

SEXUAL MISCONDUCT POLICY & COMPLAINT PROCESS

Introduction and Commitment

Trenholm State Community College is committed to providing a learning and working environment that promotes personal integrity, civility, and mutual respect and is free discrimination on the basis of sex, which includes all forms of sexual misconduct. Trenholm State Community College does not condone any form of sexual misconduct whether physical, mental, verbal, or emotional in nature. Sexual misconduct includes sexual harassment, sexual assault, sexual exploitation, dating violence, domestic violence, and stalking directed toward an individual based on their sex. Sexual misconduct by any member of the College community including students, faculty, employees, or staff is unacceptable and shall not be tolerated by any of the institutions that comprise the Alabama Community College System.

It is the policy of Trenholm State Community College that no student or employee may threaten the health and safety of a member of the College community, of any person on College property, or at a College sponsored or supervised activity, through gender-based discrimination, sexual misconduct, and violence. A non-discriminatory environment is essential to the mission of the Alabama Community College System. In order to create a safe and healthy environment, it is the responsibility of faculty, staff, and students to report any sexual misconduct to College officials. If there is reason to believe the College's policies prohibiting sexual misconduct have been violated, the College may pursue the matter as misconduct warranting disciplinary action by the College, even if law enforcement authorities choose not to prosecute.

Inquiries concerning discrimination on the basis of sex should be directed to:

Title IX Coordinator (Students)

Dr. Gregory Hudson, Dean of Students

Trenholm Campus, Building F

334-420-4316

ghudson@trenholmstate.edu

Title IX Coordinator (Employees)

Pamalon C. Rollins, Director of Human Resources

Trenholm Campus, Building A/B

334-420-4253

prollins@trenholmstate.edu

If, after exhausting all available institutional processes, a student or employee's complaint remains unresolved, the employee or student may appeal to the Alabama Community College System. Information regarding student complaints to the Alabama Community College System can be found at: <https://www.accs.cc/index.cfm/contact/>.

Relevant Definitions

Sexual Misconduct

Sexual misconduct includes all conduct that is considered sexual harassment, sexual assault, sexual exploitation, intimate partner violence (dating and domestic violence), and stalking.

Sexual misconduct creates a threatening, intimidating, and coercive environment. Sexual misconduct includes, but is not limited to:

- a. Any sexual act that occurs without the consent of the victim, or that occurs when the victim is not in a state that enables them to give consent.
- b. Any obscene or indecent behavior that includes, but is not limited to, exposure of one's sexual organs, or a display of sexual behavior that could be reasonably deemed offensive to others.
- c. Any lewd, hostile, or intimidating comments of a sexual nature used to create an offensive environment.

Sexual Consent

For the purposes of this policy, consent is defined as a clear willingness to participate in the sexual act. Inability to give consent includes, but is not limited to, situations where an individual is:

- a. Under the influence of alcohol, drugs, or other substances including, but not limited to, prescription medication.
- b. Unconscious, asleep, ill, or in a state of shock.
- c. Under the age of consent as defined by the jurisdiction in which the act occurred, which in Alabama is less than 16 years of age.
- d. Mentally or physically impaired and not reasonably able to give consent.

Consent to a sexual act is not freely given if the individual is not able to give proper consent, or if consent is obtained by force, threats, deception, or coercion. A lack of resistance does not grant consent. Previous consent does not grant consent to future sexual acts. Consent can be withdrawn if demonstrated in a clear communication through words or actions.

Determining consent when alcohol or other drugs are involved: In incidents involving alcohol, drugs, or other substances, the totality of the circumstances are analyzed to determine whether the use of alcohol, drugs, or other substances caused an inability to give consent. Some factors considered to determine whether an individual is under the influence of alcohol, drugs, or other substances and therefore, not able to give consent include but are not limited to: the use of force or threat of force, whether the complainant was conscious or unconscious, whether the complainant became sick due to intoxication, the complainant's ability to communicate and/or slurred speech, the complainant's coordination (i.e., ability to walk, dress/undress, perform simple tasks), and any other action that would be indicative of a level of cognitive functioning.

Sexual Assault ²

Sexual assault is defined as any form of sexual contact without the consent of all parties involved, to include:

- a. Sexual intercourse committed by physical force, coercion, threat, or intimidation, actual or implied, by a person or persons known or unknown to the victim;
- b. Attempted intercourse, sexual contact, or physical force of a threatening nature expressed or implied that places a person in fear of immediate death or physical injury known or unknown to the victim; or
- c. All other forms of sexual misconduct that violate state and/or federal law, now or subsequently in effect, including, but not limited to, conduct defined as rape, sodomy, sexual abuse, or sexual contact and contributing to the delinquency of a minor.

Sexual Contact

Sexual contact means any touching or attempted touching of the sexual or other intimate parts of

¹ The definition of consent under Alabama criminal law is similar to this policy's definition in that it requires express or implied acquiescence. See AL Code § Section 13A-6-70, set forth in Appendix A to this policy.

² Sexual assault encompasses several crimes in the State of Alabama, including rape, sodomy, sexual abuse, indecent exposure, and others. See offenses in ALA Code § 13A-6-20 through 25, §13A-6-60 through 70, and §13A-6-80 through 83.

a person, done for the purpose of gratifying the sexual desire of either party or for the purpose of harassing, intimidating, or threatening a person.

Sexual Harassment 3

Sexual harassment is a form of sex discrimination which is illegal under Title VII of the *Civil Rights Act of 1964* for employees and under Title IX of the *Education Amendments of 1972* for students. Sexual harassment does not refer to occasional compliments; it refers to behavior of a sexual nature which interferes with the work or education of its victims and their co-workers or fellow students. Sexual harassment may involve the behavior of a person of either sex against a person of the opposite sex or the same sex, and occurs when such behavior constitutes unwelcome sexual advances, unwelcome requests for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature, when perceived by the recipient that: Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational opportunities; or submission to or rejection of such conduct is used as the basis for employment or academic decisions affecting that individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or creates an intimidating, hostile, or offensive work or educational environment.

