13.1. General

1.1. Scope. - This policy addresses discrimination and harassment.


1.3. Effective Date.

1.4. Revision and Renaming of Former Rule. Revises and replaces Glenville State College Administrative Policy 13 [2011].

13.2. Policy

Glenville State College is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based upon race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation. Such an environment is necessary to a healthy learning, working, and living atmosphere because discrimination and harassment undermine human dignity and the positive connection among all people at our College. Acts of discrimination, harassment, sexual harassment, stalking, and retaliation will be addressed consistent with this policy.

Consistent with state and federal law, reasonable accommodation will be provided to persons with disabilities.

It is important that members of the College community understand that the law does not just prohibit discrimination and harassment of employees by employers. The law also prohibits discrimination and harassment between members of the College community more generally: for example, between an instructor and a student, between two students, or between a student and an applicant or campus guest. The policy applies in all College programs and activities, including, but not limited to, discrimination in athletics, instruction, grading, College housing, and College employment. In addition, the law prohibits retaliation against an individual for opposing any practices prohibited under this policy, for bringing a complaint of discrimination or harassment, for assisting someone with such a complaint, and for opposing any policies or practices in violation of this policy.
for attempting to stop such discrimination or harassment, or for participating in any manner in an investigation or resolution of a complaint of discrimination or harassment. It is central to the values of this College that any individual who believes they may have been the target of unlawful discrimination or harassment feel free to report their concerns for appropriate investigation and response, without fear of retaliation or retribution.

This policy shall not be construed or applied to restrict academic freedom at Glenville State College, nor shall it be construed to restrict constitutionally protected expression, even though such expression may be offensive, unpleasant, or even hateful.

All complaints or any concerns about conduct that may violate this policy and retaliation should be filed with the Title IX/Affirmative Action/Equal Opportunity/ADA Coordinator [hereinafter "Title IX Coordinator"]: 

Title IX/Affirmative Action/Equal Opportunity/ADA Coordinator
Office of Human Resources
Glenville State College
200 High Street
Glenville, West Virginia 26351
304-462-6193
hr@glenville.edu

Upon receiving a complaint, the Title IX Coordinator will follow the procedures described in the Discrimination Grievance Procedures.

Important Note! Please do not wait to report conduct of concern until harassment becomes sufficiently serious (i.e., severe, pervasive, or persistent) to create a hostile environment. The Title IX Coordinator, designees, and other College officials can take proactive steps to prevent harassment from continuing and perhaps escalating and to protect or otherwise assist the person harassed. For example, the College can arrange for no-contact orders, counseling and changes in class schedules, living arrangements, class requirements, and testing schedules as needed. The Title IX Coordinator and designees can also provide expertise and advice to help identify conduct that might be a warning sign of or constitute sexual harassment or hostile environment harassment prohibited by this policy and address any concerns or complaints appropriately.

13.3. Definitions

3.1. “Bullying” means repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally on the basis of actual or perceived membership in a Protected Category. Bullying includes any online postings or other electronic communication commonly referred to as cyber-bullying, cyberstalking, cyber-harassment, etc., occurring within Glenville State College’s control (e.g. Glenville State College’s networks, websites or between Glenville State College email accounts). Any online postings or other electronic communication, including cyber-bullying, cyberstalking, cyber-harassment, etc., occurring outside of Glenville State College’s control will be investigated when those online behaviors can be shown to cause a substantial on-campus disruption.

3.2. “Consent” means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity. Consent cannot be gained by intimidation or force, by ignoring or acting in
spite of the objections of another, or by taking advantage of the incapacitation of another, where the accused student knows or reasonably should have known of such incapacitation.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the sexual activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual activity.

A person cannot consent if he or she is unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy. It is not an excuse that the individual initiating or furthering the sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from the taking of incapacitating drugs. Consent to some sexual contact, such as kissing or fondling, cannot be presumed to be consent for other sexual activity, such as intercourse. A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced. Silence or the absence of resistance alone is not consent.

A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

In the State of West Virginia, anyone under the age of sixteen cannot consent to sexual contact. Thus, sexual contact or sexual exploitation by an adult with or of a person younger than 16 years old are crimes as well as violations of this policy, even if the individual under the age of 16 wanted to engage in either.

