



NUMBER: 339

SUBJECT: SEXUAL HARASSMENT

EFFECTIVE DATE: AUGUST 15, 2005

EFFECTIVE DATE OF LAST REVISION: JANUARY 24, 2011

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339.1 — POLICY

In accordance with the Equal Employment Opportunity Commission's (EEOC's) regulations and amended guidelines of November 1980, Bridgerland Applied Technology College (BATC) has an established policy to address sexual harassment in the workplace and classroom setting. Sexual harassment is a violation of Section 703 of Title VII of the Civil Rights Act of 1964, which holds employers responsible for seeing that this type of behavior does not occur. Title IX prohibits sexual harassment in an educational institution.

Sexual harassment of any employee, student, or recipient of the services of BATC is absolutely forbidden. Anyone who feels that he or she is the victim of sexual harassment or any supervisor or manager who is made aware of an alleged incident of sexual harassment must take immediate action to resolve the matter. Any individual may contact BATC's administration (Campus President, any Vice President, any department head, and/or Payroll/Controller's Office) for advice, counseling, or clarification leading to an informal resolution of the matter. If an informal resolution is not accomplished or is not possible, further action, including the filing of a complaint and undertaking a formal inquiry/investigation, may be taken to facilitate a resolution pursuant to this policy following the procedures outlined in Section 300.305 of the Policy Manual.

For questions regarding workplace harassment, please review Section 300.321, Employee Rights, of the Policy Manual.

339.2 — DEFINITION

339.2.1 — Sexual Harassment

339.2.1.1 — Sexual harassment is defined under the EEOC guidelines to Title VII as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- (a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or a student's academic success;
- (b) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individuals; or
- (c) such conduct unreasonably interferes with an individual's work or academic performance or creates an intimidating, hostile, or offensive working or learning environment.

339.2.1.2 — Bridgerland Applied Technology College further defines sexual harassment as conduct that may include, but is not limited to, the following:

- (a) Unwelcome sexual advances.
- (b) Requests for sexual favors, whether or not accompanied by promises or threats with regard to the employment relationship.
- (c) Other verbal or physical conduct of a sexual nature made to any employee or student that may threaten or insinuate, either explicitly or implicitly, that an employee's or student's submission to or rejection of the sexual advances will in any way influence any personal decision regarding that person's employment, evaluation, wages, advancement, assignment, duties, shifts, or any other condition of employment or any condition of a student's academic performance.



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- (d) Any verbal or physical conduct of a sexual nature that has the purpose or effect of substantially interfering with the employee's ability to do his or her job.
- (e) Any verbal or physical conduct that has the purpose or effect of creating an intimidating, hostile, or offensive working or learning environment.
- (f) Dating relationships between adult (over 21) employees or students and employees or student under the age of 18.
- (g) Other sexually harassing conduct committed in the workplace by supervisors or non-supervisory personnel, whether physical or verbal. This conduct may include, but is not limited to:
 - (i) commentary about an individual's body;
 - (ii) the use of sexually degrading words to describe individual;
 - (iii) offensive comments;
 - (iv) off-color language or jokes;
 - (v) innuendos; and
 - (vi) sexually suggestive objects, books, magazines, photographs, cartoons, pictures, or other visual material.

Bridgerland Applied Technology College prohibits any supervisor or person of authority from participating in any conduct prohibited by this policy in the work environment.

339.3 — PROCEDURES

339.3.1 — Awareness and Prevention

In order to promote appropriate social interaction between men and women in the workplace and in the classroom, efforts will be made to sensitize employees and students to the nature of sexual harassment, including the range of behaviors associated with it, and BATC's policy and procedures regarding it.

Toward this goal, this policy is available to all faculty, staff, and students. In addition, the Risk Management Committee will conduct ongoing training in the prevention of sexual harassment and will provide additional training with specialized focus or to specific groups upon request.

339.3.2 — Filing a Complaint

BATC has established a complaint procedure to handle all types of discrimination complaints, including sexual harassment. Please see Section 300.305 of the Policy Manual for these procedures.

339.3.3 — Investigation of Reported Incidents

The appropriate authority will investigate all reported incidents. BATC intends that the following principles will govern all sexual harassment investigations:

339.3.3.1 — Interviews may be conducted with the parties involved, supervisors, and any other employees or involved parties who may provide helpful information.



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339.3.3.2 — Interviews and all other investigatory activities will be conducted with the utmost discretion and respect for the privacy of all parties. The appropriate authority will attempt to maintain confidentiality throughout the investigation (refer to Section 300.305 of the Policy Manual).

339.3.4 — Retaliation

An individual who has been named as an alleged offender may not retaliate in any way against either the complainant or witnesses involved in investigations. Retaliation is strictly forbidden by the Equal Employment Opportunity Commission Sexual Harassment guidelines under Title VII.

339.3.5 — Disciplinary Actions

If the investigation shows that an employee has engaged in prohibited or unlawful harassment or retaliation, appropriate action will be taken (refer to Section 300.311).