Sexual harassment can be verbal, visual, or physical. It can be overt, as in the suggestions that a person could get a higher grade or a raise by submission to sexual advances. The suggestion or advance need not be direct or explicit; it can be implied from the conduct, circumstances, and relationship of the individuals involved. Sexual harassment can also consist of persistent, unwanted attempts to change a professional or educational relationship to a personal one. Sexual harassment is distinguished from consenting or welcome sexual relationships by the introduction of the elements of coercion; threat; unwelcome sexual advances; unwelcome requests for sexual favors; other unwelcome sexually explicit or suggestively written, verbal,

3 Sexual Harassment. Alabama Community College System Board Policy 601.01: Harassment; *Code of Alabama* 16-60-111.4; Title VII of the *Civil Rights Act of 1964*; Title IX of the *Education Amendments of 1972*.

or visual material; or unwelcome physical conduct of a sexual nature. Examples of verbal or physical conduct prohibited within the definition of sexual harassment include, but are not limited to:

- A. Physical assault;
- B. Direct or implied threats that submission to or rejection of requests for sexual favors will affect a term, condition, or privilege of employment or a student's academic status;
- C. Direct propositions of a sexual nature;
- D. Subtle pressure for sexual activity;
- E. Repeated conduct intended to cause discomfort or humiliation, or both, that includes one or more of the following: (i) comments of a sexual nature; or (ii) sexually explicit statements, questions, jokes, or anecdotes;
- F. Repeated conduct that would cause discomfort and/or humiliate a reasonable person at whom the conduct was directed that includes one or more of the following:
 1. Touching, patting, pinching, hugging, or brushing against another's body;
 2. Commentary of a sexual nature about an individual's body or clothing; or
 3. Remarks about sexual activity or speculations about previous sexual experience(s);
- G. Intimidating or demeaning comments to persons of a particular sex, whether sexual or not;
- H. Displaying objects or pictures which are sexual in nature that would create a hostile or offensive employment or educational environment, and serve no educational purpose related to the subject matter being addressed.

Sexual Exploitation

Sexual exploitation is taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit or to benefit a person other than the one being exploited.

Examples of sexual exploitation include, but are not limited to:

- Causing or attempting to cause the incapacitation of another individual;
- Electronically recording, photographing, or transmitting sexual sounds or images of another individual;
- Allowing a third-party to observe sexual acts;

- Engaging in voyeurism; or
- Knowingly transmitting a sexually transmitted disease/infection or HIV to another individual.

Intimate Partner Violence (Dating Violence and Domestic Violence) ⁴

Intimate partner violence is abusive behavior with the use of threats and intimidation through physical, emotional, verbal, or other abuse in an attempt to exert power and control over a current or former partner. Domestic violence is committed by a current or former spouse/domestic partner of the complainant or an individual who shares a child in common with the complainant. Dating violence is committed by an individual who has or had a dating or engagement relationship with the complainant. The existence of a dating relationship is determined by: (1) the reporting party’s statement, (2) the length of the relationship, and/or (3) the type of the relationship, and the interaction of the individuals involved in the relationship.

Conduct that may be considered intimate partner violence includes, but is not limited to:

- Exhibiting control over a partner’s actions through verbal or physical threats/violence;
- Attempts to isolate a partner from current or prior relationships (romantic or not romantic);
- Blaming of others for the abuse; or

Stalking ⁵

Stalking is an intentional and repeated course of conduct directed at a particular individual because of his/her gender causing a reasonable person to experience fear or emotional distress. Stalking may be direct communication/interaction between the complainant and respondent or through a third party or medium such as letters, email, text messages, telephone, social media, or friends. Stalking that is not gender-based may be a violation of other College policies.

Conduct that may be considered stalking includes, but is not limited to:

- Following;

⁴Domestic violence is a crime in the State of Alabama. Applicable offenses under Alabama State law include ALA Code § 13A-6-130 through 139. For the full text of selected offenses.

⁵ Stalking is a crime in the State of Alabama. Applicable offenses under Alabama State law include ALA Code § 13A-6-90 through 94.

- Lying in wait;
- Excess communications; or
- Threats to the individual or threats to the individual's family, friends, or property

Bystander

An active bystander is someone who intervenes interrupt behaviors in social situations that could lead to sexual violence.

Bystander Intervention

An active bystander is someone who intervenes to interrupt behaviors in social situations that could lead to sexual violence. Effective intervention is the community responsibility of every person. Individuals are encouraged to speak out against attitudes that promote sexual violence and become more supportive of survivors. There are five stages to effective bystander intervention:

1. Notice the problem,
2. Understand that the problem demands action,
3. Feel responsibility to act,
4. Choose what form of assistance to provide, and
5. Respond.

Tips for safe bystander intervention

1. Remember intervention doesn't have to be confrontational, say something or do something to call attention to the situation.
2. Remain calm, and speak up and challenge inappropriate behavior.
3. Tell someone if you believe he/she is acting inappropriately. Challenge inappropriate jokes or conversations.
4. Attempt to calmly reason with the perpetrator or distract him/her.
5. Ask others in the area for assistance with group intervention.
6. Assist the victim by walking him/her to his/her car or to a safe area until assistance arrives.
7. Call 911.

Seeking Help, Reporting & Health Care Options

Trenholm State Community College takes allegations of sexual misconduct very seriously and is committed to taking immediate action. The College encourages employees and students who have experienced any form of gender-based discrimination and/or sexual misconduct to report the incident promptly, to seek all available assistance, to pursue *Student Code of Conduct* charges, and where appropriate, pursue criminal prosecution of the offender.