3.3. “Discrimination” means actions that deprive others of educational or employment access, benefits or opportunities on the basis of their actual or perceived membership in a Protected Category.

3.4. “Relationship Violence/Domestic Violence” is abuse or violence between partners or former partners involving one or more of the following elements: is a pattern of abusive behavior that is used by an intimate partner to gain or maintain power and control over the other intimate partner. Domestic violence can by physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone and can involve the following:

3.4.1. Battering that causes bodily injury;

3.4.2. Purposely or knowingly causing reasonable apprehension of bodily injury;

3.4.3. Emotional abuse creating apprehension of bodily injury or property damage;

3.4.4. Repeated telephonic, electronic, or other forms of communication – anonymously or directly – made with the intent to intimidate, terrify, harass, or threaten;
3.5. “Dating Violence” is committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

3.5.1. The length of the relationship;

3.5.2. The type of relationship; and

3.5.3. The frequency of interaction between the persons involved in the relationship

3.56. “EEO/Equity/AA/ADA/504 Coordinator” means the Chief Human Resources Officer, who serves as the Equal Employment Opportunity/Equity/Affirmative Action Coordinator and the Americans with Disabilities Act/504 Coordinator and oversees implementation of Glenville State College’s Affirmative Action and Equal Opportunity plan, disability compliance, and Glenville State College’s policy on discrimination and harassment.

3.67. “Hazing” means acts likely to cause physical or psychological harm or social ostracism to any person within the Glenville State College community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity on the basis of actual or perceived membership in a Protected Category.

3.78. “Hostile Environment” based on race, color, religion, national origin, creed, service in the uniformed services, veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation exists when:

3.78.1. The harassment is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person’s ability to participate in or benefit from the College’s programs, services, opportunities, or activities; or

3.78.2. Conduct has the purpose or effect of unreasonably interfering with an individual’s employment.

Harassment that creates a hostile environment (“hostile environment harassment”) violates this policy. A hostile environment can be created by anyone involved in a college program or activity (e.g., administrators, faculty members, coaches, students, and even campus guests). Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a serious incident, such as a sexual assault, even if isolated, can be sufficient.

In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive.

Also, the following factors will be considered:

3.78.3. The degree to which the conduct affected one or more students’ education or individual’s employment;

3.78.4. The nature, scope, frequency, duration, and location of incident or incidents;
3.28.5. The identity, number, and relationships of persons involved:

3.28.6. The nature of higher education.

3.89. "Incapacitation" means as a state where a person cannot make rational, reasonable decisions because he or she lacks the capacity to give knowing consent (e.g., to understand the who, what, when, where, why or how of his or her sexual interaction).

3.1010. "Non-Consensual Sexual Contact" means any intentional Sexual Touching, however slight, with any object or body part, by a person upon another person, that is without consent and/or by force.

3.1011. "Non-Consensual Sexual Intercourse" means any Sexual Penetration or intercourse (anal, oral or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Non-Consensual Sexual Intercourse may commonly be referred to as rape and/or sexual assault. Non-Consensual Intercourse includes forcing some

3.1343. "Sexual Exploitation" means a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse, or Non-Consensual Sexual Contact. The term includes, but is not limited to, the following situations:

3.1454.21. Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent, such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent;

3.154.32. Non-consensual distribution of photos, other images, or information of an individual’s sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information;

3.1454.243. Prostituting another person;

3.1454.454. Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection; and
3.145.4.65. Administering alcohol or drugs (such as date rape drugs) to another person without his or her knowledge or consent for the purpose of engaging in sexually-related activity with that person.

3.145.4.66. Sexual voyeurism, such as watching a person undressing, using the bathroom or engaging in sexual acts without the consent of the person observed;

3.145.4.67. Using intimidation to force others to engage in acts of sexual misconduct.

3.15. Harassment and discrimination are intended to be defined consistent with guidelines established by the United States Equal Opportunity Commission, the West Virginia Human Rights Commission and the United States Department of Education.

