.

The disciplinary committee will conduct a careful and thorough review of all the facts concerning the alleged offense. On the basis of the review, the student may be absolved of the charge or found to have violated a specific college rule or regulation. Recommended disciplinary action, decided by a two-thirds vote of the committee membership, may involve all or any combination of the penalties set forth above.

The committee shall complete its work within 5 work days of appointment, and within 2 work days of completion of the hearing, shall provide a summary of witness statements, the facts, and the proposed penalty, if any, to the campus provost.

Upon receipt of the witness statements, fact summary, and proposed penalty (if any), the campus provost shall review such, and reach a determination. Final disciplinary action will be established by the campus provost, who shall promptly communicate this information to both the student and the campus dean or designee.

J. Appeals Procedure (Disciplinary Committee)

A decision of the provost pursuant to a Disciplinary Committee adjudication may be appealed to the college Vice President of Academic and Student Affairs. The appeal must be in writing and must be received by the college Vice President's office within five days after the provost's decision. The college Vice President will review the written record and reach a determination. The decision of the Vice President of Academic and Student Affairs is final.

K. Notice to Parents of Minors

The parent(s) or guardian(s) of any student under eighteen years of age who is dismissed, suspended, or placed on disciplinary probation or otherwise disciplined may be notified of the action taken. In the best professional judgment of the campus dean, the parent, guardian, or spouse may be advised of disciplinary action, consistent with the Family Education Rights and Privacy Act (FERPA), and/or the parent, guardian, spouse, or other party may be advised that the student has refused to authorize the release of information relative to institutional discipline.

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STUDENT GRIEVANCE PROCEDURE

Purpose

The purpose of this student grievance procedure is to provide equitable and orderly processes to resolve grievances other than grade appeals by students at Tidewater Community College. Grievance procedures for appealing final grades in a course are described separately.

Definitions

Student: A student is defined as one who is or has been duly and legally registered as either a full-time or part-time student at Tidewater Community College.

Grievance: A grievance is defined as a difference or dispute between a student and a college employee of the campus with respect to the application of the rules, policies, procedures, and regulations – exclusive of grade appeals – of the campus and college. Grievance procedures for appealing final grades are described separately.

Procedure

First Step: Recognizing that grievances should be raised and settled promptly, a grievance should be raised within ten calendar days following the event giving rise in the grievance. As the first step, the student should contact the college employee who would best be able to handle the grievance; e.g., the person with whom the student has a difference or dispute. Every reasonable effort should be made by all parties to resolve the matter informally at this level, and no written records of the matter will be placed on the student's official file.

Second Step: If the student is not satisfied with the disposition of his grievance at the first step, he/she may file a written appeal to the immediate supervisor of the employee involved within five calendar days of receipt of the decision given in the first step. Within five calendar days of the supervisor's receipt of the written appeal from the student, he/she will notify the employee and notify the student where and what time the meeting shall take place, but such a meeting must be held no later than ten calendar days after receipt of the written appeal by the student. At this point, the college employee involved may respond in writing to the grievance.

Third Step: If the student is not satisfied with the disposition of his grievance by the supervisor of the employee involved, he/she may request a hearing with the provost within five days after receipt of the disposition of his grievance at the second step.

If, in his/her discretion, the appeal and record of previous actions indicate an appeal is not warranted, the provost will notify the student, employee, and supervisor of his/her decision within five calendar days after receipt of the appeal.

If the provost grants the appeal, the provost may either hear the appeal himself/herself or appoint an ad hoc hearing committee. The provost will notify the student, employee, and supervisor within five calendar days after receipt of the appeal as to whether the provost or an ad hoc committee will hear the appeal.

If the provost hears the appeal himself/herself, he will set a date for a meeting and notify the student of the time and location in which the meeting will take place, but the meeting will take place no later than ten calendar days after receipt of the written appeal by the student. The provost will notify the student, employee, and supervisor of his/her decision within five calendar days after hearing the appeal.

If, in his/her discretion, an ad hoc committee is desired, the provost will appoint the ad hoc committee within five days after receipt of the written appeal. The ad hoc committee will consist of five disinterested persons, including student representation, from the college. The provost shall designate the chairman of the committee.

Within five calendar days after the ad hoc committee has been appointed by the provost, the chairman of the ad hoc committee will set a time and place for the hearing and will notify the student, the employee, and the employee's supervisor. The hearing will begin within ten calendar days after the ad hoc committee has been appointed. The ad hoc committee will reach its decision by simple majority vote and communicate its recommendation in writing to the provost within five calendar days after the hearing is completed.

Within ten calendar days of the provost's receipt of the recommendation from the ad hoc committee, the provost will make his decision and notify the student, the employee involved, and the employee's supervisor of this decision.