Individuals who believe that they are targets of sexual misconduct in their working and academic environments are encouraged to seek immediate assistance from appropriate College officials (outlined below) or local law enforcement.

College personnel can assist the victim in notifying law enforcement authorities, if the victim so chooses. The victim may decline to notify authorities. Victims have the options to seek treatment for injuries, preventative treatment for sexually transmitted diseases, and other health services.

If you have a life-threatening emergency, DIAL 911 or go to the nearest hospital emergency room. If using a campus phone, DIAL 9 911.

Title IX Coordinator (Students)

Dr. Gregory Hudson, Dean of Students

Trenholm Campus, Building F

334-420-4316

ghudson@trenholmstate.edu

Title IX Coordinator (Employees)

Pamalon C. Rollins, Director of Human Resources

Trenholm Campus, Building A/B

334-420-4253

prollins@trenholmstate.edu

Title IX Coordinators can provide immediate confidential response in a crisis situation whether or not a victim chooses to make an official report or participate in the institutional disciplinary or criminal process.

Local Law Enforcement

- Montgomery Police Department
 - 911

- (334) 241-2651

Local Hospitals

- Baptist Medical Center South
 - (334) 288-2100
- Baptist Medical Center East
 - (334) 277-8330
- Jackson Hospital
 - (334) 293-8000

24-Hour Crisis Services

- Alabama Domestic Violence Hotline
 - 1-800-650-6522
- Local Domestic Violence Services
 - (334) 263-0218
- National Domestic Violence Hotline
1-800-799-7233

Additional Resources

- Alabama Sexual Assault: Where To Get Help
 - <http://www.aardvarc.org/rape/states/alrp.shtml>

In the event that sexual assault or violence occurred, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. (The decision to press charges does not have to be made at this time. However, following these procedures will help preserve this option for the future.) Complaining parties should not bathe, urinate, douche, brush teeth, or drink liquids. Clothes should not be changed; but if they are, bring all the original clothing to the hospital in a paper bag, as plastic bags may damage the evidence.

When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after the medical examination.

GRIEVANCE PROCEDURES

Any member of the College community who believes that he or she has been the victim of sexual misconduct, as defined previously, may bring the matter to the attention of any academic or

administrative officer, Dean, Assistant Dean, Director, grievance officer, supervisor, or advisor. When a complaint has been reported to any of these individuals, the recipient of the complaint will forward the complaint to the appropriate College official, who has been designated by the President to coordinate the investigation of such complaints. At Trenholm State Community College the designated College official for complaints involving students is the Title IX Coordinator; complaints involving employees is the Director of Human Resources; all other complaints shall be directed to the Grievance Officer. College employees have an obligation to report any suspected sexual misconduct. The President of the institution shall be promptly notified of the complaint. The President must be kept informed regarding the progress and results of the investigation of the complaint.

STUDENT PROCEDURE

The following rules of procedures for adjudicating alleged violations of the Trenholm State Community College *Student Code of Conduct* are established for use by the Student Services Disciplinary and Appeals Committees. The administration of sanctions at the college is an educational process that is not designed to be punitive, and will experientially demonstrate its intent to be of a fair, appropriate, truthful, and due processed procedure. Disciplinary procedures may be initiated by the college (Dean of Students) or by the designee of the Dean of Students. The complaint or an official incident report must be investigated prior to judicial proceedings being invoked. If a student is suspended for a semester or academic year, or expelled from the institution (permanent separation) the registrar, financial aid director, and fiscal affairs director will be notified by the Dean of Students to administratively withdraw the student from Trenholm State Community College. However, a permanent file will be maintained by the office of the Dean of Students and the Office of the Registrar.

JUDICIAL PROCESS

- A. The student (s) involved shall be notified within three (3) working days in writing by the Dean of Students that a report has been filed involving him/her in an incident that is in direct violation of the Trenholm State Community College code of conduct. The notification will outline the time and place of the informal hearing, and if the student does not attend he/she invokes his/her rights to formal proceedings.

- B. The student, at the informal hearing, is presented with charges, given an opportunity to respond to the charges presented, given an opportunity to confront his/her accuser, and an opportunity to accept/reject the proposed discipline (sanction) by the appropriate council via a signed document materialized by the Division of Student Services.
- C. If sanctions are necessary and the student does not accept the discipline (sanction), based on evidence and/or witnesses that are requested by the accused to be presented/heard in formal proceedings, hearing procedures are then invoked within three (3) working days of signing the form invoking rights to formal proceedings. A time and place of the hearing will be sent to the student (s) and the appropriate council will hear the case. If the student does not sign the disciplinary form, the student automatically invokes his/her rights to formal proceedings that could lead to probation, suspension, or expulsion, for disrespecting the code of student conduct and the judicial process of Trenholm State Community College. If the student (s) fails to appear before any council, the council will make a decision in his/her absence, and the student shall be notified in writing of the council's decision, which will stand as record for the student (s) involved. The Dean of Students will notify the student (s) of the council's decision in writing to be mailed to the student's (s) address which was submitted on the application to the college.
- D. The student can bring witnesses, an advisor, and/or an attorney to the formal hearing, but the student (s) has to notify in writing the office of the Dean of Students two (2) days (48 hours) prior to the hearing but can only be heard at the discretion of the presiding officer. If a witness that is a student of the college is present and engages in false testimony or misrepresentation/falsification, the student (s) will at that time become a part of the judicial process of the college and sanctions may be imposed,
- E. When a student is accused of violating the *Student or Collegiate Codes of Conduct* and criminal charges are pending against the student, an attorney may be present. In this instance, the role of the attorney is limited and passive. The attorney cannot actively participate in the hearing or ask questions of the witnesses or judicial council members. The attorney's role is to advise the student regarding self-incrimination and to observe the proceedings. If a student does not have present criminal charges pending, an attorney, however, will not be permitted to be present during any disciplinary proceedings.

