

BEHAVIORAL MISCONDUCT

Section 1. Behavioral Misconduct

The following conduct constitutes standard violations of the Student Code of Conduct, but is not limited to, and will subject a student to the Student Code of Conduct procedure. A violation of the Student Code of Conduct may also constitute a violation of city, state, or federal law. If so, some violations may trigger a report to law enforcement.

- *Noncompliance with Policies and Procedures* – Failure to comply with Blackhawk policies and procedures as outlined in the Policy and Procedure manual: blackhawk.edu/about/governance (<https://blackhawk.edu/About/Governance/>)
- *Noncompliance with Law* – Failure to comply with any local, state, or federal law, including statutes, regulations, and ordinances.
- *Failure to comply with a directive from a College employee* – Failure to appear when requested at conferences, meetings, or hearings; failure to respond to verbal or written inquiries; knowingly furnishing false information; and failure to comply with a reasonable request regarding a College matter.
- *Complicity* - A persons shall not, through act or omission, assist another student, individual, or group in committing or attempting to commit a violation of this Student Code of Conduct. A person who has knowledge of another committing or attempting to commit a violation of the Student Code of Conduct is required to remove themselves from the situation, and failure to do so may be the basis for a violation of the Student Code of Conduct. Persons are responsible for the behavior of their guests and must ensure that guests comply with College regulations including the standards in this Student Code of Conduct.
- *Disruptive Conduct* – A persons shall not impair, interfere with, or obstruct the orderly conduct, process, or function of the College, the learning environment, or any of its students, faculty, staff, or guests. This includes, but is not limited to: Committing or threatening to commit any act of violence against self or others; Threatening the health, safety, or welfare of another or engaging in conduct that endangers the health, safety, or welfare of the student or anyone else; Interfering with the freedom of movement of another person; Invading the privacy of another person; Stalking (purposely and repeatedly engaging in behavior and/or communication directed at a specific person which causes that person alarm, distress, fear or a change of normal behavior); Interfering with the right of another to enter, use, or leave any College building, facility, property, services, resources, or activity; Trespassing or the unauthorized entering or accessing of any College building, facility, property, employee office or work area, services, resource, or activity; Instigating or otherwise encouraging others to engage in a fight, riot, or other disruption; Making, exhibiting, or producing any inappropriate, loud, or disruptive noise or behavior; Exhibiting public nudity or lewd behavior.
- *False information* – A persons shall not make a false or misleading oral or written statement to any College employee when the student knew or should have known the statement was false; make a false or misleading oral or written statement that misrepresents the character, qualifications, or reputation of another; falsely report the presence of an explosive or incendiary device, or fire, or other safety hazards; falsely report a crime or violation of this Student Code of Conduct; possess or display any form of false identification or any identification not one's own.
- *Misuse of College Assets* – A persons shall not misuse any College material, service, or property. This includes, but is not limited to destroying, damaging, misusing, or defacing any College building, facility, or property, or any private property on-campus or being used for a College-sponsored event; destroying, damaging, misusing, reproducing, or defacing any student identification card, College provided key or other access cards, laboratory equipment, or any material issued or owned by the College; impairing or otherwise hindering another's use of a College material, service, or property; reading, duplicating, removing, photographing, forging, counterfeiting, or altering any College document or record without authorization; littering on or in any College property, facility, or building.
- *Theft* – Intentional and unauthorized taking, misappropriation, possession, retention, or disposal of any property owned or maintained by the College, another student, a person attending a College-sponsored event, or any other person; the unauthorized taking or use of any College-owned or contracted service.
- *Endangering Safety* – A persons shall not endanger the lives or safety of others. This includes, but is not limited to creating an unsafe condition or environment which could cause harm to others; setting, causing, or failing to report a fire; tampering with, misusing or damaging fire or safety equipment such as alarms, heat sensors, smoke detectors, hoses, and fire extinguishers; failing to immediately exit any facility or building when a fire alarm has been sounded or hindering or impairing the orderly evacuation of any College facility or building; failing to comply with a directive by any College official or faculty member in connection with a fire, alarm, or other safety or security matter. Endangering safety may occur due to action (e.g. making a bomb threat or pulling a fire alarm) or inaction (e.g., failing to report).
- *Retaliatory Acts* – A persons may not commit any adverse action against a person because they have reported harassment, filed a complaint, acted as a witness in the complaint or conduct process, or provided information in support of a violation. This includes, but is not limited to; ostracizing the person, pressuring the person to drop the complaint, providing false or misleading information, or engaging in conduct that may reasonably be perceived to affect adversely that person's educational, living, or work environment. Further violations include threatening, intimidating, or coercing the person, otherwise discriminating against any person for exercising their rights or responsibilities under this policy.
- *Weapons* – The possession, use or threat of use of any object that may reasonably be believed to cause physical injury to another person is prohibited on all College facilities and all College-sponsored events (on and off-campus). A student shall not possess, use, or threaten to use any of the following items on campus: Any firearm (including any weapon or instrument from which a shot, projectile, or other objects may be discharged by force, whether operable or inoperable, loaded or unloaded); Any deadly weapon, defined as any instrument, item, or material readily capable of causing death or serious physical injury; Any BB gun, pellet gun, air rifle, pain gun, stun gun, Taser, sword (whether decorative or not), or other martial arts weapon; Any knife (other than an ordinary pocketknife carried