Harassment is generally defined as unwanted physical, verbal, or written conduct relating to a person’s protected status, including race, national origin, gender, sexual orientation, age, religious creed, disability, medical condition, or other status protected by law, and which results in one or more of the following:

3.15.1. The creation of intimidating, hostile, or offensive working, living, or academic environment; or

3.15.2 Substantial or unreasonable interference with an individual’s work, living, or academic performances; or

3.15.3 The development of an adverse effect on an individual’s employment or academic opportunities.

3.15.4 Unjustified inequitable treatment that results in the above consequences also qualifies as harassment. This inequitable treatment may manifest itself in a number of ways including but not limited to the provision of differential help to students, arbitrarily denying requests for services, and otherwise indirectly creating a hostile environment.

3.165. Harassment is covered under this policy if it is based upon an individual’s race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, political ideas, marital family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation. Harassing conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Sex-based harassment includes sexual harassment as defined by this policy, and non-sexual harassment based on stereotypical notions of what is female/feminine v. male/masculine or a failure to conform to those gender stereotypes. Harassment violates this policy when it creates a hostile environment, as defined in by this policy.

3.167. Sexual Harassment can include unwelcome: sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, including sexual assault. Sexual harassment, can
involve persons of the same or opposite sex. Consistent with the law, this policy prohibits two types of sexual harassment:

3.167.1. Tangible Employment or Educational Action. This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a College activity is conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a College program or activity. Generally, perpetrators will be agents or employees with some authority from the College.

3.17.2. Sexual harassment that creates a hostile environment as defined by this policy.

3.128. “Sexual Misconduct” means Sexual Harassment, as defined by this policy, Non-Consensual Sexual Intercourse; Non-Consensual Sexual Contact; Sexual Exploitation and Relationship Violence. Acts of sexual misconduct may be committed against a person regardless of the sex, gender, sexual orientation and/or gender identity of those involved.

3.189. “Sexual Penetration” means vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.

3.190. “Sexual Touching” means any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

3.201. “Stalking” means a course of conduct (i.e., repetitive and/or menacing pursuit, following, harassment and/or interference with the peace and/or safety of another) directed at a specific person that is unwelcome and would cause a reasonable person to feel fear. Stalking does not have to be based on a protected class to be covered by this policy.

3.222. “Incapacitation” means the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol (or other drug) is involved, one does not have to be intoxicated, drunk or high to be considered incapacitated. Rather, incapacitation is determined by how the alcohol consumed impacts a person's decision-making capacity, awareness of consequences, and ability to make informed judgments. The question is whether the accused student knew, or a sober, reasonable person in the position of the accused student should have known, that the complainant was incapacitated. Because Incapacitation may be difficult to discern, you are strongly encouraged to err on the side of caution; i.e., when in doubt, assume that another person is incapacitated and therefore unable to give effective consent.

13.4. Prohibited Conduct

Discrimination, harassment, creating a hostile work environment, bullying, sexual misconduct, including sexual harassment and hazing that are all based upon a protected class are prohibited by this policy. Retaliation as defined in this policy is also prohibited by this policy.

Knowingly providing false information in either a complaint, during the investigation of a complaint, disciplinary proceeding or hearing by anyone is also prohibited and is considered misconduct subject to disciplinary action up to and including academic/employment suspension, expulsion and employment termination.

13.5. Application of This Policy to Off-Campus Conduct

5.1. This policy applies to behaviors that take place on the campus, at school/college-sponsored events and may also apply off-campus or outside of school when the administration determines in its discretion that the off-campus or outside-of-school conduct affects a substantial school/university interest. A substantial school/college interest includes but is not limited to:

5.1.1. Any action that could constitute a criminal offense as defined by federal or state law even if no law enforcement investigation has been initiated. This includes but is not limited to: allegations of single or repeat violations of any local, state or federal law in the municipality/city/town where the school/university is located;

5.1.2. Any situation that significantly disrupts the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder and/or;

5.1.3. Any situation where it appears that the student may present a danger or threat to the health or safety of him/herself or others. (Source: ATIXA/Penn State University)

Conduct that occurs off campus can be the subject of a complaint or report and will be evaluated to determine whether it violates this policy, e.g. if off-campus harassment has continuing effects that create a hostile environment on campus. Allegations of off-campus sexual misconduct are of particular concern and should be brought to the College’s attention.

