



# Sexual and Gender-Based Harassment Policy

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## **Policy Statement**

Blake Austin College is committed to maintaining a safe and healthy educational and work environment in which no member of the College community is, on the basis of sex, sexual orientation, or gender identity, excluded from participation in, denied the benefits of, or subjected to discrimination in any College program or activity. Gender-based and sexual harassment, including sexual violence, are forms of sex discrimination in that they deny or limit an individual's ability to participate in or benefit from College programs or activities.

This Policy is designed to ensure a safe and non-discriminatory educational and work environment and to meet legal requirements, including: Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in the College's programs or activities; relevant sections of the Violence Against Women Reauthorization Act; Title VII of the Civil Rights Act of 1964, which prohibits discrimination on the basis of sex in employment; and California laws that prohibit discrimination on the basis of sex, sexual orientation, and gender identity. It does not preclude application or enforcement of other College or School policies.

It is the policy of the College to provide educational, preventative and training programs regarding sexual or gender-based harassment; to encourage reporting of incidents; to prevent incidents of sexual and gender-based harassment from denying or limiting an individual's ability to participate in or benefit from the College's programs; to make available timely services for those who have been affected by discrimination; and to provide prompt and equitable methods of investigation and resolution to stop discrimination, remedy any harm, and prevent its recurrence. Violations of this Policy may result in the imposition of sanctions up to, and including, termination, dismissal, or expulsion, as determined by the appropriate officials at the College.

Retaliation against an individual for raising an allegation of sexual or gender-based harassment, for cooperating in an investigation of such a complaint, or for opposing discriminatory practices is prohibited. Submitting a complaint that is not in good faith or providing false or misleading information in any investigation of complaints is also prohibited.

Nothing in this Policy shall be construed to abridge academic freedom and inquiry, principles of free speech, or the College's educational mission.

## **Definitions**

### **Sexual Harassment**

Sexual harassment is unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, graphic, or physical conduct of a sexual nature, when: (1) submission to or rejection of such conduct is made either explicitly or implicitly a condition of an individual's employment or academic standing or is used as the basis for employment decisions or for academic evaluation, grades, or advancement (quid pro quo); or (2) such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from the College's education or work programs or activities (hostile environment).

Quid pro quo sexual harassment can occur whether a person resists and suffers the threatened harm, or the

person submits and avoids the threatened harm. Both situations could constitute discrimination on the basis of sex.

A hostile environment can be created by persistent or pervasive conduct or by a single severe episode. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment. Sexual violence, including rape, sexual assault, and domestic and dating violence, is a form of sexual harassment. In addition, the following conduct may violate this Policy:

- Observing, photographing, videotaping, or making other visual or auditory records of sexual activity or nudity, where there is a reasonable expectation of privacy, without the knowledge and consent of all parties
- Sharing visual or auditory records of sexual activity or nudity without the knowledge and consent of all recorded parties and recipient(s)
- Sexual advances, whether or not they involve physical touching
- Commenting about or inappropriately touching an individual's body
- Requests for sexual favors in exchange for actual or promised job benefits, such as favorable reviews, salary increases, promotions, increased benefits, or continued employment
- Lewd or sexually suggestive comments, jokes, innuendoes, or gestures
- Stalking

Other verbal, nonverbal, graphic, or physical conduct may create a hostile environment if the conduct is sufficiently persistent, pervasive, or severe so as to deny a person equal access to the College's programs or activities. Whether the conduct creates a hostile environment may depend on a variety of factors, including: the degree to which the conduct affected one or more person's education or employment; the type, frequency, and duration of the conduct; the relationship between the parties; the number of people involved; and the context in which the conduct occurred.

### **Unwelcome Conduct**

Conduct is unwelcome if a person (1) did not request or invite it and (2) regarded the unrequested or uninvited conduct as undesirable or offensive. That a person welcomes some sexual contact does not necessarily mean that person welcomes other sexual contact. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion.

Whether conduct is unwelcome is determined based on the totality of the circumstances, including various objective and subjective factors. The following types of information may be helpful in making that determination: statements by any witnesses to the alleged incident; information about the relative credibility of the parties and witnesses; the detail and consistency of each person's account; the absence of corroborating information where it should logically exist; information that the Respondent has been found to have harassed others; information that the Complainant has been found to have made false allegations against others; information about the Complainant's reaction or behavior after the alleged incident; and information about any actions the parties took immediately following the incident, including reporting the matter to others.

