



Summary of Gender-Based Misconduct, Title IX, & VAWA Policy Document

(Copied from Student Handbook and Annual Security Report)

Introduction

The Campus Sexual Violence Elimination Act (SaVE Act) was passed in March 2013 as part of the Violence Against Women Reauthorization Act (VAWA). The Campus Sexual Violence Elimination Act imposes expanded crime reporting obligations, and even more significant in the long run, it requires institutions to implement specific policies, procedures, and training related to sexual violence and intimate partner violence.

Domestic violence, dating violence and stalking as defined by the Violence Against Women Reauthorization Act of 2013 (VAWA) are prohibited and incidents of such that may occur on campus will be documented in annual crime statistics beginning in 2014.

Southwest Mississippi Community College recognizes the “dignity of the human person” and calls for all members of the Southwest Mississippi Community College community to act in ways that respect that dignity. Sexual behavior of any kind that occurs forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent, is considered to be a sex offense. The college will neither tolerate nor condone any form of sex offense or other sexually abusive behavior on the part of its community members whether physical, mental, or emotional. This includes any actions that are demeaning to others including, but not limited to verbal or written harassment.

Definition of Gender-Based Misconduct

Sexual Harassment

Sexual Assault

Forcible Rape

Forcible rape is the carnal knowledge of a person, forcibly and/or against the person’s will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).

Forcible Sodomy

Forcible sodomy is oral or anal sexual intercourse with another person, forcibly and/or against that person’s will, or not forcibly against the person’s will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault with an Object

Sexual assault with an object is the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will, or not forcibly against the person’s will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Forcible Fondling

Forcible fondling is the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person’s will, or not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Incest

Incest is non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape

Statutory rape is non-forcible sexual intercourse with a person who is under the statutory age of consent.

Dating Violence

Violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

Stalking

A course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

Domestic Violence

Asserted violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

Reporting and Resources

Title IX Coordinator

Questions and complaints may be directed to Dr. Bill Ashley, Vice President for Student Affairs, Title IX Coordinator. You may write to SMCC, 1156 College Drive, Summit, MS 39666, or call 601-276-3717.

Reporting

SMCC encourages prompt and accurate reporting of all crimes, suspected crimes, and other emergencies.

Southwest Mississippi Community College prohibits sexual violence, domestic violence, dating violence, and stalking. SMCC encourages prompt and accurate reporting of all sex crimes, suspected crimes, and other emergencies. Whom to contact: Campus Police 601-551-3838, or 601-551-3837
Appropriate emergency personnel respond quickly to all reports.

Campus security authorities include the following:

1. A campus police department
2. Any individual who has responsibility for campus security but who is not a member of the campus police department
3. Any individual specified in the SMCC Statement of Campus Security Policy as an individual to whom students and employees should report a criminal offense
4. Any individual of SMCC who has significant responsibility for student and campus activities

The following individuals are designated as SMCC campus authorities:

SMCC Campus Police Department

Chief of Police

All Sworn Police Officers

Division of Student Affairs

Vice President for Student Affairs
Office of Student Affairs
Director of Student Activities and Housing
Head Residence Hall Hosts
Assistant Residence Hall Hosts
Office of Financial Aid
Financial Aid Counselors
Office of Academic Counseling
Office of Disability Support Services

Athletic Department

Athletic Director
Head Coaches of Teams
Assistant Coaches of Teams
Athletic Trainer
Assistant Athletic Trainer Physical Plant
Vice President for Physical Resources
Director of Physical Plant
Director of Grounds Keeping
Director of Housekeeping

College

President
Vice President for Admissions / Registrar
Vice President for Academic Affairs
Vice President for Business Affairs
Vice President for Career & Technical Education
Director of Associate Degree Nursing
Director of Licensed Practical Nursing
Division Chair, Humanities & Fine Arts
Division Chair, Math & Science
Division Chair, Social Sciences & Business
Counselors

SMCC will provide written notification to students and employees about existing:

Counseling:

- **Region 11** Adams, Amite, Claiborne, Franklin, Jefferson, Lawrence, Pike, Walthall, Wilkinson
Southwest MS Mental Health Complex
701 White Street P. O. Box 768 McComb, MS 39649-0768
(601) 684-2173
<http://www.swmmhc.org/>
- Health
 - Southwest Mississippi Regional Medical Center

215 Marion Ave, McComb, MS 39648
(601) 249-5500

- Mental Health
 - **Region 11** Adams, Amite, Claiborne, Franklin, Jefferson, Lawrence, Pike, Walthall, Wilkinson
Southwest MS Mental Health Complex
701 White Street P. O. Box 768 McComb, MS 39649-0768
(601) 684-2173
<http://www.swmmhc.org/>

