

Mandated Information

POLICY STATEMENT

Policies and procedures stated in this catalog - from admission through graduation - require continuing evaluation, review, and approval by appropriate college officials. All statements reflect policies in existence at the time this catalog went to press. The college reserves the right to change policies at any time and without prior notice.

EQUAL OPPORTUNITY/AFFIRMATIVE ACTION

Black River Technical College is an equal opportunity institution and will not discriminate on the basis of race, color, sex, religion, national origin, age, handicap/disability, or other unlawful factors in employment practices, or admission and treatment of students. Any questions regarding this policy should be addressed to the Vice-President for Finance, Black River Technical College, P.O. Box 468, Pocahontas, Arkansas, 72455, 870-248-4000, ext. 4031.

FERPA

Release of Student Information (Federal Educational Rights and Privacy Act-FERPA)

As a general rule, a student's academic record is confidential and will not be released to unauthorized persons without written approval from the student. However, under 34CFR 99.31 (a) (2) BRTC can release a student's information to another institution in which the student seeks or intends to enroll.

The following items are considered public information and may be made available upon inquiry unless the student requests nondisclosure: name, address, phone number, enrollment status, degrees obtained and dates conferred, and dates of attendance.

Request for nondisclosure is effective until the student notifies the Registrar, in writing, that the request is to be voided. BRTC intends to comply fully with the Family Education Rights and Privacy Act (FERPA) of 1974 which was designed to protect the privacy of educational records, to establish the right of students to inspect and review their educational records, and to provide guidelines for the correction of inaccurate or misleading data through informal and formal hearings. Students also have the right to file complaints with the FERPA office concerning alleged failures by the institution to comply with the Act. Questions concerning the Family Education Rights and Privacy Act should be referred to the Vice-President for Student Affairs.

Transcript Request

The Family Education Rights and Privacy Act of 1974 requires that all transcript requests be in writing, signed and dated by the person to whom the record belongs. Transcript request forms are available in the Student Affairs Office. Students may also obtain a transcript by mailing a written request that includes the following information:

- FULL NAME as it appears on your record. Please include your maiden name, if married, or any other name used while enrolled at BRTC.
- SOCIAL SECURITY NUMBER
- YOUR LAST TERM AT BRTC
- ADDRESS to which the transcript is to be mailed
- YOUR RETURN ADDRESS AND TELEPHONE NUMBER

Please sign and date your request and mail or fax to: Office of the Registrar, Black River Technical College, Post Office Box 468, Pocahontas, AR 72455. Fax number: (870)248-4100.

Most institutions prefer the transcript to be mailed directly to their office. There is no charge for a transcript. All transcripts are mailed out within one working week after receiving the request. BRTC will not honor a transcript request if the student is on either an academic or financial hold.

Smoking and Tobacco

Black River Technical College Campuses are tobacco free. Smoking and the use of smokeless tobacco products are prohibited on both the Pocahontas and Paragould campuses.

JUDICIAL PROCESS

ARTICLE 1: DEFINITIONS

1. Utilization of the term “college” implies “Black River Technical College”
2. Utilization of the term “student” includes any student taking courses (whether credit or non-credit courses) at the “college,” also includes any full-time and part-time student pursuing undergraduate or enrichment course work. Individual(s) who are not officially enrolled for a particular term but who have a continuing relationship with the “college” are also considered “students.”
3. Utilization of the term “faculty member” refers to any individual(s) hired by the “college” to conduct classroom activities.
4. Utilization of the term “college official” refers to any individual(s) employed by the “college” who is performing assigned administrative, professional, or staff responsibilities.
5. Utilization of the term “college administration” refers to any individual(s) employed by the “college” who is performing assigned duties as an administrator for the “college” (President, Vice President for Finance, Vice President for Academics, Vice President for Student Affairs, Vice President for General Education, Vice President for Technical Education, or Vice President for Development).
6. Utilization of the term “member of the college community” refers to any individual(s) who are student(s), faculty member(s), college official(s), or any other individual(s) employed by the “college.” Individual(s) status in a particular situation shall be determined by the president of the college.
7. Utilization of the term “college premises” refers to all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the “college” (including adjacent streets and sidewalks).
8. Utilization of the term “organization” refers to any number of individual(s) who have complied with the formal requirements for “college” (enrollment/registration).
9. Utilization of the terms “Judicial Advisor, Judiciary Board, Administrative Judiciary Board, Board of Trustees Judiciary Board” refers to any individual(s) authorized by the “President of the college” to determine whether a student has violated the student code, rules, regulations, policies, or procedures and to recommend imposition of sanctions.

10. Utilization of the term “Judicial Advisor” refers to a “college” official authorized on a case-by-case basis by the “President” to impose sanctions upon student found to have violated the student code, rules, regulation, policies, or procedures. The “President” may authorize a Judicial Advisor to serve simultaneously as a Judicial Advisor and the sole member or one of the members of a Judiciary Board. Nothing shall prevent the “President” from authorizing the same Judicial Advisor to impose sanctions in all cases.
11. Utilization of the term “Appellate Board” refers to any individual(s) authorized by the “President” to consider an appeal from a Judiciary Board’s determination that a student has violated the student code, rules, regulation, policies, or procedures or from the sanctions imposed by the Judicial Advisor.
12. Utilization of the term “Shall” is used in the imperative sense.
13. Utilization of the term “May” is used in the permissive sense.
14. The “Vice President for Student Affairs” is the individual designated by the “President of the College” to be responsible for the administration of the student code, rules, regulations, policies, and procedures.
15. Utilization of the term “Policy or Policies” is defined as written regulations of the “college” as found in, but not limited to, the student code, rules, regulations, policies, procedures, college catalogs, and student handbooks.
16. Utilization of the term “Cheating” will include, but is not limited to: (1) use of any unauthorized assistance in taking quizzes, tests, or examinations; (2) dependence upon the aid of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments; or (3) the acquisition, without permission, of tests or other academic material belonging to a member of the “college” faculty or staff.
17. Utilization of the term “Plagiarism” includes, but is not limited to, the use, by paraphrases or direct quotation, of the published or unpublished work of another individual(s) without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by other individual(s), agency, or agencies engaged in the selling of term papers or other academic materials.
18. The term “VPSA” refers to the Vice President of Student Affairs.