13.6. Mandatory Employee Reporting of Sex-based Discrimination, Sexual Harassment and Sexual Misconduct Involving Students and Individuals Under the Age of 16

West Virginia Law (WV Code 49-6A-2) mandates that any person over the age of eighteen who receives a disclosure from a credible witness or observes any sexual abuse or sexual assault of a child, shall immediately and not more than forty eight hours, report the circumstances or cause a report to be made to the Department and the State Police or other law-enforcement agency having jurisdiction to investigate the report. If the reporter feels that reporting the alleged sexual abuse will expose themselves, the child, the reporter’s children or other children in the subjects household to an increased threat of serious bodily injury, the individual may delay making the report while he or she undertakes measures to remove themselves or the affected children from the perceived threat of additional harm. The individual must make the report as soon as practical after the threat of harm has been reduced. The law enforcement agency that receives a report regarding sexual abuse must report the allegations to the West Virginia Department of Health and Human Resources.

West Virginia Law also mandates that in any case where a mandated reporter believes that the child suffered serious physical abuse, the reporter shall also immediately report, or cause a report to be made, to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint.
In addition to the above requirements, in order to enable the College to respond effectively and to stop instances of sex-based discrimination, sexual harassment and sexual misconduct involving students or individuals under the age of 16, at the College proactively, all College employees must, within 24 hours of receiving the information, report information they have about alleged or possible sex-based discrimination, sexual harassment, and sexual misconduct involving students or individuals under the age of 16 to the Title IX Coordinator and report it to local law enforcement. Employees who are statutorily prohibited from reporting such information are exempt from these reporting requirements, including licensed health-care professionals. Please note that this policy does not reach curriculum or in any way prohibit or abridge the use of particular textbooks or curricular materials.

Upon receiving a report of alleged or possible sex-based discrimination, sexual harassment, or sexual misconduct, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken. The Title IX Coordinator will follow the procedures described in the Discrimination Grievance Procedures The Title IX Coordinator will take steps, either directly with the complainant or through a reporting employee, to provide information about the College’s Discrimination Grievance Procedures, as well as available health and advocacy resources and options for criminal reporting.

In order to enable the College to respond effectively and to stop instances of sex-based discrimination, sexual harassment and sexual misconduct involving students or individuals under the age of 16, at the College proactively, all College employees must, within 24 hours of receiving the information, report information they have about alleged or possible sex-based discrimination, sexual harassment, and sexual misconduct involving students or individuals under the age of 18 to the Title IX Coordinator. Employees who are statutorily prohibited from reporting such information are exempt from these reporting requirements, including licensed health-care professionals. Please note that this policy does not reach curriculum or in any way prohibit or abridge the use of particular textbooks or curricular materials.

Upon receiving a report of alleged or possible sex-based discrimination, sexual harassment, or sexual misconduct, the Title IX Coordinator will evaluate the information received and determine what further actions should be taken. The Title IX Coordinator will follow the procedures described in the Discrimination Grievance Procedures The Title IX Coordinator will take steps, either directly with the complainant or through a reporting employee, to provide information about the College’s Discrimination Grievance Procedures, as well as available health and advocacy resources and options for criminal reporting.

13.7. Sanctions and Corrective Action

Violations of this policy will be addressed through the Discrimination Grievance Procedures. Consequences for violating this policy will depend upon the facts and circumstances of each particular situation. Sanctions and Corrective Action could include: a requirement not to repeat or continue the discriminatory, harassing, or retaliatory conduct, a reprimand, a no-contact order, denial of a merit pay increase, reassignment, academic or employment suspension, expulsion, employment termination and revocation of computer use privileges. The severity of sanctions or corrective action will depend on the frequency and severity of the offense and any history of past discriminatory, harassing or retaliatory conduct. A finding of discrimination or harassment that creates a hostile environment or results in a tangible employment or educational action, or sexual misconduct may be cause for disciplinary action, up to and including the discharge of employees and the expulsion of students, in accordance with applicable College procedures and collective bargaining agreements. The College may also take
appropriate action if it does not find discrimination or harassment that creates a hostile environment or results in a tangible employment or educational action, but (a) the College found that the respondent engaged in disruptive behavior or (b) to prevent the creation of a hostile environment. The employment of any employee, including but not limited to, classified employees, tenured faculty members and tenure track faculty members, may be terminated without progressive discipline for violations of this policy depending upon the totality of the circumstances. Other reasons for termination without progressive discipline are set forth in College and HEPC rules and/or in employee handbooks if applicable. The employment status of will and pleasure employees is in no way altered by this provision.