in a closed position, with a blade of 3 inches or less or cutlery of a reasonable size, when used in a kitchen or other food preparation area); Any explosive chemical or device including a substance or a combination of substances possessed or prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, including fireworks and illegal or potentially dangerous chemicals. Note: Possession of a license to possess or use of any of the above items will not constitute a defense of any violation of this section.

- *Misuse of Technology* - Violation of the College's Acceptable Use of Information Technology Services Resources Policy (<http://catalog.blackhawk.edu/student-code-of-conduct/behavioral-misconduct/blackhawk.edu/about/governance/>), and otherwise unethical, inappropriate, or illegal use of College technology and IT resources.
- *Trespassing* – Unauthorized entry into or use of property owned, leased, or controlled by the College, or at College-sponsored activities or events. Unauthorized possession, duplication or use of keys/swipe cards/lock codes to any property owned, leased, or controlled by the College.
- *Bullying and Cyberbullying* – Deliberate or intentional behavior, including behavior conducted on computers, cell phones, and other electronic devices, using words or actions, intended to cause fear, intimidation or harm. Bullying and cyberbullying may be repeated behavior and involve an imbalance of power.
- *Invasions of Privacy* - Using electronic or other means to record or photograph any person in a location where there is a reasonable expectation of privacy. This includes, but is not limited to, recording or photography in shower/locker rooms and restrooms. The storing, sharing, and/or distributing of such unauthorized recordings or photographs by any means is also prohibited.
- *Forgery* – Alteration or misuse of any College document, record, form, or instrument of identification.
- *Illegal Use of Substances* – Illegal use, possession, sale, or distribution of controlled substances, associated paraphernalia, and/or alcohol on property owned or leased by the College, or at College-sponsored activities. All persons must comply with applicable laws and District policies regarding the use of controlled substances.
- *Gender Discrimination and Sexual Misconduct* – The College is committed to providing a learning environment free of unlawful discrimination and sexual harassment. The College will use the following policy to respond appropriately to address violations: <https://www.blackhawk.edu/About/Safety-Security/Title-IX> (<https://www.blackhawk.edu/About/Safety-Security/Title-IX/>)
- *Sexual Harassment under Title IX of the Education Amendments* - Sexual harassment is an overarching definition that includes sexual harassment, sexual assault, domestic violence, dating violence, and stalking. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. Blackhawk Technical College is bound by and supports all applicable laws as they pertain to Title IX. The Title IX of the Higher Education Act of 1972 ensures the College does not discriminate based on sex in its education programs. The Campus Sexual Violence Elimination Act (SAVE) of 2013 and the Violence Against Women Reauthorization Act (VAWA) ensures colleges and universities implement policies and programs to prevent sexual assault, dating violence, domestic violence, and stalking. Reports of sexual harassment under Title IX will be addressed under

the College's Gender Discrimination and Sexual Misconduct policy: <https://www.blackhawk.edu/About/Safety-Security/Title-IX> (<https://www.blackhawk.edu/About/Safety-Security/Title-IX/>)