In addition, when a person is so impaired or incapacitated as to be incapable of requesting or inviting the conduct, conduct of a sexual nature is deemed unwelcome, provided that the Respondent knew or reasonably should have known of the person's impairment or incapacity. The person may be impaired or incapacitated

as a result of drugs or alcohol or for some other reason, such as sleep or unconsciousness. A Respondent's impairment at the time of the incident as a result of drugs or alcohol does not, however, diminish the Respondent's responsibility for sexual or gender-based harassment under this Policy.

## **Gender-Based Harassment**

Gender-based harassment is verbal, nonverbal, graphic, or physical aggression, intimidation, or hostile conduct based on sex, sex-stereotyping, sexual orientation or gender identity, but not involving conduct of a sexual nature, when such conduct is sufficiently severe, persistent, or pervasive that it interferes with or limits a person's ability to participate in or benefit from the College's education or work programs or activities. For example, persistent disparagement of a person based on a perceived lack of stereotypical masculinity or femininity or exclusion from an activity based on sexual orientation or gender identity also may violate this Policy.

## **Jurisdiction**

This Policy applies to sexual or gender-based harassment that is committed by students, faculty, staff, Blake Austin College appointees, or third parties, whenever the misconduct occurs:

1. On Blake Austin College property; or
2. Off Blake Austin College property, if:
  - a. the conduct was in connection with a College or College-recognized program or activity; or
  - b. the conduct may have the effect of creating a hostile environment for a member of the College community.

## **Monitoring and Confidentiality**

A variety of resources are available at the College and in the area to assist those who have experienced gender-based or sexual harassment, including sexual violence.

Individuals considering making a disclosure to College resources should make sure they have informed expectations concerning privacy and confidentiality. The College is committed to providing all possible assistance in understanding these issues and helping individuals to make an informed decision.

It is important to understand that, while the College will treat information it has received with appropriate sensitivity, College personnel may nonetheless need to share certain information with those at the College responsible for stopping or preventing sexual or gender-based harassment. For example, College officers, other than those who are prohibited from reporting because of a legal confidentiality obligation or prohibition against reporting, must promptly notify a Title IX Coordinator about possible sexual or gender-based harassment, regardless of whether a complaint is filed. Such reporting is necessary for various reasons, including to ensure that persons possibly subjected to such conduct receive appropriate services and information; that the College can track incidents and identify patterns; and that, where appropriate, the College can take steps to protect the Blake Austin College community. This reporting by College officers will not necessarily result in a complaint; rather, a Title IX Coordinator, in consultation with the Title IX Officer, will assess the information and determine what action, if any, will be taken. Information will be disclosed in this manner only to those at the College who, in the judgment of the Title IX Officer or Title

IX Coordinators, have a need to know.

Should individuals desire to discuss an incident or other information only with persons who are subject to a legal confidentiality obligation or prohibition against reporting, they should ask College officers for information about such resources, which are available both at the College and elsewhere. College officers are available to discuss these other resources and to assist individuals in making an informed decision.

### **Violations of other Rules**

The College encourages the reporting of all concerns regarding sexual or gender-based harassment. Sometimes individuals are hesitant to report instances of sexual or gender-based harassment because they fear they may be charged with other policy violations, such as underage alcohol consumption.

Because the College has a paramount interest in protecting the well-being of its community and remedying sexual or gender-based harassment, other policy violations will be considered, if necessary, separately from allegations under this Policy.

**College Title IX Officer:**

Elizabeth Blake, Assistant Campus Director, [Elizabeth@blakeaustincollege.edu](mailto:Elizabeth@blakeaustincollege.edu)

**College Title IX Coordinator:**

DeDe Castleman, HR/Business Office Manager, [DeDe@blakeaustincollege.edu](mailto:DeDe@blakeaustincollege.edu)

**Outside Agencies:**

U.S. Department of Education, Office for Civil Rights (OCR)

U.S. Equal Employment Opportunity Commission (EEOC)

<http://www.cdc.gov/violenceprevention/sexualviolence/prevention.html>

<http://www.nsvrc.org/publications/child-sexual-abuse-prevention-information-packet> <http://www.jrsa.org/dvsa-drc/contacts.shtml#state>

<http://www.jrsa.org/dvsa-drc/national-summary.shtml>

<http://www.nsvrc.org/organizations/sexual-violence-specific-organization>

<http://clerycenter.org/referrals-sexual-assault-and-rape-5state>





## **Confirmation of Receipt of Sexual & Gender-Based Harassment Policy**

I have received my copy of Blake Austin College's Sexual & Gender-Based Harassment Policy. I understand and agree that it is my responsibility to read and familiarize myself with this policy. I understand that BAC is committed to providing a work environment that is free from harassment. My signature certifies that I understand that I must conform to and abide by the rules and requirements described in this policy.

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Employee Signature

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Date

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Print Employee Name