JUDICIAL PROCESS
ARTICLE II: JUDICIAL AUTHORITY

Decisions by a Judiciary Board shall be final, pending the normal appeal process.
The decision rendered by the Administrative Judiciary Board is a final decision.

The Judicial Advisor, Judiciary Board, or Administrative Judiciary Board may be designated as arbiter of disputes within the student community in cases which do not involve a violation of the student code, rules, regulations, policies, and procedures. **All**

parties must agree to arbitration, and to be bound by the decision with no right to appeal.

JUDICIAL PROCESS
ARTICLE III: PROSCRIBED CONDUCT

JURISDICTION OF THE “COLLEGE”

“College” jurisdiction and discipline shall be limited to conduct which occurs on the “college” premises or which adversely affects the “college community” and/or the pursuit of its objectives.

CONDUCT - RULES AND REGULATIONS

Any student found to have committed the following misconduct is subject to the disciplinary sanctions from the “college”:

1. Acts of dishonesty, including but not limited to the following:
 - A) Cheating, plagiarism, or other forms of academic dishonesty.
 - B) Furnishing false information to any “college” official, faculty member, or office.
 - C) Forgery, alteration, or misuse of any “college” document, record, or instrument of identification.
 - D) Tampering with the election of any “college” recognized student organization.
2. Disruption or obstruction of teaching, research, administration, disciplinary proceedings, or other “college” activities, or other authorized non- “college” activities, when the act occurs on “college” premises.
3. Physical or verbal abuse, threats, intimidation, bullying, harassment, coercion and/or other conduct which threatens or endangers the health and safety of any individual(s).
4. Attempted or actual theft of and/or damage to property of the “college” or property of a member of the “college community” or other personal or public property.
5. Hazing, defined as an act which endangers the mental or physical health or safety of a student(s), or which destroys or removes public or private property, for the purpose of initiation, admission into, affiliation with, or as a condition for continued membership in a group or organization.
6. Failure to comply with directions of “college officials” or law enforcement officers acting in performance of their duties and/or failure to identify oneself to one of these individuals when requested to do so.
7. Unauthorized possession, duplication or use of keys to any “college” premises or unauthorized entry to or use of “college” premises.
8. Violation of published “college” policies, rules, or regulations.
9. Violation of federal, state, or local law on “college” premises or at “college” sponsored or supervised activities.
10. Use, possession, or distribution of narcotic or other controlled substances except as expressly permitted by law.

11. Use, possession, or distribution of alcoholic beverages except as expressly permitted by law and “college” regulations, or public intoxication.
12. Use or distribution of tobacco products on “college” premises.
13. Illegal or unauthorized possession of firearms, explosives, other weapons, or dangerous chemicals on “college” premises.
14. Participation in a campus demonstration which disrupts the normal operations of the “college” and infringes on the rights of other members of the “college community”; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; intentional obstruction which unreasonably interferes with freedom of movement, either pedestrian or vehicular, on campus.
15. Obstruction of the free flow of pedestrian or vehicular traffic on “college” premises or at “college” sponsored or supervised functions.
16. Conduct which is disorderly, lewd, or indecent; breach of peace; or aiding, abetting, or procuring another individual(s) to breach the peace on “college” premises or at functions sponsored by, or participated in by, the “college”.
17. Unauthorized use of college stationery, postage meter, and mailing.
18. Theft or other abuse of computer time, including but not limited to:
 - A) Unauthorized entry into a file to use, read, or change the content, or for any other purpose.
 - B) Unauthorized transfer of a file.
 - C) Unauthorized use of another individual’s identification and password.
 - D) Unauthorized use of phone(s) and electronic devices such as radios, etc.
 - E) Use of computing facilities to interfere with the work of “member(s) of the college community”.
 - F) Use of computing facilities to send obscene or abusive messages.
 - G) Use of computing facilities to interfere with normal operation(s) of the “college” computing systems.
 - H) Use of computing facilities to view, copy, download, or send any type of pornography or obscene material.
 - I) Use of computing facilities for any purpose other than educational purposes.
19. Abuse of the Judicial system, including but not limited to:
 - A) Failure to obey the summons of a Judicial Advisor, Judiciary Board, Administrative Judiciary Board, Board of Trustees Judiciary Board or “college official”.
 - B) Falsification, distortion, or misrepresentation of information before a Judicial Advisor, Judiciary Board, Administrative Judiciary Board, or Board of Trustees Judiciary Board.
 - C) Disruption or interference with the orderly conduct of a Judicial proceeding(s).
 - D) Interruption of a Judicial proceeding(s) knowingly without cause.
 - E) Attempting to discourage and individual’s proper participation in, or use of, the Judicial system.
 - F) Attempting to influence the impartiality of a member of a Judicial Advisor/Board prior to and/or during the course of the Judicial proceeding(s).
 - G) Failure to comply with the sanction(s) imposed under the student code, rules, regulations, policies, or procedures.
 - H) Influencing or attempting to influence another individual(s) to commit an abuse of the Judicial system.

VIOLATION OF LAW AND “COLLEGE” DISCIPLINE

A. If a student is charged only with an off-campus violation of federal, state, or local laws, but not with any other violation of the student code, rules, regulations, policies, or procedures, disciplinary action may be taken and sanctions imposed for grave misconduct which demonstrates flagrant disregard for the “college community.” In such cases, no sanction may be imposed unless the student has been found guilty in a court of law or has declined to contest such charges. Although not actually admitting guilt (e.g., “no contest” or

“nolo contendere”).

B.

“College” disciplinary proceedings may be instituted against a student charged with violation of a law which is also a violation of the student code. Rules, regulations, policies, or procedures of the “college”; for example, if both violations result from the same factual situation, without regard to the pendency of civil litigation in court or criminal arrest and prosecution. Proceedings under this student code, rules, regulations, policies, or procedures may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

C. When a student is charged by federal, state, or local authorities with a violation of law, the “college” will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense(s) is also the subject of a proceeding before a Judicial Advisor, Judiciary Board, Administrative Judiciary Board, or Board of Trustees Judiciary Board under the student code, rules, regulations, policies, or procedures, the “college” will cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators. Individual students and faculty members, acting in their capacities, remain free to interact with governmental representatives as they deem appropriate.

JUDICIAL PROCESS

ARTICLE IV: JUDICIAL POLICIES

D. **CHARGES AND HEARING**

1. Any member of the “college community” may file charges against any student(s) for misconduct. Reports from individuals outside the college community may also result in campus judicial action.