- F. When the judicial process of college officials involves a ward of the State, residence of a living/treatment facility, a felon, an individual that poses a threat to others, or an individual already a part of a criminal case and/or investigation, the Dean of Students at discretion will contact and cooperate with the cooperating agency whether it be state, federal, or local.

DISCIPLINARY HEARING PROCEDURES

- A. To ensure that Trenholm State Community College is strictly adhering to FERPA Laws, disciplinary hearings are private and confidential involving the student and the council. Hearings are closed to the campus community, media, and the general populous.
- B. The Dean of Students' assignment of cases to the appropriate judicial council determines the hearing officer.
- C. *The format begins with the presentation of charge (s) and proceeds with:*
- a. Call for the accused to respond to the charge(s), present witnesses and/or evidence
 - b. Supporting testimony and information on the charge (s),
 - c. Presentation of the accuser's testimony, witnesses, and/or evidence
 - d. Examination and questioning of accused, accuser, and possibly the witness/advisor by the members of the council
 - e. Deliberation by the council
- D. *Decision by the council to include:*
- a. Recall of precedent of prior sanctions made on like infraction (s)
 - b. Finding on a question of guilt or innocence
 - c. Sanctions, if any rendered to the presiding officer
 - d. Presiding officer renders the decision verbally to the accused, then the accuser (both parties are bound to strict confidentiality rules; if not, student (s) will be subjected to disciplinary proceedings)
 - e. Transcript will be transcribed and submitted to all parties involved
 - f. Transcript will be filed in the Office of the Dean of Students

DUE PROCESS

The following due process procedures are afforded to all ID card carrying students at Trenholm State Community College who are involved in cases which may result in disciplinary sanctions:

- A. The student (s) shall be notified in writing that he/she has been perceivably involved in an incident that is in violation of the Trenholm State Community College code of conduct. The notification will be submitted to the student (s) within three (3) working days and will provide the date, time, and place of the judicial hearing.
- B. The individual will be permitted to face and question his/her accuser (s) and witnesses testifying against him/her at the hearing. At the discretion of the hearing officer, both the accused and the accuser have the right to provide evidence and witnesses to prove otherwise or to speak on their behalf.
- C. After due consideration of the appropriate judicial council, the council shall render to the presiding officer a verbal and/or written decision.
- D. The student, if opposed to the sanction (s) rendered by a council, has the right to reject the sanction and invoke appeal proceedings.
- E. The student has to provide in writing within three (3) working days of the hearing, to the Dean of Students, the basis of the appeal, new evidence, and/or new witnesses. An appeal will not be granted, unless the aforementioned are not evident.
- F. The Dean of Students will decide if an appeal is warranted, and if so, notify the student and the appropriate council to schedule a date, time and location within three (3) working days of the hearing, and send the case to the appropriate council for an appeal hearing.
- G. If an appeal hearing is granted, and the appellate council makes the recommendation to the Dean of Students, the student has the right to submit his/her case to the President of the college. The President will then advise the Dean of Students of a recommendation to be carried out regarding the case or correspond with the student (s) directly.
- H. If the student is still not satisfied with the decision, the student has the right to submit their case to the Office of the Chancellor for the Alabama Community College System (please see ACCS Policy on the Student Services web page).
- I. In cases where the student (s) has been adjudicated/pending cases in the courts of counties, state, or federal entities, and also involved in a breach of Trenholm State Community College's code of conduct, the student's (s) case outside of the college will determine the fate of the student's (s) matriculation at Trenholm State Community College. The college will continue its case involving the student (s) after the external case against him/her is settled, and said student (s) might be suspended until that time.

Note: In cases in which the Dean of Students constitutes an emergency, Due Process proceedings will be foregone temporarily, and the student (s) will be removed from all premises of Trenholm State Community College until order is restored. Infractions of the college's rules, regulations, and sanctions consisting of fines, reprimands, probation, and work assignments will not become a part of a student's permanent record.

RIGHTS OF VICTIMS

In a judicial hearing, both the accused student and the victim have rights.

The rights of the victim are listed below:

- To choose whether to charge the student with a violation of the law. The victim may also formally charge him/her with a violation of the *Student or Collegiate Code of Conduct*, resulting in an informal hearing with a judicial council or formal hearing before the appropriate Student Services Disciplinary Council.
- To have a person(s) of their choice accompany them throughout the judicial process.
- To submit a victim impact statement to the hearing officer of the Student Life Disciplinary Council prior to a penalty being imposed.
- To have past unrelated behavior excluded from the hearing.
- To be informed of the results of disciplinary hearing, in compliance with the *Campus Police* and *Student Right to Know Act* with the permission of the Dean of Students.
- To have adjustments made in residence hall living arrangements if necessary. Trenholm State Community College has an obligation to protect members of the college community from physical harm or from a student whose continued presence on campus presents a clear and present danger to themselves or others. Notwithstanding the victim's right to bring charges, the college reserves the right to investigate and take appropriate action against a student accused of a violent physical or verbal assault.

RESPONSIBILITY OF THE ACCUSED STUDENT

- A student accused of alleged violations of the *Student or Collegiate Codes of Conduct* is notified to appear in the Office of Judicial Affairs for an informal hearing (conference) with the Dean of Students or notification is given in reference to a specific date and time to appear before the appropriate committee for a formal hearing.

- If the student accepts responsibility for the violation, he/she may request to waive all further hearings and accept the decision of the Judicial Officer (Dean of Students/designee) as final and binding for all purposes.
- The student may request that his/her case be heard by the appropriate council. In the event that the request is approved for a formal hearing, the Dean of Students will conduct a hearing to determine responsibility if the student denies the charges, and /or impose a penalty when responsibility is determined. The option to have a case heard by a council is not available during holidays, between semesters, or when a council is not available to meet.
- The student may request that the Dean of Students to adjudicate his/her case. The Dean of Students will conduct a hearing to determine responsibility if a student denies the charge(s), and/or to impose a sanction when responsibility is determined.