13.8. Amnesty for Drug or Alcohol Possession and Consumption Violations

The College strongly encourages students to report instances of sex-based discrimination, sexual harassment, and sexual misconduct involving students. Therefore, students who report information about sex-based discrimination, sexual harassment, or sexual misconduct involving students will not be disciplined by the College for any violation of the College’s drug or alcohol possession or consumption policies in which they might have engaged in connection with the reported incident.

13.9. Free Speech and Academic Freedom

Glenville State College has a long tradition of, and a deep commitment to, academic freedom. The welfare and strength of the College and of society at large depend upon the ability to engage in free expression in the search for meaning. To this end, Glenville State College recognizes and protects full freedom of inquiry, teaching, research, discussion, study, publication, and for artists, the creation and exhibition of works of art, without hindrance, restriction, equivocation, or reprisal. This right extends to other facets of campus life to include the right of a faculty member or student to speak on general educational questions or about the Administration and operation of his/her own institution.

Constitutionally protected speech and traditional notions of academic freedom are valued in higher education. These ideals help to create the stimulating and challenging learning environment that should characterize higher education. In the spirit of a true college environment, individuals are encouraged to invite, rather than inhibit, discourse on ideas. In addressing all complaints and reports under this policy, the College will take all permissible actions to ensure the safety of students and employees while complying with free speech requirements for students and employees. While the College will vigilantly protect students’ and employees’ rights against sex discrimination under this policy, this policy does not apply to curriculum or in any way prohibit or abridge the use of particular textbooks or curricular materials.

13.10. Consensual Relationships

10.1. There are inherent risks in any romantic or intimate relationship between individuals in unequal positions. Thus, except as otherwise provided in Section 10.2, any romantic or intimate relationships in which power differentials are inherent are prohibited, which include, but are not limited to, the following:

10.1.1. Relationships between students or applicants for admission and administrators, faculty, coaches or any College employee where a direct power differential exists between the student or applicant for admission and the employee.
10.1.2. Relationships between a College employee holding a direct or indirect supervisory and/or evaluative role over the other person in the relationship, or

10.1.3. Any other romantic or intimate relationship between students or applicants for admission and employees or between employees where any employment-related power differential exists between the persons in the relationship.

10.2. Notwithstanding the prohibitions in Section 10.1, any romantic or intimate relationship prohibited in Section 10.1 that exists prior to the creation of a power differential between the individuals involved in the romantic or intimate relationship shall not violate this policy if: (i) the individuals in the relationship report the existence of the relationship as required in Section 10.4 before the power differential is created and (ii) the individuals consent to the removal of any potential power differential that could exist, which may require appropriate administrative action, including but not limited to, shifting or otherwise relocating an employee within a separate department or reporting capacity from the other individual involved in the relationship or the shifting of grading or other decision-making responsibilities of a faculty member which affect a particular student in the case of a pre-existing relationship with that student.

10.3. Issues may also arise in the educational setting or workplace from romantic or intimate relationships between students or applicants for admission and College employees or between College employees where a direct or indirect supervisory and/or evaluative role or other power differential does not exist between the persons in the relationship. Thus, while not prohibited, such relationships are highly discouraged.

10.4. If a relationship develops that falls under Sections 10.2 or 10.3, the employee(s) involved in the relationship must timely report the existence and termination, if any, of such relationship to the Title IX Coordinator.

10.5. Once a relationship is reported under Section 10.4, the Title IX Coordinator shall inform the persons involved in the relationship of the College’s standards concerning consensual relationships, may set parameters while the persons are on campus, and may take other steps as appropriate.

10.6. Persons who engage in any relationship prohibited by Section 13.1 or who engage in any relationship listed in Sections 13.2 and 13.3 and who fail to timely report shall be subject to administrative action, up to and including termination of employment or dismissal from the College, as applicable.

13.11. Relation to Board of Governors Policy 36, Student Rights and Responsibilities

Although conduct that is prohibited by this policy is also prohibited by Section 5.6 of Policy 36, the procedure for the filing and investigation of complaints filed against students are addressed by this Policy’s Grievance Procedures, not by the procedures established pursuant to Sections 4.6 and 6.3 of Policy 36.