Charges shall be prepared in writing and directed to the “Judicial Advisor” responsible for the administration of the “college” Judicial system. Any charges should be submitted as soon as possible after the event takes place; however, charges must be filed within five working days after the evidence has substantiated the occurrence of a violation(s).
2. The “Judicial Advisor” may conduct an investigation to determine if the charges have merit and/or if they can be disposed of administratively by mutual consent of the parties involved on a basis acceptable to the “Vice President of Student Affairs or Judicial officer.” Such disposition shall be final, and there shall be no subsequent proceedings. If the charges cannot be disposed of by mutual consent, the “Vice President of Student Affairs” may later serve in the same matter as the Administrative Judiciary Board or a member thereof.
3. Uncontested cases, in which a student admits guilt may be resolved and sanctions imposed by the Vice President of Student Affairs or Judicial officer. The Vice President of Student Affairs and judicial officer reserve the right to refuse to hear a case and refer it to another judicial board. If the Vice President of Student Affairs or the Judicial officer hears the case the decision will be final with no appeal
4. All charges shall be presented to the accused student(s) in written form by letter or BRTC email. A time shall be set for a hearing, not more than fifteen calendar days after the student(s) has been notified. Maximum time limits for scheduling of hearings may be extended at the discretion of the “Judicial Advisor.”
5. Hearing conducted by all Judiciary Boards according to the following guidelines:

- A. Admission of any person(s) to the hearing shall be at the discretion of the Judiciary Boards and /or its “Judicial Advisor.”
- B. In hearings involving more than one accused student, the chairperson of the Judiciary Board, at his discretion, may permit the hearings concerning each student to be considered separately.
- C. The complainant and the accused have the right to be assisted by any advisor they choose, at their own expense. The advisor may be an attorney. The complainant and/or the accused is responsible for presenting his or her own case and, therefore, advisors are not permitted to speak or to participate directly in any hearing before a Judicial Advisors, Judiciary Boards, Administrative Judiciary Boards, or Board of Trustees Judiciary Boards.
- D. The complainant, the accused, and the Judicial Advisors, Judiciary Boards, Administrative Judiciary Boards, or Board of Trustees’ Judiciary Boards shall have the privilege of presenting witnesses, subject to the right of cross-examination, by the Judicial Advisors, Judiciary Boards, Administrative Judiciary Boards, or Board of Trustees’ Judiciary Boards.
- E. Pertinent records, exhibits, and written statements may be accepted as evidence for consideration by the Judicial Advisors, Judiciary Boards, Administrative Judiciary Boards, or Board of Trustees’ Judiciary Boards at the discretion of the chairperson.
- F. All procedural questions are subject to the decision of the chairperson of all Judiciary Boards or the Judicial Advisor.
- G. After the hearing, the Judicial Advisors, Judiciary Boards, Administrative Judiciary Boards, or Board of Trustees’ Judiciary Boards shall determine (by majority vote if the Judicial body consists of more than one person) whether the student(s) has violated each section of the student code, rules, regulations, policies, or procedures which the student is charged with violating.
- H. The Judicial Advisors’ and Boards’ determination shall be made on the basis of whether it is more likely than not that the accused student(s) violated the student code, rules, regulations, policies, or procedures.
- I. There shall be a single verbatim record, such as a recording of all hearings before a Judicial Advisor, Judiciary Board, Administrative Judiciary Board, or Board of Trustees’ Judiciary Board. The record shall be the property of the “college.”
- J. Except in the case of a student(s) charged with failing to obey the summons of a Judicial Advisor, Judiciary Board, Administrative Judiciary Board, or Board of Trustees’ Judiciary Board or “college official,” no student may be found to have violated the student code, rules, regulations, policies, or procedures solely because the student(s) failed to appear before a Judicial Advisor, Judiciary Board, Administrative Judiciary Board, or Board of Trustees’ Judiciary Board or “college official.” In all cases, the evidence in support of the charges shall be presented and considered.

B. SANCTIONS

- 1. The following sanctions may be imposed upon any student(s) found to have violated the student code, rules, regulations, policies, or procedures:
 - A. Warning: A notice in writing to the student(s) that he/she is violating or has violated institutional regulations.
 - B. Probation: In addition to a written reprimand for violation of specified regulations, probation will be imposed for a designated period of time which will include the probability

of more severe disciplinary sanctions if the student is found to be violating any institutional regulations during the probationary period.

- C. Loss of Privileges: Denial of specified privileges for a designated period of time.
 - D. Fines: Previously established and published fines may be imposed.
 - E. Restitution: Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.
 - F. Discretionary Sanctions: Work assignments, service to the “college” or other related discretionary assignments (such assignments must have the prior approval of the Judicial Advisor).
 - G. “College” Suspension: Separation of the student(s) from the “college” for a definite period of time, after which the student(s) is eligible to return. Conditions for re-admission may be specified.
 - H. “College” Expulsion: Permanent separation of the student(s) from the “college”
- 2. More than one of the sanctions listed above may be imposed for any single violation.
 - 3. Other than “college” expulsion, disciplinary sanctions shall not be made part of the student’s permanent academic record, but shall become a part of the student’s confidential record. Upon graduation, the student’s confidential record may be expunged of disciplinary actions other than “college” suspension, “college” expulsion, upon application to the “Judicial Advisor.” Cases involving the imposition of sanctions other than residence hall suspension, residence hall expulsion, “college” suspension, “college” expulsion shall be expunged from the student’s confidential record five years after the departure or completion of course work at the “college.”
 - 4. The following sanctions may be imposed upon groups or organization: A. Those sanctions listed above in Section B1, a through e.
B. Deactivation: Loss of privileges including “college” recognition, for specified period of time.
 - 5. In each case in which the VPSA, Judicial Advisor, or any of the Judiciary Boards determines that student(s) has violated the student code, rules, regulations, policies, or procedures, the sanction(s) shall be determined and imposed by the “VPSA or Judicial Advisor.” In cases in which individual(s) other than or in addition to the “Judicial Advisor” has been authorized to serve as the Judicial body, the recommendation of all members of the Judicial body shall be considered by the “VPSA or Judicial Advisor in determining and imposing sanctions. The VPSA or Judicial Advisor is not limited to sanctions recommended by members of the Judiciary Boards. Following the hearing, the VPSA or Judicial Advisor shall advise the accused in writing of its determination and of the sanction(s) imposed, if any. This notification to the accused student(s) must occur within five working days after the decision has been determined.