339.3.6 — Consensual Relationships

339.3.6.1 — Consensual relationships between a supervisor and an employee, or between a faculty member and a student, are discouraged due to the imbalance of power that exists. The party with lesser authority or power may fear reprisal or retaliation if he or she rejects the amorous or sexual requests. Should a complaint of sexual harassment be filed, the party with the greater authority may not be able to use perceived mutual consent as the sole defense if the relationship is considered "unwelcome" by the party filing the complaint.

339.3.6.2 — Consensual relationships between employees who are on essentially the same level in the organization structure or are in substantially different departments is considered to be between the individuals involved. However, complaints from either party in alleged consensual relationships will still be investigated and all decisions will be based on the facts and circumstances of the particular situation or situations. As such, employees who have mutually decided to pursue a consensual relationship with another BATC employee should maintain the highest level of professionalism and conduct while at work and should maintain adequate personal records so that any future investigation, should one be required, will have sufficient information on which to base a decision.

339.3.6.3 — Consensual relationships between two (2) employees who are in substantially the same department are also considered to be between the individuals involved. However, complaints from either party in alleged consensual relationships will still be investigated and all decisions will be based on the facts and circumstances of the particular situation or situations. It is recommended that employees in this situation have a confidential discussion with their immediate supervisor to notify him or her of their intent to pursue a mutually consensual relationship. The supervisor's role in this discussion is merely to accumulate documentation of the parties' intent to pursue a mutual consensual relationship and not to encourage or discourage the consensual relationship. The supervisor is encouraged to remind the involved employees of their responsibilities to maintain the highest level of professionalism and conduct while at work so that their actions do not interfere with their work duties or negatively affect the other employees in that department or at BATC.

339.3.6.4 — Consensual relationships between an employee and a student are generally discouraged and are strictly forbidden when such a relationship would violate any local, state, or federal law. The intent to pursue a consensual relationship between an employee and an adult student (over the age of 21) should be confidentially discussed with the employee's immediate supervisor. The purpose of this discussion is to verify and document the parties' intent to pursue a mutual consensual relationship and not to encourage or discourage the consensual relationship. The supervisor is encouraged to remind the involved parties of their responsibility to maintain the highest levels of professionalism and conduct while at work so that their actions do not interfere with BATC legitimate business interests.

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If at any time, either party to a potential consensual relationship desires to discontinue the relationship, the employee must immediately respect that desire and must also confidentially inform their respective immediate supervisor of this change. The purpose of this notification is to identify and document the time when the desire to pursue a consensual relationship no longer exists. The supervisor is encouraged to remind the employee of his/her responsibilities to comply with the provisions of the sexual harassment policy.

339.4 — Responsibility

339.4.1 — Campus President, Vice Presidents, Department Heads, and Supervisors

The Campus President, Vice Presidents, department heads, and supervisors are responsible for receiving all complaints and forwarding them to the appropriate authority for investigation.

339.4.2 — Employees

It is the obligation of all BATC employees to guarantee the rights and dignity of other employees and to be responsible for responding to allegations of sexual harassment or perceived sexual harassment according to the guidelines in this policy. If they become aware of situations within their area which violate this policy, they should immediately notify the appropriate authority.

339.4.3 — Individuals Being Subjected to Sexual Harassment or Perceived Sexual Harassment

Individuals who feel they have been subjected to sexual harassment or gender discrimination should do the following in addition to following the complaint procedures outlined in Section 339.3.2 above.

- (a) Continue to report to work.
- (b) Verbalize disapproval of the action to the perpetrator or the perpetrator's supervisor if that would be more comfortable and request that it cease where communicating this to the perpetrator or supervisor would not be uncomfortable or escalate the situation in the opinion of the individual(s) who feel they may have been subject to this harassment. *(The purpose of this step is to provide a mechanism for affected individuals to communicate that conduct from an employee or student is unwanted or offensive. This step is not intended in any way to limit or bypass the investigation process or to be used as a defense for the perpetrator. It is intended to inform employees and students of their right, not their responsibility, to verbalize to the perpetrator or supervisor that a particular behavior or action is creating a hostile work environment.)*
- (c) Document the occurrence. This may include, but is not limited to, notes regarding actions or perceived violations, dates and times, identification of witnesses or potential witnesses, or any other information that may be considered pertinent.

339.4.4 — Records

A separate, protected record of all sexual harassment complaints will be maintained and stored in a BATC Administrative Office or in the possession of an authorized official. Removal or disposal of records in the protected file may only be done with the written approval of the Campus President and only after the minimum timelines specified herein have been met.

- 339.4.4.1** — Records will be kept for a minimum of three (3) years from the resolution of the complaint or investigative proceeding.



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339.4.4.2 — Separate files related to sexual harassment complaints will not be kept by supervisors or other staff.

339.4.4.3 — All information will be classified and protected.

339.4.4.4 — The Utah Government Records Access and Management Act (GRAMA), Section 63-2-304, will be followed.

339.4.4.5 — Only the Campus President, when in compliance with the requirements of the law, will release information contained in the sexual harassment file.

339.4.4.6 — Participants in sexual harassment proceedings will treat all information as confidential and protected.