A copy of the appeal, the recommendation of the committee, and the decision of the provost will be placed in the student's official file.

Time Limitations for Grievances

Extension of Time: It is important to good relationships that grievances be initiated and processed as rapidly as possible. Every effort will be made by all parties to expedite the process. The time limitations specified herein may be extended by written mutual agreement initiated by either party.

Effect of failure to appeal within time limits: If there is no written mutual agreement to extend the time limit set herein, and if a decision at the first step is not appealed to the next step of the procedure within the specified time limit, the grievance will be deemed settled on the basis of the last decision rendered.

Effect of failure to respond within the time limits: Failure at any level of the grievance procedure to initiate communication of a decision to the student within the specified time will permit the lodging of an appeal at the next step of the procedure within the time which would have been allotted had the decision been communicated by the final day.

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General Provision for Grievances

Identification: All written grievances and appeals will include the name and position of the aggrieved party and a brief statement of the nature of the grievance and the redress sought by the aggrieved party.

Informal Discussion: Nothing contained herein will be construed as limiting the right of the student having a grievance to discuss the matter informally with any appropriate member of the college and to have the grievance informally settled.

Employment of attorney: If a student so desires, he or she may employ an attorney at his or her own expense to provide counsel at any level of the grievance procedure.

Academic Freedom: This grievance procedure will not be construed as restraining students in their exercise of constitutional rights nor faculty in their exercise of academic freedom.

Sexual Misconduct Policy

I. Introduction

Tidewater Community College (TCC) believes that its students, faculty, and staff have the right to a safe environment free from all forms of discrimination and conduct that can be considered harassing, coercive or disruptive, including sexual misconduct. The college shall not tolerate sexual misconduct in any form and shall aggressively investigate all reported incidents of abuse on its campuses and in the workplace.

The college considers sexual assault and sexual harassment forms of misconduct that undermine the integrity of the teaching, learning and workplace relationships. No student or employee should be subjected to unsolicited and unwelcome sexual overtures or conduct, of either a verbal or physical nature. For TCC, sexual misconduct does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, is objectively and personally offensive, is extremely serious or pervasive, debilitates morale, and therefore, interferes with work and academic effectiveness. Such behavior may result in disciplinary action up to and including dismissal. Additionally, a student or employee charged with sexual misconduct may be prosecuted under Virginia criminal statutes.

II. Coverage

The TCC Sexual Misconduct policy applies to all students, faculty and staff and includes sexual assault and sexual harassment.

III. Policy Implementation

- a. All college deans, campus provosts, campus deans of students, academic deans, business managers, and supervisors shall ensure that their facility is in full compliance with this Policy and associated Legal Guidelines. All supervisors shall consult the college's Director of Human Resources/AA/EEO/Title IX coordinator (822-2565) upon receiving a complaint of sexual harassment to ensure a prompt, fair investigation of the complaint.

- b. Complaints of sexual misconduct shall be handled in one of two ways, depending upon whether the complainant is a student or an employee.
 1. A student shall file a complaint with the dean of students on the student's campus (or the campus provost if the complaint is against the dean). (See Section V, Procedure, below for additional information.)
 2. A college employee shall file a complaint with the appropriate department head of the accused. The employee may choose to file the complaint with her/his own department head who will notify the supervisor of the accused (see Section V, Procedure, below for additional information).
- c. An employee may also initiate a complaint by filing such complaint in writing directly with the college president.
- d. All claims must be thoroughly investigated. The college's Title IX coordinator shall provide guidance and assistance in the proper handling of any allegations.

IV. Legal Definitions and Guidelines

1. Sexual Assault

Sexual assault is defined as sexual intercourse without consent, including rape (whether by acquaintance or stranger), sodomy, or other forms of sexual penetration. To constitute lack of consent, the acts must be committed either by force, threat of force, intimidation, or through use of victim's mental helplessness of which the accused was aware or should have been aware. Mental helplessness includes incapacitation by alcohol or other drugs. Sexual assault also includes intentionally touching, either directly or through clothing, of the victim's genitals, breasts, thighs, or buttocks without the victim's consent, as well as touching or fondling of the accused by the victim while the victim is forced to do so against her/his will.

2. Sexual Harassment

Sexual harassment is defined as unwelcome sexual advances, a request for sexual favors, and/or other verbal or physical conduct or written communications of a sexual nature, which is intimidating, hostile, or offensive. Sexual harassment shall have occurred when:

- a. Accepting or tolerating such conduct is made a term or condition of a student's status or an individual's employment either explicitly or implicitly;
- b. Accepting or rejecting such conduct is used as the basis for academic or employment decisions affecting the student or employee; or
- c. Such conduct creates an intimidating, hostile, or offensive working or learning environment, or substantially interferes with an employee's work performance or student's academic performance.