RIGHTS OF THE ACCUSED STUDENT VIOLATOR

When a student is charged with violation of the *Student or Collegiate Codes of Conduct*, disposition of the student's case shall be according to constitutional requirements of due process and in keeping with the judicial procedures outlined below.

Students charged with violations of the Trenholm State Community College *Student or Collegiate Codes of Conduct* are entitled to:

- A. Be presented a written specification of charges.
- B. Have a fair and impartial hearing.
- C. Know the nature of the evidence against them and names of witnesses scheduled to appear at the time of the hearing.
- D. Present evidence and witnesses in their behalf
- E. Be accompanied at a hearing by an advisor of their choice. When a student is accused of violating the *Student or Collegiate Codes of Conduct* and criminal charges are pending against the student, an attorney may be present. If a student does not have present criminal charges pending, however, an attorney will not be allowed to be present during any disciplinary proceedings. When an attorney is present, his/her role is limited and passive. The attorney cannot actively participate in the hearing or ask questions of the

witnesses or judicial council members. The attorney's role is to advise the student regarding self-incrimination and to observe the proceedings.

- F. Be present at the hearing during the presentation of any evidence or material on which a decision will be made. If the student fails to attend the hearing, it will be held in the student's absence. Failure to appear after proper notification may result in suspension from the college.
- G. Refuse to answer questions.
- H. Ask questions of witnesses through the hearing officer only.
- I. Have a decision based on evidence presented and the vote of the committee.
- J. Be presented a written notice of results of the hearing.
- K. A Student Advisor. Students who are alleged to have violated the Trenholm State Community College *Student or Collegiate Codes of Conduct* can request assistance in the identification of an advisor by contacting the Office of the Dean of Students. Students may seek advice from an individual chosen by the student. Advisors may aid the accused student in the following ways:
 - Develop a fair and logical defense.
 - Inform the accused student on hearing procedures.
 - Be present at the hearing. Space will be made available for the advisor to sit with the accused.
 - Advise the accused during the hearing at the appropriate time only and on appropriate matters relating to the hearing. The advisor is not allowed to speak during the hearing proceedings, and may not conduct the defense of in any way actively participate in the hearing.
- L. Request an appeal of a decision of suspension or exclusion from the college, according to established guidelines.

JUDICIAL SANCTIONS

TERMS AND DEFINITIONS

ADMONISHMENT. A warning to the student to refrain from any and all actions that may result in disciplinary action. No sanctions are given, unless the student violates the Trenholm State Community College rules and regulations or *Student or Collegiate Codes of Conduct*.

CAMPUS-COMMUNITY SERVICE-A sanction imposed upon a student as a result of a violation of the *Student or Collegiate Codes of Conduct*. Service is provided by the student to a specific on-campus area or department of the college for a specific amount of hours as imposed by the judicial body. Monetary compensation is not provided. A service contract is to be signed detailing the tenets of the service to completed. *NOTE:* Failure to complete required campus service will result in the student being placed on a disciplinary hold, fine, or suspension from the college.

EXONERATE. To clear the accused of any and all blame, with all charges being dismissed or dropped.

FINE. A monetary payment imposed as punishment for an offense. Payment must be made to the college for violations of the *Student or Collegiate Codes of Conduct*. *NOTE:* A disciplinary fine may range from \$25.00 (twenty-five dollars) to \$500.00 (five hundred dollars), depending upon the severity of the offense(s).

PROBATION. A specified amount of time, involving restrictions, after which college authorities will determine if the student's behavior has improved. During this time period, the student may receive additional disciplinary measures resulting in suspension, if he/she is involved in violations of any type of the college *Student or Collegiate Codes of Conduct* and /or the breaking of any laws. The types of probation are *Regular* and *Indefinite*. *NOTE:* Probationary statuses range from one (1) semester through graduation. A violation of a probationary status may result in the student being immediately suspended from the college.

LOSS OF PRIVILEGES. A student who receives a judicial sanction will be notified in writing of the specific privilege(s), which he/she has lost. The privileges may include removal/eviction from on-campus facilities, events, sporting, activities, and restrictions from affiliation and or representing the college.

The written notification shall include the time period for which the student has lost certain privileges.

PRE-HEARING SUSPENSION. The Dean of Students or designee may suspend students from the college pending a scheduled judicial hearing, given the severity of the infraction.

RESEARCH ASSIGNMENTS. Based on the nature of the offense, students may be required to complete a research assignment as a part of the service agreement on a topic related to the offense committed. The research assignment must be typed, completed and submitted by the deadline specified. It must be thorough, comprehensive, and scholarly. The completed project must also conform to other specifications that may be given by the Dean of Students or judicial body. *NOTE:* Failure to comply with the terms of this sanction will result in a fine or temporary suspension from the college until all matters are agreed upon by the student and the appropriate official or all requirements have been completed.

RESTITUTION. Compensation, reimbursement of, or a required replacement of a loss, injury, or property (personal or private) by the student in violation. Restitution must be made within a specified time period. Failure to pay full restitution to the appropriate party will result in the student being placed on disciplinary hold and /or suspension. *NOTE:* Restitution is due in full, prior to or within the 30th day from official notification to the offender, unless otherwise approved by a judicial administrator.