13.12. External Complaints

If you filed a complaint with the Title IX Coordinator and believe the College’s response was inadequate, or you otherwise believe you have been discriminated against by the College on the basis of race, color,
genetic information, veteran’s status, national origin, sex, including sexual harassment, disability, age, or retaliation, you may at any time file a complaint with the following:

Office of Civil Rights
U.S. Department of Education
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: 215-656-8541
FAX: 215-656-8605;
TDD: 877-521-2172
Email: OCR_Philadelphia@ed.gov
Website: http://www2.ed.gov/about/offices/list/ocr/index.html

United States Equal Employment Opportunity Commission
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
Telephone: 866-408-8075,
Fax: 215-440-2606
TTY: 800-669-6820
Website: http://www.eeoc.gov/

Additional information about State anti-discrimination/harassment and retaliation laws and complaint procedures is available from:

The West Virginia Human Rights Commission
1321 Plaza East – Room 108A
Charleston, WV 25301
Telephone: 304-558-2616
Toll Free: 888-676-5546
FAX: 304-558-0085
Website: http://www.wvf.state.wv.us/wvhrc/

West Virginia Public Employees Grievance Board
1596 Kanawha Blvd., East
Charleston, WV 25311
Telephone: (304) 558-3361
Toll Free: 866-747-6743
Facsimile: (304) 558-1106
Website: www.pegb.wv.gov

13.13. Accommodation of Disabilities

13.1. Glenville State College is committed to compliance with the Americans With Disabilities Act of 1990 (“ADA”) and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if he or she has a physical or
mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the College whether qualified or not. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself. All reasonable accommodation decisions are made by the College.

13.2. The EEO/Equity/AA/ADA/504 Coordinator is responsible for coordinating efforts to comply with the disability laws set forth in Section 10.1, including investigation of any employee or student complaint alleging noncompliance filed in accordance with the Discrimination Grievance Procedures.

13.3. Students with Disabilities

13.3.1. Pursuant to the ADA, Glenville State College will provide reasonable accommodations and support to all otherwise qualified students that have a qualifying disability to ensure equal access to the programs and activities of the College.

13.3.2. Students are required to self-identify with Disability Services. All accommodations are made on a case-by-case basis by the Title IX/Affirmative Action/Equal Opportunity/ADA Coordinator, who Disability Services. Disability Services will review documentation provided by the student and in consultation with the student and other appropriate resources including but not limited to the course instructor, to determine which accommodation, if any, is appropriate to the student’s particular needs and programs.

13.3.3. Students requesting accommodation may be required to provide certification from the student’s health care provider that includes: (1) identification of the health care provider; (2) the health care provider’s diagnosis of the disabling condition; (3) specific limitations and/or suggested restrictions and their relation to the disability and course of student; and (4) suggested accommodations.

13.4. Employees with Disabilities

13.4.1. Pursuant to the ADA, Glenville State College will provide reasonable accommodations to all qualified employees with known disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship.

13.4.2. An employee with a disability is responsible for requesting an accommodation in writing to the Title IX/Affirmative Action/Equal Opportunity/ADA Coordinator, who will consult with the individual’s supervisor to identify which essential functions are affected by the employee’s disability and what reasonable accommodations could enable the employee to perform those duties.
13.4.3. Employees requesting accommodation may be required to provide medical certification from the employee’s health care provider that includes: (1) identification of the health care provider; (2) the health care provider’s diagnosis of the disabling condition; (3) specific limitations and/or suggested restrictions and their relation to the disability; and (4) suggested accommodations.


Victims of sexual misconduct should be aware that Glenville State College administrators must issue timely warnings to the College community for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. No such warning will identify a victim or contain information that could do so unless permitted by the victim.


Glenville State College subscribes to the principles and regulations pertaining to equal opportunity and affirmative action. In compliance with these regulations, the College shall maintain an affirmative action manual in the Office of Human Resources.

13.16 Procedures

The President or his/her designee(s) is/are authorized to promulgate administrative procedures to implement this policy including but not limited to creating Discrimination Grievance Procedures and reasonable accommodation request procedures and supplementing definitions if necessary.