C. **INTERIM SUSPENSION**

In certain circumstances, the “President of the college,” or a designee, may impose a “college” suspension prior to the hearing before a Judicial Advisor or any of the Judiciary Boards.

1. **INTERIM SUSPENSION MAY BE IMPOSED ONLY:**

- A. To ensure the safety and well-being of members of the “college community” or preservation of “college” property;
 - B. To ensure the student(s) own physical or emotional safety and well-being; or
 - C. If the student poses a definite threat of disruption of or interference with the normal operation of the “college.”
- 2. During the interim suspension, student(s) shall be denied access to the campus (including classes) and/or all other “college” activities or privileges for which the student(s) might be otherwise

eligible, as the “President of the College” or the “VPSA or Judicial Advisor” may determine to be appropriate.

D. APPEALS

1. A decision reached by the VPSA, Judicial Advisor, or the Administrative Judiciary Board and the sanction(s) imposed are ***final and have no right to appeal***. A decision reached by the Judiciary Board, or sanction(s) ***may be appealed within five working days of the decision***. Such appeals ***shall be in writing and shall be delivered to the “VPSA or Judicial Advisor” or his or her designee***.
2. Except as required to explain the basis of new evidence, an appeal shall be limited to review of the verbatim record of the initial hearing and supporting documents for one or more of the following purposes:
 - A. To determine whether the original hearing was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures, giving the complaining party a reasonable opportunity to prepare and present evidence that the student code, rules, regulations, policies, or procedures were violated, and giving the accused student(s) a reasonable opportunity to prepare and to present a rebuttal of those allegations.
 - B. To determine whether the decision reached regarding the accused student(s) was based on substantial evidence, that is, whether the facts in the case were sufficient to establish that a violation of the student code, rules, regulations, policies, or procedures occurred.
 - C. To determine whether the sanction(s) imposed were appropriate to the violation of the student code, rules, regulations, policies, or procedures which the student(s) was found to have committed.
 - D. To consider new evidence, sufficient to alter a decision, or relevant facts not brought out in the original hearing because such evidence and/or facts were not known to the person appealing at the time of the original hearing.
3. If an appeal is upheld by the “Appellate Board,” the matter shall be remanded to the original Judiciary Board and Judicial Advisor for reopening of the hearing to allow reconsideration of the original determination and/or sanction(s).

STUDENT JUDICIAL PROCESS

The basic fundamentals of procedural due process will be followed in the adjudication of student violations of college regulations. Procedural due process does not provide for legal representation, a public hearing, confrontation and cross-examination of witnesses, warning about privileges, self-incrimination, applications of double jeopardy, or any of the remaining features of federal criminal jurisprudence. Circumstances, however, may require provision of one or more of these features in a particular case to guarantee the fundamental concepts of due process.

JUDICIAL PROCESS

The following procedural guidelines are established for the handling of disciplinary matters:

1. The student shall be notified by the Registrar, hereafter known as the Judicial Advisor that he/she is charged with violating a regulation. The student shall be entitled to receive notification of the time and place of the hearing on the charge(s) in writing at least 48 hours in advance. Such notification shall be: (1) hand delivered; (2) mailed certified with notification of acceptance or rejection; or (3) by proof of mailing four days prior to the hearing (4) school email. The hearing time will be set for no more than fifteen calendar days after the student receives notification of the violation(s). Students’ registration may be denied and/or transcripts withheld pending adjudication of allegations.
2. The Judicial Advisor will inform the student of his or her options which are as follows:
 - A. Student ***may plead guilty***, and the case will be heard by the VPSA or Judicial Advisor and ***the decision has no appeal***.
 1. In the event the student excepts (A) the VPSA or Judicial Advisor to hear the case, the VPSA or Judicial Advisor will inform the student that by admitting the alleged violation(s) and requesting that VPSA or Judicial Advisor take

whatever action seems appropriate, the student will ***not be entitled to appeal*** the decision to the Judiciary Board. The student should understand that the decision and the course of action by the VPSA or Judicial Advisor will stand.

- B. The student may deny the alleged violation at which time the VPSA or Judicial Advisor will refer the case to the Judiciary Board. The decision of the Judiciary Board ***may be*** appealed to the Administrative Judiciary Board. The student ***may plead not guilty*** and his or her case will be heard by the Judiciary Board, and ***the decision*** of the Judiciary Board ***can be appealed***. The Judiciary Board consists of 3 the following individuals:

**Directory of Pathways Assistant Registrar Division Chair of Technical
Education Division Chair of General Education
Paragould Academic Site Coordinator**

- C. Students who wish to accept neither (A) nor (B) can request that the Judicial Advisor refer the disciplinary charge(s) directly to the Administrative Judiciary Board for adjudication, which is comprised of 3 the following individuals:

**Vice President for General Education or Technical Education
of Black River Technical College Vice
President for Administration of Black River
Technical College
Vice President for Student Affairs
of Black River Technical College
Vice President of Development
of Black River Technical College**

3. The student shall be entitled to appear in person and present his/her defense. The student may also elect not to appear, in which case the hearing shall be held in his/her absence. The failure of the student to appear should not be taken as indicative of guilt and must be noted without prejudice.
4. The student and the college shall not be represented by legal counsel. The student may be accompanied by a member of the faculty, staff, student body of the college, a parent or guardian, or by legal counsel. Those who accompany the student will not be allowed to testify nor ask any questions of anyone present at the hearing. Failure of those accompanying the student to comply with the above statement will result in him or her being asked to leave the hearing.
5. If the student elects to attend the hearing, he or she shall hear all testimony and may ask questions of witnesses.
6. The student shall be entitled to the right to remain silent throughout the judicial proceedings and such refusal to participate should not be taken as indicative of guilt and must be noted without prejudice.
7. The student shall be entitled to an explanation of any penalty which is assessed.
8. The student shall be told of his/her right to appeal a decision and the procedure for such an appeal.

JUDICIAL APPEAL PROCESS

If the student wished to appeal the decision of the Judiciary Board, he/she must do so within five working days of the date of receiving the decision. Appeals must be submitted in writing to the VPSA or Judicial Advisor. Appeals must be submitted based on the following: (1) the student was deprived of a right according to the rules and regulations governing the disciplinary hearing and this error materially affected the decision, (2) the finding of guilt was not supported by substantial evidence, and (3) the sanction imposed was unreasonably harsh based upon the circumstances of the particular act of misconduct and the prior record of the accused. Such an appeal shall be made to the Administrative Judiciary Board.