- Victim Advocacy
 - WINGS
3167 Highway 51 McComb, MS 39648
601-684-9111

- Legal Assistance

MS Attorney General, Domestic Violence Prevention Unit

Post Office Box 220
Jackson, MS 39205-0220
Hotline: 800-829-6766
Phone: (601) 359-4251
Fax: (601) 359-9681
Email: domesticviolence@ago.state.ms.us

Procedures for Resolution of Gender-Based Misconduct Complaints

SMCC is in compliance with the requirements of Title IX of the Educational Amendments of 1972, which prohibit sex discrimination in federally assisted educational programs.

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance...”

- SMCC will initiate a preventative education program in order to educate its students as to what sexual violence is and seek to prevent sexual violence by educational programming, awareness promotion, and preventative measures.
- After SMCC Campus police and/or the Vice-President for Student Affairs has been informed of possible sexual violence, the college will take immediate and appropriate action to investigate or otherwise determine the facts of the incident. A student who is a victim may also, but is not required to, press charges.

- If sexual violence has occurred, SMCC will take prompt and effective steps to end the sexual violence, prevent its recurrence, and address its effects, whether or not the sexual violence is the subject of a criminal investigation.
- SMCC will take steps to protect the complainant as necessary, including interim steps taken prior to the final outcome of the investigation.
- SMCC has provided a grievance procedure for students to file complaints of sex discrimination, including complaints of sexual violence. These procedures include an equal opportunity for both parties to present witnesses and other evidence and the same appeal rights.
- SMCC's grievance procedures use the preponderance of the evidence standard to resolve complaints of sex discrimination.
- SMCC will notify both parties of the outcome of the complaint.

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Investigative process: The investigation may include, but is not limited to, conducting interviews of the complainant, the alleged perpetrator, and any witnesses; reviewing law enforcement investigation documents, if applicable; reviewing student and personnel files; and gathering and examining other relevant documents or evidence. While a school has flexibility in how it structures the investigative process, for Title IX purposes, a school must give the complainant any rights that it gives to the alleged perpetrator. A balanced and fair process that provides the same opportunities to both parties will lead to sound and supportable decisions. Specifically:

- Throughout the investigation, the parties must have an equal opportunity to present relevant witnesses and other evidence.
- SMCC will use a preponderance-of-the-evidence (*i.e.*, more likely than not) standard in any Title IX proceedings, including any fact-finding and hearings.
- Both parties are allowed have lawyers or other advisors at any stage of the proceedings, it must do so equally for both parties. Lawyers or other advisors may not speak or otherwise participate in the proceedings and applies equally.
- If the school permits one party to submit third-party expert testimony, it must do so equally for both parties.
- If the school provides for an appeal, it must do so equally for both parties.
- Both parties must be notified, in writing, of the outcome of both the complaint and any appeal

Institutional Disciplinary Action

1. Disciplinary probation or other action may be imposed by the Vice President for Student Affairs in lieu of an appearance before a disciplinary committee. Provided the student agrees to such action as imposed, the student will sign a statement of acceptance which will be maintained in his/her personal record.

2. Separation of the student from the college by the discipline committee and/or Vice President for Student Affairs may take any of the following forms:
 - a. Suspension for the remainder of any on-going semester.
 - b. Suspension for a longer, but definitely stated period of time.
 - c. Indefinite suspension with a date established for the privilege of applying for readmission. Such application will be reviewed and acted upon by the committee.
 - d. Expulsion, which implies permanent separation from the college.
3. The Vice President for Student Affairs or his designee will be present at each meeting to confer with the discipline committee chairman at his request about procedure. The Vice President for Student Affairs shall designate the person who will present evidence to the committee on behalf of the college. Three members of the committee will constitute a quorum.
4. The details relating to all disciplinary cases are confidential, and records are maintained in the Office of the Vice President for Student Affairs. These files are not available to anyone outside the area of Student Services without approval of the appropriate Vice President.
5. The discipline committee of five members shall be approved by the college President. The chairman shall be appointed. Three members of the committee will constitute a quorum.
6. A record of all disciplinary committee hearings will be kept until the student graduates or transfers to another institution. The Vice President for Student Affairs maintains under strict security permanent records concerning the conduct of college students. When a student requests an official transcript of his college record to support an application for transfer to another institution of higher learning or to include in an application for employment, the Vice President for Student Affairs will decide if a record of disciplinary action should be included. Such determination considers two objectives: protecting the interests of the student and observing ethical standards in working with agencies or individuals receiving college transcripts.
7. Conduct of Hearing
 - a. The college promises to all students' acquisition to due process.
 - b. Hearings will not be open to the public.
 - c. Records of the discipline committee proceedings will be made, and a secretary will be provided to keep a written digest. Records will be kept by the Vice President for Student

Affairs in a locked file. Only those persons directly involved in a case may have access to these records.