GLENVILLE STATE COLLEGE POLICIES

PERSONNEL POLICY 13

SEXUAL HARASSMENT POLICY


1.1. Scope—This policy sets forth the Glenville State College Personnel Policy regarding sexual harassment.

1.2. Authority—W. Va. Code §18B-1-6, §18B-2A-4; Sexual harassment is prohibited by:

- The Office of Civil Rights policy statement interpreting Title IX of the Educational Amendments of 1972; and

1.3. Effective Date April 13, 2011

2.1. The Glenville State College Board of Governors is committed to providing students, faculty, staff and applicants for employment with a work and educational environment free from all forms of sexual harassment. Therefore, sexual harassment, in any manner or form, toward GSC students, faculty, staff, or applicants for employment is a violation of this policy and is expressly prohibited.

2.2. All Glenville State College students, faculty and staff are expected to:

- Engage in conduct that meets professional standards;
- Remain sensitive to the effect of their actions and words on others;
- Take appropriate action to prevent sexual harassment;
- Avoid behavior that might be construed as sexual harassment; and
- Acquaint themselves with this policy.

Those in supervisory positions have a special responsibility to discourage sexual harassment as well as to implement and enforce this policy.

13.3. Sexual Harassment Definition.

3.1. Sexual harassment is intended to be defined consistent with EEOC and United States Department of Education guidelines. Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

3.1.1. Submission to such conduct is an explicit or implicit condition of employment;

3.1.2. Submission to or rejection of such conduct is used as the basis for employment decisions; or

3.1.3. Such conduct has the purpose or effect of:

3.1.3.1. Unreasonably interfering with an individual’s work or educational performance; or

3.1.3.2. Creating an intimidating, hostile or offensive work or educational environment.

3.2. Consensual relationships include amorous or romantic relationships and conduct that is not part of a typical platonic relationship.

13.4. Requirements.

4.1. General—The Glenville State College Board of Governors prohibits sexual harassment by any student, faculty member, or staff member. The Board is committed to creating and
maintaining a work environment free of inappropriate, disrespectful conduct and communication of a sexual nature. The Board will not tolerate sexual behavior that interferes with an individual’s work performance or that creates an intimidating, hostile or offensive work or learning environment.

In determining whether alleged conduct constitutes sexual harassment, consideration shall be given to the record as a whole and to the totality of the circumstances, including the nature of the incident and the context in which the alleged incident(s) occurred.

Sexual harassment may occur between faculty members and students, supervisors and employees, students and students, faculty members and faculty members, staff members and staff members, or any other combination of people. It may occur between people of the same sex or people of different sexes.

Examples of conduct that may be considered sexual harassment include the following:

- Subtle or overt pressure for sexual favors, accompanied by implied or overt threats concerning one’s job, grades, letters of recommendation, or physical well-being;
- Insults, humor, jokes and/or anecdotes that belittle or demean an individual’s or a group’s sexuality or sex;
- Unwelcome sexual comments or inquiries about an individual’s or a group’s sexuality or sex;
- Inappropriate displays of sexually suggestive objects or pictures, which may include but not be limited to posters, pin-ups, calendars and computer screen savers;
- Unauthorized entering of restrooms and other locations reserved for the exclusive use of the opposite sex;
- Unnecessary and unwelcome touching, such as patting, pinching, hugging or repeated brushing against an individual’s body; and
- Sexual assault
  - Specifically, creation of a hostile environment.

4.2. Consensual Relationships - Although the Board acknowledges that consensual relationships are within the purview of individual privacy, such relationships that occur between persons of different ranks, including those between supervisors and their employee reports or faculty and students, may lead to circumstances that result in sexual harassment.

These types of consensual relationships also may result in a hostile or offensive environment affecting other employees or students. For example, others may perceive a person involved in the consensual relationship as receiving favorable treatment in employment or educational decisions and actions.

4.3. Teacher-Student Relationships - It is a violation of Glenville State College policy for a faculty member to engage in an amorous, dating or sexual relationship with a student whom the faculty member instructs, evaluates, supervises or advises.
Where there is a pre-existing amorous, dating or sexual relationship, the individual with the status advantage shall notify his or her immediate supervisor. The supervisor shall be responsible for making arrangements to eliminate or to mitigate a conflict, or potential conflict, the consequences of which might prove detrimental to the institution, the Board or to either party in the relationship.