The Administrative Judiciary Board shall review the disciplinary records and proceedings in light of the ground put forth in the written appeal. Once a decision has been made, the Judicial Advisor shall notify the student in writing within five working days.

In the decision, the Administrative Judiciary Board may: (1) affirm the decision of the Judiciary Board; (2) affirm the decision of the Judiciary Board and modify the sanction placed against the student, but impose no more severe sanction(s) than originally imposed; (3) order a new hearing of the case by the Judiciary Board, or (4) reverse the decision placed against the student by the Judiciary Board. The Administrative Judiciary Board is the final decision. No further appeal will be granted.

An appeal committee of 3 members of the Board of Trustees may fill in for either board (judiciary or Administrative Judiciary board) in cases where the VPSA or Judiciary officer is unable to obtain a 3 member uninvolved or unbiased committee.

The Administrative Judiciary Board shall review the disciplinary records and proceedings in light of the ground put forth in the written appeal. Once a decision has been made, the VPSA or Judicial Advisor shall notify the student in writing within five working days. Grounds for an appeal, time limits within which decisions must be made, and options available to the Board of Trustees, Judiciary Board shall be the same as when an appeal is taken to the Administrative Judiciary Board.

INTERIM SUSPENSION

An interim suspension is a temporary suspension based upon facts that show the student's continued presence on the campus constitutes a danger to property, to himself/herself, or to others. The student will immediately be given notice of reason for the interim suspension and the time and place of a preliminary hearing at which he/she shall be afforded an opportunity to show why his/her continued presence on campus *will not* constitute a danger to property, himself/herself, or to others. Such notice shall be given in writing and hand delivered or mailed at least four (4) working days prior to any hearing on the charge. An imposed interim suspension is not based on presumption of the student's guilt, nor does it nullify his/her right to the basic fundamentals of due process.

DISCIPLINARY SANCTIONS

College judiciaries shall hear cases of alleged violations of regulations which are referred by the Judicial Advisor and render judgments about the validity of charges and recommend one of the following:

- A. NOT GUILTY — No violation of standards of conduct has been proven.
- B. GUILTY — A violation of standards of conduct has been proven. In this case, the Judiciary authority may select from the following sanctions listed in order of severity:
 - 1. **EDUCATIVE SANCTIONS** — Papers, counseling, alcohol/drug evaluations, etc.
 - 2. **REPRIMAND** — (a) Oral reprimand — An oral disapproval issued to the student by a person designated in the decision; (b) Written reprimand — A statement of disapproval prepared by the designated person and delivered to the student in writing.
 - 3. **RESTRICTIONS** — (a) Identification card privileges; (b) parking privileges; (c) other.
 - 4. **RESTITUTION** — Compensation for loss or damage incurred to the college or a member of the college community.
 - 5. **PROBATED SUSPENSION** — Notice that further convictions of major offenses, as specified, may result in suspension. The period of probation shall be specified in the decision.

6. **PROBATED EXPULSION** — Notice that further convictions of major offenses, as specified in the decision, may result in expulsion.

***NOTE: The college will not accept for transfer any credits earned at other institution during the period a student is on suspension for disciplinary reasons from Black River Technical College.**

REVISED July 20, 2010

Clery Act

Campus Security Policy

Title II of the Crime Awareness, Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act requires the collection and dissemination of certain information regarding murder, robbery, sex offenses, forcible or non-forcible, aggravated assault, burglary, motor vehicle theft, liquor law violation, drug abuse violation, weapon possessions, arson, and manslaughter. A report must be made/filed with the security officer within 72 hours of its occurrence. Access to campus facilities should be directed to Tony Saylor, Chief Security Officer at (870) 248-4000, ext. 4034.

Title IX DRAFT

POLICY STATEMENT:

No person at Black River Technical College will, on the basis of sex, be excluded from participation in, be denied benefit of, or be subjected to sex discrimination, sexual harassment, or sexual misconduct under any educational program or activity.

INTRODUCTION:

Members of the college community, guests and visitors have the right to be free from sexual discrimination, harassment or violence, which means that all members of the campus community are expected to conduct themselves in a manner that does not infringe upon the rights of others. Black River Technical College is committed to fostering a learning and working environment that is free from prohibited sexual or gender based discrimination and harassment. Black River Technical College believes in a zero tolerance policy for gender-based misconduct. When an allegation of misconduct is identified and reported, and the respondent is found to have violated this policy, serious sanctions will be implemented to ensure that such actions are never repeated. These procedures have been developed to reaffirm these principles and to provide recourse for those individuals whose rights have been violated. The policy and procedures are intended to define community expectations and establish a mechanism for determining when those expectations have been violated.

Jurisdiction:

Title IX protects the community college from sexual harassment in a school's education program and activities. This means that Title IX protects the college community in connection with all academic, educational, extracurricular, athletic, and other programs of the school, whether these programs take place in a school's facilities, in college transportation, at a class or training program sponsored by the school at another location, or elsewhere.

Definition of Terms:

Complainant: Any party who makes a complaint/grievance against another student, employee, staff member, or campus visitor.

Respondent: The person(s) against whom a complaint has been made.

Definition of Status: A full-time employee will be considered as an employee, regardless of student status. A student who is a part-time employee will be considered a student unless the incident under consideration occurred in connection with employment.

Discrimination (general definition): Actions that deprive the members of the community of educational or employment access, benefits or opportunities. Any discrimination, preference, advantage for or detriment to an individual compared to others that is based upon an individual's actual or perceived gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion or sexual orientation that is so severe, persistent, or pervasive that it unreasonably interferes with or limits a person's ability to participate in or benefit from the college's educational programs or activities. There can be no discrimination related to pregnancy, child birth, false pregnancy, termination of pregnancy or recovery.

Discriminatory Harassment: Detrimental action based on an individual's actual or perceived gender, race, color, age, creed, national or ethnic origin, physical or mental disability, veteran status, pregnancy status, religion, sexual orientation, or other protected status that is so severe, persistent, or pervasive that it unreasonably interferes with or limits a person's ability to participate in or benefit from the college's educational programs or activities.