Sexual harassment is contrary to the values of Tidewater Community College and the Virginia Community College System (VCCS). It shall not be tolerated in any form, as

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outlined in Title VII of the Civil Rights Act of 1964, and as in Title IX of the Education Amendments of 1972, which prohibits sexual harassment. All reported instances of sexual harassment shall be investigated. The Director of Human Resources is the college's Title IX coordinator.

V. Procedure

Complaints of sexual misconduct shall be handled through the following procedures for students and employees.

For both students and college employees, sexual misconduct should be reported immediately (but in any case, not more than 60 calendar days after the offense without "good cause" that can be documented). For both students and employees, the college's Director of Human Resources/AA/EEO/Title IX coordinator is available for assistance.

For both students and college employees, the alleged victim may request counseling at each stage of the process. The alleged victim may choose any of the professional counselors at the college to provide this "interim relief" during this process.

1. Student Complaint

To begin the process, the complainant (student) shall file a written complaint against the accused (student or college employee) with the campus dean of students. If the complaint is against the dean of students, it should be filed in writing with the campus provost. The student may request the assistance of a counselor of her/his choice to assist with this process.

Upon receiving a student's complaint, the campus dean shall launch an investigation, gather appropriate information, and call witnesses if necessary. This investigation shall be completed within thirty working days after initiation. Where the allegations are complex or other factors delay the investigative process, an extension may be granted beyond the thirty working days if the extension is mutually agreeable between the complainant and the campus dean. The decision shall be given to the complainant and the accused in writing at the conclusion of the investigation. The complainant or the accused may appeal this decision within ten working days of receiving the written decision to the campus provost (or the college dean of academic and student affairs if the complaint is against the campus dean). The provost shall hear the evidence, review the campus dean's decision, and render a decision within ten working days after receiving notice of the appeal. The decision of the provost may be appealed by either party to the college's vice president for academic and student affairs within ten working days after the provost's decision is rendered. The vice president for academic and student affairs shall review the case and shall provide a written decision within ten working days after notice of appeal of the provost's decision to the parties involved. If the decision is rendered in favor of the complainant, the written decision shall be placed in the official record of the accused.

A complainant's sexual history shall be excluded from the proceedings (including any prior charges of sexual misconduct) except to the extent that history relates specifically to

the accused. Further, the college shall safeguard the identity of the complainant outside of the confidential proceedings conducted by all parties.

2. College Employee Complaint

If the complainant is a college employee, the offense is reported to the appropriate department head of the accused. The college's Title IX coordinator may be contacted for the appropriate department head if not known. If the complaint of harassment is filed by an employee against a student, the employee files the complaint with the campus dean of students. To begin the process, the complainant shall file a written complaint against the accused with the appropriate department head or with the campus dean of students. The employee may choose to file the complaint with her/his own supervisor who shall report the incident to the department head of the accused within five working days of receiving the complaint.

Upon receiving the written complaint, the department head of the accused or campus dean of students shall launch an investigation, gather appropriate information, and call witnesses if necessary. This investigation shall be completed within thirty working days after initiation. Where the allegations are complex or other factors delay the investigative process, an extension may be granted beyond the thirty working days if the extension is mutually agreeable between the complainant and the department head or campus dean of students. The decision shall be given to the complainant and the accused in writing at the conclusion of the investigation. The complainant or the accused may appeal the department head's or campus dean's decision within ten working days after receiving the written decision to the campus provost or the appropriate college dean. The provost or appropriate college dean receiving the appeal shall review the case and shall render a written decision within ten working days after receiving notice of appeal. The complainant or the accused may then make a final appeal to the college president within ten working days of the provost's or college dean's written decision. After reviewing the case, the president shall issue a final decision within ten working days of receiving the appeal. If the decision is ruled in favor of the complainant, copies of the decision shall be placed in the official personnel file of the accused (or student file, if the accused is a student). At this point, the accused or the complainant may appeal the decision through the applicable grievance procedure.

A complainant's sexual history shall be excluded from the proceedings (including any prior charges of sexual misconduct) except to the extent that history relates specifically to the accused. Further, the college shall safeguard the identity of the complainant outside of the confidential proceedings conducted by all parties.

VI. Non-Retaliation

The college explicitly prohibits any and all retaliatory action against members of the college community who bring sexual misconduct charges or assist in investigating such charges. More specifically, neither their academic standing (in the case of students) nor conditions and terms of employment (in the case of employees) shall be adversely affected.