- d. The hearings will be conducted in an orderly manner.
- e. The accused will have an opportunity to be heard in their own defense. All recommendations of action shall be based upon the evidence presented and shall be in compliance with policies, rules, and regulations.
- f. The accused will have the opportunity to hear and refute all testimony against him/her, to present any evidence in his/her own behalf, to reply to charges in his/her own words, and to present testimony in his/her behalf or have others present to testify in his/her behalf.
- g. All matters upon which the decision is based must be introduced during the hearing.
- h. The committee will consider the case in private and will deliver the verdict to the student in writing.
- i. The student must request a hearing within three business days.

The Campus SaVE Act

The Campus Sexual Violence Elimination Act (SaVE Act) was passed in March 2013 as part of the Violence Against Women Reauthorization Act (VAWA). The Campus Sexual Violence Elimination Act imposes expanded crime reporting obligations, and even more significant in the long run, it requires institutions to implement specific policies, procedures, and training related to sexual violence and intimate partner violence.

Definition of Consent

Sexual consent is the affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter. Under this definition, an individual who was asleep, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or who was under duress, threat, coercion, or force, would not be able to consent. Further, one would not be able to infer consent under circumstances in which consent was not clear, including but not limited to the absence of “no” or “stop,” or the existence of a prior or current relationship or sexual activity.

Policy on Sexual Based Offenses (and VAWA)

Southwest Mississippi Community College recognizes the “dignity of the human person” and calls for all members of the Southwest Mississippi Community College community to act in ways that respect that dignity. Sexual behavior of any kind that occurs forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent, is considered to be a sex offense. The college will neither tolerate nor condone any form of sex offense or other sexually abusive

behavior on the part of its community members whether physical, mental, or emotional. This includes any actions that are demeaning to others including, but not limited to verbal or written harassment.

Domestic violence, dating violence and stalking as defined by the Violence Against Women Reauthorization Act of 2013 (VAWA) are prohibited and incidents of such that may occur on campus will be documented in annual crime statistics beginning in 2014.

The first priority of a student who has experienced a sexual offense is to get to a place of safety. The student should then obtain necessary medical treatment. The college strongly recommends that a victim of a sexual offense report the incident in a timely manner. A sexual offense should be reported directly to Campus Police, Head Resident, Director of Student Activities and Housing, or Vice-President for Student Affairs, or if the offense occurred off-campus, the local police. Speaking with the police **does not obligate** the student to press charges. Filing a police report will ensure that the victim of sexual offense receives the necessary medical treatment and tests. It also provides the opportunity for collection of evidence helpful in prosecution, which cannot be obtained later. The victim should avoid showering, douching, using the toilet or changing clothes before seeking medical help as this may destroy physical evidence that will be collected during the exam.

Whether occurring on or off-campus, the college will comply with student's requests for assistance in reporting these acts to local police and/or college officials charged with investigating such conduct. The victim of a sexual offense may choose for the investigation to be pursued through the criminal justice system and the College Student Conduct process, or only the latter. A student may wish to consult with his or her head resident, the Director of Student Activities and Housing, the Vice-President for Student Affairs, the Director of Academic Counseling, his or her parents, close friends, or legal counsel. In the end, the decision to pursue charges rests entirely with the student.

In addition to assistance available from the Director of Academic Counseling, the victim will have the option of speaking with a member of the SMCC Police Department who has been trained to assist victims of sexual assault. Student victims have the option to change their academic and/or on-campus living situations after an alleged sexual offense, if such changes are reasonably available.

Student Conduct Proceedings involving an accusation of a sexual offense will be conducted in a prompt, fair and impartial manner as described in the SMCC Student Handbook and in compliance with the policy on Sexual Harassment. Both the accuser and the accused student are entitled to the same opportunities to have an advisor present during proceedings.