Sexual Harassment: Sexual Harassment is unwelcome, gender-based spoken, written or symbolic action or physical conduct that is sufficiently severe, persistent, or pervasive that it has the effect of unreasonably interfering with, limiting, or denying someone the ability to participate or benefit from the college's educational programs. The unwelcome behavior may be based upon power differentials, the creation of a hostile environment or retaliation. Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwanted sexual attention; to punish a refusal to comply; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence; stalking; and gender based bullying.

Sexual Harassment falls into two categories:

1. **Quid Pro Quo:** unwelcome sexual advances or requests for sexual favors from an individual in an authoritative role, and in exchange for a grade, job, or promotion; or some other type of academic or employee related benefit.
2. **Hostile Environment:** unwelcome behaviors of a sexual nature that a realistic individual would find offensive, hostile, or intimidating in reference to their academic or employment future.

Not all workplace or educational conduct that may be described as "harassment" affects the terms, conditions, or privileges of employment or education. For example, a mere utterance of an ethnic, gender-based or racial epithet which creates offensive feelings in an employee or student would not normally affect the terms and conditions of their employment or education.

Examples of verbal sexual harassment may include but are not limited to:

1. sexually explicit questions that are of an intrusive nature
2. vulgar or offensive and suggestive sexual comments
3. name calling that is degrading of gender based; such as "bitch," "whore," or "fag"
4. persistent sexual slurs or innuendos
5. rating of a person's physical appearance

6. unwanted sexual harassment such as notes, letters, telephone calls, emails, social media messages or pins that are of a sexual nature.

Examples of non-verbal sexual harassment gestures and behavior may include but are not limited to:

1. stalking of a sexual nature
2. ogling or leering of the physique
3. intentionally observing nudity or sexual acts of another person's without their knowledge
4. inappropriate hand or body movements that are of a sexual nature
5. vulgar display of materials that are of a sexual nature, such as, pictures, calendars, cards, social media.

Examples of physical sexual harassment may include but are not limited to:

1. sexual violence, such as:
 - a. physical assault
 - b. attempted rape, or rape
 - c. coerced sexual activity (oral, anal, or vaginal)
 - d. initiating a sexual activity with an individual who is incapacitated and unable to consent due to alcohol, drugs, or physical/mental condition.
2. physically forcing unwanted physical contact on an individual that is considered sexual in nature, such as: patting, pinching, hugging, hitting, or touching of a person's body, hair, or clothing.
3. Physically forcing or attempting to force a person to be kissed, fondled, or mauled.

Retaliatory Harassment: Any adverse employment or educational action taken against a person because of the person's participation in a complaint or investigation of discrimination or sexual misconduct. Intentional action taken by an accused individual or allied third party, absent legitimate non-discriminatory purposes, that harms an individual as reprisal for filing or participating in a complaint/grievance procedure.

Sexual Harassment of a Student by Another Student: Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a student toward another student that is so severe, persistent, or pervasive that it unreasonably interferes with or limits a student's ability to participate in or benefit from the college's educational programs or activities. For example, a student repeatedly asks another student out on dates, even though he or she has turned down the invitation numerous times. It is harassment to repeatedly subject a person to egregious, unwelcome sexual attention.

Sexual Harassment of a Faculty/Staff Member by a Student or Another Employee: Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature directed toward a faculty/staff member that is so severe, persistent, or pervasive that it unreasonably interferes with employment or living conditions or deprives the individual of employment access or benefits. For example, a student appears at a faculty member's house uninvited. It is harassment to repeatedly subject a person to egregious, unwelcome sexual attention.

Sexual Harassment of a Student by a Faculty/Staff Member/ Campus Visitor:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a faculty, staff member or campus visitor toward a student are held to constitute sexual harassment when:

- Submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating an individual's educational development or performance; or
- Such conduct is so severe, persistent or pervasive that it unreasonably interferes with or limits a student's ability to participate in or benefit from the college's educational programs or activities.

While a particular interaction must be offensive to both a reasonable person and to the victim to be defined as harassment, faculty or staff members and other persons of authority should be sensitive to questions about mutuality of consent that may be raised and to the conflict of interests that are inherent in personal relationships that result

from professional and educational interactions.

Harassment is particularly damaging when it exploits the educational dependence and trust between students and faculty/staff. When the authority and power inherent in faculty/staff relationships with students, whether overtly, implicitly, or through misinterpretation, is abused in any way, there is potentially great damage to the individual student, to the accused individual, and to the climate of the institution. For example, a professor attempts to coerce an unwilling student into having sex with him/her in exchange for a good grade or some other benefit. This is harassment regardless of whether the student accedes to the request and regardless of the student's final grade.

Consensual Sexual Encounters: A sexual encounter is considered consensual when individuals willingly and knowingly engage in sexual activity. Consent is freely and consensually communicated willingness to participate in sexual activity, expressed by either words or unambiguous actions. Consent can only be given or implied by someone who acts freely, voluntarily, and with knowledge and competency of the nature of the act involved. The responsibility falls on the initiator of the sexual activity to ensure that he or she has the consent of the other person involved to engage in the sexual activity. Moreover, the consent must be present throughout the sexual activity by all parties involved. The consent for the sexual activity may NEVER be coerced through the use of force, coercion, intimidation, or if the victim is mentally or physically disabled or incapacitated; this includes through the use of drugs or alcohol. In addition, consent cannot be inferred from previous sexual activity, but must be obtained each time the parties take part in sexual activity.

Romantic and/or sexual relationships between faculty and students, staff and students are strongly discouraged.

Non-Consensual Sexual Contact: Non-consensual sexual contact is any intentional sexual touching, however slight, with any object by a man or a woman upon a man or a woman that is without consent and/or by force.

Sexual Contact includes:

Intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

Non-Consensual Sexual Intercourse: Non-consensual sexual intercourse is any sexual intercourse however slight, with any object by a man or woman upon a man or a woman that is without consent and/or by force.

Intercourse includes:

- vaginal penetration by a penis, object, tongue or finger
- anal penetration by a penis, object, tongue, or finger
- oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact

Sexual Exploitation: Occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to:

- invasion of sexual privacy; prostituting another person
- non-consensual video or audio-taping of sexual activity
- going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex)
- engaging in voyeurism
- knowingly transmitting an STI or HIV to another person
- exposing one's genitals in non-consensual circumstances or inducing another to expose his or her genitals

Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

Consent: Consent is clear, knowing and voluntary. Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.