SUSPENSION. Dismissal from the college for a specific period of time following severe acts of violation of the *Student or Collegiate Codes of Conduct* or violation of a present probationary status. Suspensions are recorded on the student's permanent record. Students suspended from the college are required to return their student identification card and room keys and may not return to campus for the duration of their suspension, except to conduct official business with an administrative officer or faculty member, and then only with prior permission of the Dean of Students/designee. If a student returns to the campus without permission during the period of suspension, his or her eligibility to return to Trenholm State Community College will be threatened and he/she will be subject to arrest. During the period of suspension, the student is not eligible or entitled to receive any college services. His or her name is deleted from the roster of enrolled students and from the faculty class roll. The student will not get credit for course assignment, papers, projects, make-up work, or other course-related work during the period of

suspension. During the period of suspension, therefore, the student's relationship with the college is terminated, and he or she is, in fact *persona non-gratis*. If a student is suspended from the college, a letter will be sent to his or her parents and the registrar, financial aid personnel, and fiscal affairs will be notified to administratively withdraw the student. Following a fully served suspension period, a student who wishes to re-enter the college must make a written request to be re-admitted to the college. The student must present a typed letter to the Dean of Students no later than (30) days prior to the beginning of the semester for which he/she is asking to be allowed to return (e.g. letter must be received 30 days before the fall semester is to begin if this is the semester the student wishes to return to the college.)

The Dean of Students will review the file of the student and determine the student's eligibility to return to the college following a suspension period. Regardless of the fact that a student has served the specified amount of a suspension period, it is left to the Dean of Students' discretion whether to allow re-admittance. The types of suspension are as follows: *Suspension; Interim Suspension; Indefinite Suspension; Expulsion*. They are defined below:

- A) *Suspension*. Suspension period begins with an existing semester and continues through that semester or a portion of that semester; however, suspension may become effective at the beginning of a specified semester (usually the following semester) and continue through that semester and future ones.

All students and student organizations returning to "active" status at Trenholm State Community College following a disciplinary suspension will be placed on mandatory "Probationary Status" for up to one calendar year. Any violations of the probationary status within this time period may result in an additional suspension effective immediately and continuing throughout the time period

recommended by the appropriate judicial council.

- B) *Interim Suspension*. Suspension that is immediately sanctioned when charges are alleged. The suspension will remain in effect until the disciplinary hearing is held or the student has completed requirements of the sanction imposed. Suspensions of this type are usually temporary; however, if the student is found guilty of the violation(s), or fails to satisfy the requirements of the sanction imposed, the interim suspension may be changed to another sanction, including suspension or expulsion.

C) *Indefinite Suspension*. Dismissal or Suspension from the college to be served for a period of not less than (1) one year.

D) *Expulsion*. Permanent separation from the college. Expulsion is the most severe sanction that can be imposed upon a student for a violation. The student who receives a sanction of expulsion is not eligible to apply for readmission to the college and will not be allowed on the main campus or off-site campus for any reason. When a student is expelled from the college, the student's relationship with the college is permanently severed, unless criminal acts and/or restitution is pending and the student is *persona non-gratis*. The student (s) should understand that an arrest will be warranted if to be found on the premises of Trenholm State Community College.

SPECIAL NOTATION TO STUDENTS

Each violation of the Trenholm State Community College *Student or Collegiate Codes of Conduct* is treated separately from any other case. Disciplinary sanctions will vary accordingly, depending upon the severity of each offense. All sanctions will be determined on an individual basis; however, all mitigating circumstances are reviewed and taken into consideration by the appropriate Judicial Council, the Dean of Students or designee. Therefore, students may or may not receive similar sanctions for offenses of the same or similar nature.

If, after exhausting all available institutional processes, a student's complaint remains unresolved, the student may appeal to the Alabama Community College System. Information regarding student complaints to the Alabama Community College System can be found at: <https://www.accs.cc/index.cfm/contact/>.

EMPLOYEE PROCEDURE

1. Any employee who claims a grievance (or who is reporting an observed grievance) must file a written statement within a reasonable time from the date of the alleged incident.
2. Any employee must file the written statement with his/her direct supervisor, unless the direct supervisor is the alleged offender. In such cases, the employee must file the statement with the next supervisor in line. The supervisor (or other person receiving a written grievance) will notify the Title IX Coordinator, HR personnel, and/or President as appropriate.
3. The supervisor, or other person appointed to address the grievance, must review the written

statement and conduct an investigation of the claims within 30 days or as otherwise agreed. The supervisor must then make a written report of findings/decision and provide to the employee within 45 days of receipt grievance. The employee must, within 10 calendar days of the written report, provide specific written objections to the report of findings/decision to the supervisor, which will be considered a request for appeal. Failure to timely provide the specific written objections is a waiver of the employee's right to appeal the supervisor's findings/decision.

4. All appeals will be sent to the President or his/her designee, and the President or his/her designee will convene a three person grievance committee to hear the appeal within 30 calendar days. The President or his/her designee will appoint one person to sit on the grievance committee, and the President will allow both the aggrieved and accused to select an employee of the College to sit on the grievance committee (excluding the President and his/her designee). Should the aggrieved or accused fail to select a member of the grievance committee in the time period required by the President or his/her designee or the selected employee does not agree to participate as a member of the grievance committee in the time required by the President or his/her designee, then the President or his/her designee will select the grievance committee member.
5. The grievance committee will hold a hearing and allow the aggrieved employee to present the grievance and the accused will have an opportunity to respond within 45 days of the appeal. The grievance committee will also have access to the original grievance, report of the supervisor, and appeal notice by the employee. The grievance committee will provide its findings and decision following the hearing in a timely manner. Either party will have 10 calendar days from receipt to file a written appeal to the grievance committee decision. If timely appealed, the President will issue a final decision based on the original grievance, report of the supervisor, appeal notice by the employee, and grievance committee decision.

If the last day for filing notice of appeal falls on either Saturday, Sunday, or a legal holiday, aggrieved will have until 5:00 p.m. the first working day following the 10th calendar day to file.