Disclosures to Alleged Victims of Crimes of Violence or Sex Offenses

Southwest Mississippi Community College will disclose to the alleged victim of a crime of violence, or a sex offense, the outcome of any disciplinary conference or conduct board conducted by the college in the case of a student who is the alleged perpetrator of the crime or offense. The outcome is to include the final determination of responsibility, and any sanction that may be imposed against the accused. As

with all violations, students found responsible for violating the College sexual misconduct policy may receive sanctions that range from verbal or written reprimand to expulsion from the college. If the alleged victim is deceased as a result of the crime or offense, Southwest Mississippi Community College will provide the results of the disciplinary conference or conduct board to the victim's next of kin, if so requested. Appeals, which may be filed by either the accused or accusing student, must be submitted within three (3) working days of written notification of the decision.

Sex Offense Prevention

The College educates the student community in awareness and prevention of domestic violence, dating violence, sexual assault and stalking through mandatory freshman orientations each fall. Additional information on sexual assault education, risk reduction, and response is provided through regular programming and hall meetings

Southwest Mississippi Community College prohibits sexual violence, domestic violence, dating violence, and stalking. SMCC encourages prompt and accurate reporting of all sex crimes, suspected crimes, and other emergencies. Whom to contact: Campus Police 601-551-3838, or 601-551-3837

Appropriate emergency personnel respond quickly to all reports. When reporting a crime or other emergency, the following information should be provided:

- Nature of the crime or emergency
- Name, address, and phone number of caller
- Location of the incident
- Description of the scene and suspects
- Description of any vehicles involved, especially license plate numbers
- A student or employee, who reports to an institution of higher education that the student or employee has been a victim of domestic violence, dating violence, sexual assault, or stalking, whether the offense occurred on or off campus, shall be provided with a written explanation of the student or employee's right and options.

Campus Sexual Assault Victims' Bill of Rights

Public Law: 102-325, section 486(c)

- Accuser and accused must have the same opportunity to have others present.
- Both parties shall be informed of the outcome of any disciplinary proceeding.
- Survivors shall be informed of their options to notify law enforcement.
- Survivors shall be notified of counseling services.
- Survivors shall be notified of options for changing academic and living situations.

The United States Congress enacted the "Campus Sexual Assault Victims' Bill of Rights" in 1992 as a part of the *Higher Education Amendments of 1992* (Public Law: 102-325, section 486(c)). It was signed into law by President George Bush in July of 1992.

This law requires that all colleges and universities (both public and private) participating in federal student aid programs afford sexual assault victims certain basic rights.

It also requires the school to notify victims of their option to report their assault to the proper law enforcement authorities. Schools found to have violated this law can be fined up to \$35,000 or lose their

eligibility to participate in federal student aid programs. Complaints about schools that have failed to comply with this law should be made with the U.S. Department of Education.

The "Campus Sexual Assault Victims' Bill of Rights" exists as a part of the campus security reporting requirements, commonly known as the Jeanne Clery Act, of the federal law that establishes all student aid programs, the Higher Education Act of 1965.

Sexual harassment, like harassment on the basis of race or religion, is a form of discrimination prohibited by Title VII of the Civil Rights Act of 1964. With the adoption of this policy on sexual harassment, SMCC demonstrated its continued commitment to upholding the rights of individuals – whether students, faculty, or staff – to study and work in a place free of intimidation, fear, reprisal, or coercion. The "Policy on Sexual Harassment" is published in the *SMCC Faculty Handbook* and the *SMCC Student Handbook*. SMCC reaffirms this policy specifically as it pertains to prevention of sexual harassment and to the obligations of students, faculty, administrators, and staff in their capacities as teachers and colleagues.

Sexual harassment, like harassment on the basis of race or religion, is a form of discrimination prohibited by Title VII of the Civil Rights Act of 1964, and Title IX as well. With the adoption of this policy on sexual harassment, SMCC (College) demonstrated its continued commitment to upholding the rights of individuals – whether students, faculty, or staff – to study and work in a place free of intimidation, fear, reprisal, or coercion. The "Policy on Sexual Harassment" is published in the *SMCC Faculty Handbook* and the *SMCC Student Handbook*. The college reaffirms this policy specifically as it pertains to prevention of sexual harassment and to the obligations of male and female students, faculty, administrators, and staff in their capacities as teachers and colleagues.

It is the policy of the college that no male or female member of the college – students, faculty, administrators, or staff – may sexually harass any other member of the college. Sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute harassment when:

- Submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual's employment or education;
- Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for academic or employment decisions affecting that individual; or
- Such conduct has the purpose of substantially interfering with an individual's academic or professional performance or creating what a reasonable person would sense as an intimidating, hostile, or offensive employment, educational, or living environment.