- In order to give effective consent, one must be at least 16 years old.

- Sexual activity with someone known to be mentally or physically incapacitated, or based on the circumstances, someone who could reasonably be known to be mentally or physically incapacitated, constitutes a violation of this policy.
- Incapacitation is a state where someone cannot make rational, reasonable decisions because he or she lacks the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of the sexual interaction). Alcohol or other drug use, unconsciousness or blackout is an example of incapacitation.
- This policy also covers a person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another person is a violation of this policy. More information on these drugs can be found at <http://www.911rape.org/>
- Use of alcohol or other drugs will never function as a defense to a violation of this policy.
- Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
- Previous relationships or prior consent cannot imply consent to future sexual acts.

Force: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes overt threats, implied threats, intimidation and coercion that overcome resistance or produce consent. For example: “Have sex with me or I’ll hit you. Okay, don’t hit me; I’ll do what you want.”

- Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

NOTE: There is no requirement that a party resist the sexual advance or request, but resistance is a clear demonstration of non-consent.

POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, or supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of policy.

The college does not wish to interfere with private choices regarding personal relationships when those relationships do not interfere with the goals and policies of the college. However, for the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are strongly discouraged.

CONFIDENTIALITY

Subject to the other provisions of this policy and the requirements of law, every possible effort will be made to ensure that any information received as part of the College’s resolution and complaint procedures is treated discreetly. All parties to the complaint will be asked to assist in maintaining the privacy of the parties involved. Because of the college’s obligation to investigate allegations of misconduct, it is not possible to guarantee that complaints will be handled confidentially.

Except as compelled by law, in the interest of fairness and problem resolution, disclosure of complaints and their substance and the results of investigations and complaint procedures will be limited to the immediate parties, witnesses and other appropriate administrative officials. Disclosure may also be necessary to conduct a full and impartial investigation.

COMPLAINT/GRIEVANCE PROCEDURE

These procedures are intended to apply to student grievances against employees, employee civil rights grievances against students, and student-on-student civil rights grievances. All other grievances by students against students or employees will be addressed through other student conduct procedures. The college benefits from formal and informal procedures that encourage prompt resolution of complaints and concerns raised by members of the college community.

INFORMAL COMPLAINT RESOLUTION

Before pursuing the formal complaint process, every reasonable effort should be made to constructively 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 member, staff member, administrator, or visitor to the campus who has experienced or witnessed sexual harassment is strongly encouraged to report it. 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 college faculty, administrators, and supervisors to report complaints of sexual harassment that 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 members, administrators, staff members, or visitors to Black River Technical College are strongly encouraged to report allegations of discrimination or harassment to the Title IX Committee or appointed deputies. A report of sex discrimination or harassment should be made as soon as possible after the incident in order to facilitate an effective response. The longer a report is delayed, the more difficult it will be for the college to investigate. A person who raises a complaint may discuss with the Title IX Committee any situation believed to constitute sexual discrimination or harassment. Reports may be made by the person experiencing the discrimination or harassment or by a third party, such as a witness or someone who is told of the discrimination or harassment.

Upon receipt of the complaint/grievance, the Title IX Committee/deputies will open a formal case file and notify the Chair of the Investigation and Hearing Board and at the appropriate time notify the respondent. The **Title IX Committee and deputies** are:

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(870)239-0969 ex.5015
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Investigation

1. The Title IX Committee will assign 1-3 members to serve as the Investigative Team, who will conduct the investigation. The lead investigator will confer with the Title IX Committee members on accommodations for the complainant or other necessary remedial short-term actions. The Title IX Committee will apprise the Vice President for the appropriate division of the grievance, or if the grievance is against a student, the Vice President of Student Affairs.
2. The Investigative Team will:
 - Be staffed with trained students (for student cases only), faculty, staff and administrators;
 - Identify the correct policies allegedly violated
 - Conduct an immediate initial investigation to determine if there is reasonable cause to charge the respondent(s)
 - 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 charges on the basis of initial investigation
 - Develop a strategic 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 it is more likely than not that a policy violation has or has not occurred
 - Prepare a complete report on the investigation and its findings to present to the Deputy
3. Following the investigation, the Title IX Committee and Investigation Team will distribute a written Letter of Determination to the affected parties.
 - The individual (s) alleged to have committed discrimination or harassment may accept the findings; accept the findings in part and reject the findings in part; or reject all findings.
 - The complainant will also be notified of the outcome of the investigation.
4. If the findings indicate that it is likely that the alleged discrimination or harassment has not occurred, the investigation should be closed. The complainant who filed a complaint may request an extraordinary decision for the Title IX Committee to refer the complaint to a hearing. A hearing will only be granted by the Title IX Committee in exceptional circumstances.
5. Where the findings indicate that it is more likely than not that the alleged discrimination or harassment has occurred, and the respondent(s) accepts the findings that s/he violated college policy, an appropriate sanction will be imposed. If the complaint is against a student, the sanction will be determined by the Vice

President of Student Affairs in consultation with the Title IX Committee and the Investigative Team. If the complaint is against a Black River Technical College employee involving a student, the Vice President for the appropriate division in consultation with the Director of Human Resources, Title IX Committee and the Vice President of Student Affairs will determine the sanction. Black River Technical College will act to end the discrimination, prevent its recurrence, and remedy its effects on the person who filed the complaint and on the Black River Technical College community.

Hearing

1. In the event that the individual(s) alleged to have committed discrimination or harassment rejects the investigation findings in part or entirely, s/he must notify the Title IX Committee in writing of that rejection within five business days of receipt of the Letter of Determination. Acceptable means of notification include email, facsimile, hand delivered notification, or postal delivery. The Title IX Committee will convene a hearing to discuss the contested aspects of the formal complaint. Three members of the committee will be selected to serve on the Investigation and Hearing Board.

2. At the hearing, the findings of the investigation will be admitted and the Investigation Team may give evidence. However, the Hearing Board is not bound by the finding(s) of the Investigation Team. The hearing will determine whether it is more likely than not that a violation of policies has occurred. The goal of the hearing is to provide an equitable resolution via an equitable process, respecting the civil and legal rights of all participants.