Sexual Violence Consideration and Rights

Consideration and rights to be afforded to all campus community members who are victims of sexual

assault:

1. The right to have all sexual assaults against them treated with seriousness and the right to be treated with dignity.
2. The right to have sexual assaults committed against them investigated and adjudicated by the duly constituted criminal and civil authorities of the governmental entity in which the crimes occurs and the right to the full and prompt cooperation and assistance of campus personnel notifying the proper authorities.
3. The right to be free from pressure that would suggest that the victim not report crimes committed against them to civil and criminal authorities or to campus law enforcement and disciplinary officials or to report crimes as lesser offenses than the victim perceives them to be.
4. The right to be free from suggestions that sexual assault victims not report or under-report crimes because:
 - a. victims are somehow “responsible” for the commission of crimes against them;
 - b. victims were contributorily negligent or assumed the risk of being assaulted or
 - c. by reporting crimes they would incur unwanted personal publicity.
5. The right to the full and prompt cooperation from campus personnel in responding to the incident.

Consideration and additional rights will be afforded to campus community members who are victims of sexual assaults which occur on College property. After campus sexual assaults have been reported, the victims of such crimes shall have:

- a. the right to require that campus personnel take the necessary steps or actions reasonably feasible to prevent unwanted contact or proximity with alleged assailants; including changes to academic and working situations if requested and reasonably available, whether or not a formal report is made.
- b. the right to be informed of the disciplinary proceedings as well as the outcome of such proceedings and
- c. the same right to assistance or ability to have others present which is afforded to the accused during any campus disciplinary proceedings.
- d. the right to the same appeal process which is afforded to the accused.

Retaliation

The College takes steps to ensure that students are safe and not subject to further harassment or retaliation. Retaliation is any adverse action taken against a person because of that person's participation in protected activity. The College strictly prohibits retaliation against any person for making a good faith report or for filing, testifying, assisting, or participating in any investigation or proceeding involving allegations of discrimination. A student found responsible for retaliation will be sanctioned as outlined in the *Student Code of Conduct*.

Confidentiality

Trenholm State Community College will protect the confidentiality of victims of sexual assault, including the protection of any identifiable information of victims in records that may be accessed by the public, to the extent permissible by federal and state laws. To the extent possible, the College will make every effort to maintain the privacy of all parties involved in alleged sexual offenses, relationship violence, harassment, and stalking incidences. However, the identity of the complainant is usually revealed to the person(s) accused of such conduct and any witnesses with consent of the complainant. Privacy, however, cannot be guaranteed in some incidences due to the responsibility to the overall campus safety.

Mandated Reporter (Trenholm State Employees)

A Mandated Reporter is any employee of the College who becomes aware of an act of sexual harassment (including sexual misconduct) or behavior which could be characterized as sexual harassment, when perpetrated against a faculty, staff, student or visitor of the College.

Exceptions

Employees with a legal obligation or privilege of confidentiality (including health care providers, counselors, lawyers, and their associated staff) are not considered Mandated Reporters and are not required to report when the information is learned in the course of a confidential communication.

This also means that the employee seeking the exemption is employed by the College for that specific purpose and was acting in that capacity when the confidential disclosure was made. If the information is not learned in the course of confidential communication (i.e., behavior is observed in class) then the employee has the same obligation as a Mandated Reporter.

Required Training

Federal regulations require all employees to be trained on institution Title IX policies and procedures. New employee orientation should include Title IX information. All employees are

required to complete annual training on Title IX policy and responsibilities as a mandated reporter. Employees should successfully complete Title IX trainings by October 1 each year. Human Resources is responsible for facilitating and monitoring Title IX training for employees.

In response to an incident, Mandated Reporters should:

- Assess safety and need for emergency response.
- In emergency situations, where a person's health or safety is in immediate danger, please call 911.
- Explain that you are not a confidential contact.
- You are required to report information you obtain about an incident. All conversations should be considered private, but you cannot guarantee confidentiality to someone. Those mandated are required to report any sexual harassment to the Title IX coordinator.

- If a person begins talking about an incident with no warning:
 - Interrupt immediately (but nicely) and inform the person that the conversation cannot be considered confidential.
 - Assure him/her that you want to be supportive, but if he or she does not want the incident to potentially be reported then they should make an appointment with a confidential provider.
 - Advise the person to call 911 or seek help from law enforcement if he or she is in immediate danger or, if needed, advise them to seek emergency medical and mental health assistance.

- Be an empathetic listener.
 - Use active listening skills.
 - Listen without judgment.
 - Be open in your posture.
 - Let the individual lead the conversation.

- Provide resources & referrals such as those listed in this policy.

Submit a report

Even if someone does not want to participate in an investigation of the incident, Mandated Reporters are still required to report the incident. Reports involving students may be emailed to the Title IX Coordinator, Dr. Gregory Hudson at ghudson@trenholmstate.edu or call at (334) 420-4332 or in

building F on the Trenholm Campus. Other reports may be submitted to the Director of Human Resources, Pamalon Rollins at prollins@trenholmstate.edu or (334) 420-4253 or in the A/B Administration Building on the Trenholm campus.

A report does not necessarily lead to a full investigation. However, the College will make a safety assessment to determine if the respondent or the respondent's actions present a safety risk to the community or any of its members. If it is likely that there is continuing risk as a result of the incident, then College may have to proceed with an investigation even without the injured party's consent.

Even if an incident occurs off campus, you may still be required to report it. The College has an obligation to address the resulting or continuing effects of off-campus harassment that interferes with a student's educational rights or an employee's employment rights.

Prevention, Education and Awareness

Trenholm State Community College undertakes various prevention activities in an effort to create a safe, secure, and hostile free environment that is conducive to the educational and personal developmental needs of students. The College encourages students and employees to be responsible for their own security and the security of others.

A sexual harassment educational program may consist of seminars, workshops, videos, and/or printed materials. The educational elements of this policy seek to achieve the following goals through dissemination of this policy and providing a training program by: (1) ensuring that all administrators, faculty, students, and all employees are made aware of their rights concerning sexual misconduct; (2) notifying individuals of conduct that is prohibited; (3) informing administrators and supervisors about the proper procedures in addressing complaints.