4.4. Confidentiality—The confidentiality of all parties involved in a sexual harassment charge shall be strictly respected insofar as it does not interfere with the Board’s obligation to investigate misconduct allegations and to take corrective action.

4.5. Dishonest or Frivolous Complaints—If sexual harassment allegations are not substantiated, all reasonable steps shall be taken to protect the reputation of the accused. Moreover, if the complainant is found to have intentionally or maliciously been dishonest or frivolous in making the allegations, the complainant shall be subject to appropriate disciplinary action.

13.5. Filing of Complaints.

5.1. Sexual Harassment Complaint Procedure Guidelines—Any student, current or former employee or applicant for employment or admission to Glenville State College who believes he or she has been sexually harassed (“complainant”) may file a sexual harassment complaint. Complaints must be filed with the Office of Human Resources within a reasonable time following the alleged sexual harassment or the date on which the complainant knew of the alleged act.

A complaint may be filed with the Office of Human Resources without prior discussions of the issue with any other College official. However, individuals are encouraged to attempt to resolve the complaint by first bringing the issue to their immediate supervisor or next level supervisor.

5.2. Extension of Time Limits—All of the time limits contained within this complaint procedure may be extended with the approval of the Director of Human Resources or his/her designee.

5.3. Complaints Filed With Other GSC Departments or Units—Any complaint of sexual harassment that is filed with another GSC department or unit shall be referred to the Office of Human Resources within 24 hours or the next working day. The Director of Human Resources reserves the right to waive this requirement.

5.4. Responsibilities—When sexual harassment is alleged or suspected, the following persons have the following responsibilities:

5.4.1. The student, employee or job applicant who believes he or she has been subjected to sexual harassment is responsible for:

- Whenever possible, attempting to resolve complaints through an immediate supervisor or next level supervisor. If such discussions fail to resolve the complaint,
the complainant may seek a review of his/her complaint in accordance with the above complaint procedure;

- Contacting the Office of Human Resources for advice and/or counseling; and
- Filing a sexual harassment complaint with the Office of Human Resources if the situation remains unresolved.
- If anyone is aware of a sexual harassment complaint and fails to follow proper procedures, the employee/student should be subject to disciplinary action.

5.4.2. The Office of Human Resources is responsible for:

- Receiving a complaint and assisting the complainant in defining the charge and completing the complaint form;
- Apprising the person(s) named in the complaint ("respondent") and his/her administrative office of the allegation and notifying them that retaliation is prohibited;
- Assisting the individual(s) named in the complaint in interpreting the charge;
- Obtaining a response to the charge from the respondent within 10 working days;
- Upon receipt of the response from the respondent named in the complaint, investigating the complaint further if necessary and appropriate. The Office of Human Resources shall have access to all necessary documents, the right to interview witnesses and the ability to bring together the complainant and respondent, if beneficial;
- Upon completion of the investigation, issuing a finding on the case to all individuals named in the complaint within 20 working days. If there is no evidentiary basis for a charge of sexual harassment, the Office of Human Resources shall indicate this conclusion to the complainant and advise him/her that the case is closed;
- Making recommendations for the resolution of the complaint if unlawful sexual harassment is found; and
- Monitoring the recommendations for implementation, and ensuring that appropriate disciplinary action is taken.

5.4.3. The respondent is responsible for:

- Providing a response to the charge within 10 working days after receipt of the charge; and
- Taking no retaliation or reprisal against the complainant, others related to the complainant, or persons involved in the complaint investigation. Any retaliation and/or reprisal is subject to disciplinary action to include loss of tenure and/or loss of job.

5.4.4. The respondent's supervisor is responsible for:

- Providing a response to the Office of Human Resources within 7 business days of the action taken with reference to the recommendations of the Office of Human Resources; and
• Taking no retaliation or reprisal against the complainant, others related to the complainant, or persons involved in the complaint investigation.

13.6. Action to be Taken Against Perpetrators.

6.1. Violators of this policy are subject to disciplinary action that may include sanctions as severe as discharge of an employee or expulsion of a student. In addition, sexual harassment that constitutes sexual assault or other criminal law violation will be referred to the appropriate authorities for prosecution.

Approvals:

____________________________________  _____________
President                                Date

____________________________________  _____________
Chair of the Board                       Date