3. If the Hearing Board determines that it is more likely than not that a violation has occurred, the Vice President for the appropriate division of the complaint, or if the complaint is against a student, the Vice President of Student Affairs, will impose appropriate sanctions for the violation, after consultation with the Title IX Committee. Black River Technical College will act to end the discrimination or harassment, prevent its recurrence, and remedy its effects on the person who filed the complaint and on the Black River Technical College community. If the Hearing Board determines that no violation has occurred, the case will be closed.

4. Following the hearing, the Title IX Committee and the Investigation and Hearing Board will send a second written Letter of Determination to the affected parties.

Appeals

a. Appeals Following an Investigation

In cases where the respondent accepts the findings of discrimination or harassment after the investigation, those findings cannot be appealed. Although the findings cannot be appealed, the sanctions that have been imposed post-investigation can be appealed by any party according to the grounds below by contacting the Title IX Committee within five (5) business days following receipt of the written Letter of Determination as previously defined. Acceptable means of notification include email, facsimile, hand delivered notification, or postal delivery.

b. 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. A request may be made to the Title IX Committee for special consideration in special circumstances, but the presumptive stance of the institution is that the sanctions will stand. In the event that the complainant or respondent rejects the findings in part or in their entirety, he/she may seek an appeal by contacting the Title IX Committee within five (5) business days following receipt of the written Letter of Determination.

Appeal Procedures

Any party who files an appeal must do so in writing to the Title IX Committee. Acceptable means of notification include email, facsimile, hand delivered notification, or postal delivery. The Title IX Committee will share the appeal with the other concerned parties, and then will draft a response memorandum (also shared with all concerned parties). The original finding and sanction 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 impacted 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 impact 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 Committee determines that a material procedural or substantive error occurred, the committee may return the grievance to the Investigation and Hearing Board with instructions to reconvene to correct the error. In rare cases, where the procedural or substantive error cannot be corrected by the Investigation and Hearing Board (as in cases of bias), the Title IX Committee may order a new investigation and/or hearing on the complaint with new members from the Investigation and Hearing Board. The results of a reconvened hearing cannot be appealed. The results of a new hearing can be appealed, once, on the three applicable grounds for appeals.

If the Title IX Committee determines that new evidence should be considered, he or she will return the grievance to the Investigation and Hearing Board to reconsider only the new evidence. The reconsideration of the Investigation and Hearing Board is not appealable.

If the Title IX Committee determines that the sanctions imposed appear to be disproportionate to the severity of the violation, the Title IX Committee will refer the complaint to a board composed of three (3) cabinet officers, which may then increase, decrease or otherwise modify the sanctions. This decision is final.

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
- The appeal will be returned to the original hearing body unless bias has been determined
- Appeals are not intended to be full re-hearings of the complaint, with the exception of substantiated cases of bias. 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 deputy will render a written Letter of Determination to the affected parties.

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.

For purposes of calculating all time periods set forth in this Complaint and Grievance Policy, a business day is defined to mean normal operating hours, Monday through Friday, excluding recognized national and state holidays and Black River Technical 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 Committee or the respective deputies 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 Black River Technical College policy and federal and state law. A person who believes retaliation has occurred should notify the Title IX Committee as soon as possible.

False Reports

Black River Technical College will not tolerate intentional false reporting of incidents. It is a violation of the *Codes of Conduct* governing Black River Technical College to make an intentionally false report of any policy violation, and it may also 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.

Effective Date

The policy in force at the time a formal complaint is made is the policy that will be used throughout the investigation, hearing and any appeals that are heard.

Black River Technical College reserves the right to make changes and amendments to this policy and procedure as needed, with appropriate notice to the community.

STATEMENT OF THE RIGHTS OF COMPLAINANT/ALLEGED VICTIM

- The right to be treated with respect by college officials
- The right to 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 right not to report, if this is the victim's desire
- 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:
 - Exam (paper, assignment) rescheduling
 - Taking an incomplete in a class
 - Transferring class sections
 - Temporary withdrawal
 - Alternative course completion options
 - 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 board 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 victim/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 that any member of the conduct body be removed on the basis of 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 who have received annual sexual misconduct training
- 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 investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to college administrators against the respondent
- The right to be treated with respect by college officials
- 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 board in determining its sanction
- 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 victim/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 who have received annual sexual misconduct adjudication training
- The right to have college policies and procedures followed without material deviation
- 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 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.

Sex Offenders

Campus Community Information Regarding Sex Offenders

Arkansas Code Annotated 12-12-913 requires the disclosure to the campus community of information regarding a registered sex offender(s) who is employed by or attending an institution of higher education. The following procedure will be utilized upon receiving notification from the local law enforcement agency or campus security. The information will be disseminated to the campus community by placing the following on bulletin boards across campus. "A registered sex offender(s) is employed or enrolled. For more information, visit the following web site <http://www.acic.org/>".

Guns on Campus

Students, employees, or guests are prohibited from possession of any type of firearm on the campus unless specifically exempted by state law. Offenders are in violation of Arkansas Criminal Code Annotated 5-73-119 through 5-73-122.

SERVICES FOR THE DISABLED

Black River Technical College's coordinator of services for the disabled is also the compliance coordinator for Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. The coordinator can arrange for academic adjustments, work place accommodations, and auxiliary aids for qualified students. BRTC will provide

auxiliary aids, without cost, to those students with verified disabilities/handicaps who require such services. If necessary, BRTC will provide appropriately trained service providers. Concern about physical access to facilities should be addressed to the coordinators, Bridget Guess, BRTC Student Services, P.O. Box 468, Pocahontas, Arkansas, 72455, 870-248-4000 ext. 4014 or Jenny Weaver, P. O. Box 1565, Paragould, Arkansas, 72450, 870-239-2050 ext. 5020.

RACIAL PROFILING POLICY

In accordance with Act 1048 of 2007 of Arkansas statute, BRTC has adopted a formal policy and procedures detailing its compliance with state legislation that formally prohibits racial profiling by Arkansas law enforcement. This policy and procedure model applies to all campus law enforcement officials. The policy affirms that all law enforcement officers of the BRTC Police Department shall base pedestrian or motor vehicle stops, detentions, investigative activities, searches, property seizures, or arrests of a person upon a standard of reasonable suspicion or probable cause in compliance with the U.S. Constitution and Arkansas Constitution. The full text of this policy is contained in the BRTC Policy and Procedures manual, and shall be made available upon written request to the Office of Campus Police, Maintenance Building.