Alabama Criminal Code Definitions for Select Offenses Related to Sexual Assault, Domestic Violence, & Stalking, and Lack of Consent:

Some Sexual Assault-Related Offenses:

Section 13A-6-61. Rape in the first degree.

(a) A person commits the crime of rape in the first degree if: (1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being

physically helpless or mentally incapacitated; or (3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old. (b) Rape in the first degree is a Class A felony.

Section 13A-6-62. Rape in the second degree.

(a) A person commits the crime of rape in the second degree if: (1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex. (2) He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective. (b) Rape in the second degree is a Class B felony.

Section 13A-6-63. Sodomy in the first degree.

(a) A person commits the crime of sodomy in the first degree if: (1) He engages in deviate sexual intercourse with another person by forcible compulsion; or (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or (3) He, being 16 years old or older, engages in deviate sexual intercourse with a person who is less than 12 years old. (b) Sodomy in the first degree is a Class A felony.

Section 13A-6-64. Sodomy in the second degree.

(a) A person commits the crime of sodomy in the second degree if: (1) He, being 16 years old or older, engages in deviate sexual intercourse with another person less than 16 and more than 12 years old. (2) He engages in deviate sexual intercourse with a person who is incapable of consent by reason of being mentally defective. (b) Sodomy in the second degree is a Class B felony.

§ 13A-6-65.1. Sexual torture.

(a) A person commits the crime of sexual torture: (1) By penetrating the vagina or anus or mouth of another person with an inanimate object by forcible compulsion with the intent to sexually torture or to sexually abuse. (2) By penetrating the vagina or anus or mouth of a person who is incapable of consent by reason of physical helplessness or mental incapacity with an inanimate object, with the intent to sexually torture or to sexually abuse. (3) By penetrating the vagina or anus or mouth of a person who is less than 12 years old with an inanimate object, by a person who is 16 years old or

older with the intent to sexually torture or to sexually abuse. (b) The crime of sexual torture is a Class A felony.

Section 13A-6-66. Sexual abuse in the first degree.

(a) A person commits the crime of sexual abuse in the first degree if: (1) He subjects another person to sexual contact by forcible compulsion; or (2) He subjects another person to sexual contact who is incapable of consent by reason of being physically helpless or mentally incapacitated. (b) Sexual abuse in the first degree is a Class C felony.

Section 13A-6-67. Sexual abuse in the second degree.

(a) A person commits the crime of sexual abuse in the second degree if: (1) He subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old; or (2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.

(b) Sexual abuse in second degree is a Class A misdemeanor, except that if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony.

Section 13A-6-68. Indecent exposure.

(a) A person commits the crime of indecent exposure if, with intent to arouse or gratify sexual desire of himself or of any person other than his spouse, he exposes his genitals under circumstances in which he knows his conduct is likely to cause affront or alarm in any public place or on the private premises of another or so near thereto as to be seen from such private premises. (b) Indecent exposure is a Class A misdemeanor except a third or subsequent conviction shall be a Class C felony.

Section 13A-6-69. Enticing child to enter vehicle, house for immoral purposes.

(a) It shall be unlawful for any person with lascivious intent to entice, allure, persuade, or invite, or attempt to entice, allure, persuade, or invite, any child under 16 years of age to enter any vehicle, room, house, office, or other place for the purpose of proposing to such child the performance of an act of sexual intercourse or an act which constitutes the offense of sodomy or for the purpose of proposing the fondling or feeling of the sexual or genital parts of such child or the breast of such

child, or for the purpose of committing an aggravated assault on such child, or for the purpose of proposing that such child fondle or feel the sexual or genital parts of such person. (b) A violation of this section is a Class C felony.

Section 13A-6-69.1. Sexual abuse of a child less than 12 years old.

- (a) A person commits the crime of sexual abuse of a child less than 12 years old if he or she, being 16 years old or older, subjects another person who is less than 12 years old to sexual contact. (b) Sexual abuse of a child less than 12 years old is a Class B felony.

Section 13A-6-70. Lack of consent.

- (a) Whether or not specifically stated, it is an element of every offense defined in this article, with the exception of subdivision (a)(3) of Section 13A-6-65, that the sexual act was committed without consent of the victim. (b) Lack of consent results from: (1) Forcible compulsion; or (2) Incapacity to consent; or (3) If the offense charged is sexual abuse, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct. (c) A person is deemed incapable of consent if he is: (1) Less than 16 years old; or (2) Mentally defective; or (3) Mentally incapacitated; or (4) Physically helpless.

Section § 13A-6-81. School employee engaging in a sex act or deviant sexual intercourse with a student under the age of 19 years.

- (a) A person commits the crime of a school employee engaging in a sex act or deviant sexual intercourse with a student under the age of 19 years if he or she is a school employee and engages in a sex act or deviant sexual intercourse with a student, regardless of whether the student is male or female. Consent is not a defense to a charge under this section. (b) As used in this section, sex act means sexual intercourse with any penetration, however slight; emission is not required. (c) As used in this section, deviant sexual intercourse means any act of sexual gratification between persons not married to each other involving the sex organs of one person and the mouth or anus of another. (d) The crime of a school employee engaging in a sex act or deviant sexual intercourse with a student is a Class B felony.

Section § 13A-6-82. School employee having sexual contact with a student under the age of

19 years.

(a) A person commits the crime of a school employee having sexual contact with a student under the age of 19 years if he or she is a school employee and engaging in sexual contact with a student, regardless of whether the student is male or female. Consent is not a defense to a charge under this section. (b) As used in this section, sexual contact means any touching of the sexual or other intimate parts of a student, done for the purpose of gratifying the sexual desire of either party. The term includes soliciting or harassing a student to perform a sex act. (c) The crime of a school employee having sexual contact with a student is a Class A misdemeanor.