The administration of the college is responsible for ensuring that there is a timely and thorough investigation of all complaints. A member of the college who believes that he or she has been the victim of sexual harassment as defined above or who becomes aware of an incident of sexual harassment as defined above should bring any such matter to the attention of either the appropriate administrator or the Vice President for Student Affairs, as he or she prefers. A fellow student, staff member, or faculty member may accompany an individual who wishes to make a complaint as the complainant desires. The

person receiving the complaint should immediately seek to resolve the matter by informal discussions with the person involved. If the complainant or the alleged offender is not satisfied with the proposed resolution, he or she may secure review of the matter by the President of the College, Vice President for Academic Affairs, the Vice President for Student Affairs, or the Vice President for Career-Technical Education, as appropriate.

If the suggested procedures outlines above do not result in a satisfactory resolution of a complaint, members of the college retain the right to file formal complaints in cases of alleged sexual harassment. Complaints against students are filed with the Vice President for Student Affairs; against faculty and staff, with the Vice President for Academic Affairs; against career-technical instructors and staff, with the Vice President for Career-Technical Education; and all other staff and administrators, with the President of the College.

The college will take appropriate steps to ensure that a person who in good faith brings forth a complaint of sexual harassment will not be subjected to retaliation. The college will also take appropriate steps to ensure that a person against whom such a complaint is brought is treated fairly, has adequate opportunity to respond to such accusations, and that findings, if any, are supported by clear and persuasive evidence. Complaints of sexual harassment shall be handled confidentially, with the facts made available only to those who need to know, in order to investigate and resolve the matter. The complainant and the person complained against will be notified of the final disposition of the complaint.

If a complaint of sexual harassment is found to be substantiated, appropriate corrective action will follow, up to and including separation of the offending party from the college, consistent with college procedures.

Campus Sex Crime Prevention Act

The Campus Sex Crime Prevention Act (CSCPA) provides requirements relating to registration and community notification for sex offenders who are enrolled in or work at institutions of higher education. Effective October 2003, the law requires institutions of higher education to issue a statement advising the campus community where law enforcement agency information provided by a state concerning registered sex offenders may be obtained. This information can be obtained by accessing the Mississippi Sex Offender Registry at <http://state.sor.dps.ms.gov/>.

Procedures for Resolving Complaints Informally/Formally

Student Complaint Procedure

Southwest Mississippi Community College has an administrative procedure in place which is designed to receive, investigate, and resolve student complaints, whether academic or nonacademic. Students who fail to use existing appeals committees will forfeit their right to future due process.

Any student who wishes to make a formal complaint regarding a college program, a service of the college, an employee of the college, or any other individual or aspect of the college must take the following steps within five school days of the incident:

1. Discuss the problem with the faculty member, staff member, or administrator involved and/or use existing appeals committees where available prior to initiating formal complaint procedures under this policy. If informal efforts are not productive or appropriate in resolving the complaint, the student proceeds to steps 2 and 3.
2. Contact the Vice President for Student Affairs. 1156 College Drive, Summit, MS 39666.
3. Express the nature of the complaint and pertinent information in writing to the Vice President for Student Affairs.

The Vice President for Student Affairs will either handle the complaint personally or will refer it to the appropriate person for disposition. A written response will be made to the student within 15 business days. Students who are not satisfied with the resolution of the investigating officer shall have the right to appeal to a grievance committee. This appeal must be made within 3 business days after the decision by the investigating officer. The grievance committee will be appointed by the President of the college and will consist of two administrators and two faculty not directly involved in the alleged problem, and the original investigating official. The decision of the grievance committee is considered final. A written response will be made to the student within 5 business days. No adverse action will be taken against a student for filing a complaint.

Disciplinary Actions

1. Disciplinary probation or other action may be imposed by the Vice President for Student Affairs in lieu of an appearance before a disciplinary committee. Provided the student agrees to such action as imposed, the student will sign a statement of acceptance which will be maintained in his/her personal record.
2. Separation of the student from the college by the discipline committee and/or Vice President for Student Affairs may take any of the following forms:
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- m. The hearings will be conducted in an orderly manner.
- n. The accused will have an opportunity to be heard in their own defense. All recommendations of action shall be based upon the evidence presented and shall be in compliance with policies, rules, and regulations.
- o. The accused will have the opportunity to hear and refute all testimony against him/her, to present any evidence in his/her own behalf, to reply to charges in his/her own words, and to present testimony in his/her behalf or have others present to testify in his/her behalf.
- p. All matters upon which the decision is based must be introduced during the hearing.
- q. The committee will consider the case in private and will deliver the verdict to the student in writing.
- r. The student must request a hearing within three business days