- *Harassment* – Unwanted, deliberate, or repeated unsolicited comments, slurs, demeaning references, gestures, graphic material, physical contact, solicitation of favors, advances, requests, or other adverse treatment based on a protected group status. The College reserves the right to address harassment even if it is not based on a protected group status and/or does not create a hostile environment.
- *Discrimination* – Unfair or unequal treatment on the actual or perceived basis of a protected group status. The College reserves the right to address discrimination even if it is not based on a protected status and/or does not create a hostile environment.
- *Assault or Battery* – Threats of physical harm or physical harm against another person.
- *Abusive Acts* – Acts of verbal or physical abuse, or acts which intimidate, harass, threaten, coerce, or otherwise endanger the health or safety of any person or create a hostile learning or work environment.

First Amendment Statement

Speech or conduct protected by the First Amendment will NOT be considered a violation of the College's Harassment and Nondiscrimination Policy. Discrimination, harassment, and retaliation against members of the College community are NOT protected expression or the proper exercise of academic freedom. The College considers academic freedom in the investigation of reports of discrimination or harassment that involve an individual's statements or speech in an academic context. The College is committed to the protection of individual rights under the First Amendment (and related principles of academic freedom) and in preserving the widest possible dialogue within its educational environment. Off#campus discriminatory or harassing speech may be regulated by the College only when such speech is made in an official College capacity, is directed at other College community members, or has the propensity to create a hostile environment in the educational or work activities of the College.

Behavioral Misconduct Procedure & Sanctions

Reports of behavioral misconduct will be addressed through the procedures set forth below. Reports of sexual harassment under Title IX of the Education Amendments of 1972 will be addressed under the College's Gender Discrimination and Sexual Misconduct (Title IX) policy at: <https://www.blackhawk.edu/About/Safety-Security/Title-IX> (<https://www.blackhawk.edu/About/Safety-Security/Title-IX/>)

Generally, the process for addressing reports of behavioral misconduct will be completed within sixty (60) days. However, the College reserves the right to extend the timeline when necessary to complete an investigation.

The procedure and outcome of a violation of the Student Code of Conduct will consider several factors, including the respondent's prior disciplinary history, the need to remedy the effects of the respondent's behavior, the safety of the College community, and the need to hold the respondent accountable for their actions. When the severity of the circumstance warrants, the Director of Campus Security, Title IX Coordinator, Executive Director of Student Services, Vice President for Academic Affairs, and/or

President may impose upon the respondent a temporary suspension or separation from the College, including classes and any College activity.

Procedure

Whenever possible, alleged misconduct issues should be resolved through a conference with the complainant and the respondent. The parties may ask a neutral party to act as a mediator. The Conduct Officer will refer situations to BIT for appropriate next steps and mediator recommendations.

In the event the alleged misconduct cannot be resolved between the parties, or the behavioral misconduct becomes egregious and/or persistent, a report should be submitted using the Behavior Intervention Team (BIT) report (<https://blackhawk.edu/About/Safety-Security/Behavior-Intervention-Team/>) on the College website or reported directly to the Conduct Officer or Executive Director of Student Services. A report should be submitted as soon as possible following the alleged violation to ensure a fair and timely investigation. The respondent(s) will be notified in writing of the alleged violation.

Once the report has been submitted, the Conduct Officer will preliminarily assess and review the alleged violation by taking the following steps:

- Meet with the complainant to understand the nature of the report and offer supportive services.
- Gather other relevant preliminary information, if necessary. This may include:
 - Gathering relevant documents, such as, but is not limited to, student records, disciplinary records, police reports, and audio and video recordings.
 - Interviewing relevant witnesses and College officials, when appropriate.
- Contact law enforcement, if appropriate.

Once relevant information has been gathered, the Conduct Officer will take the following steps:

- Notify the respondent of the alleged violation via email.
- Meet with the respondent, share the information obtained, and provide the respondent an opportunity to respond to the information.
- If needed, conduct additional interviews or gather additional information.
- Determine whether the respondent has violated the Student Code of Conduct and assign appropriate sanctions.
- Provide notice to the respondent(s) and complainant (when appropriate) of the decision. If sanctions are assigned, provide the respondent with an explanation of sanctions, supportive resources, appeal options, and a timeline to complete sanctions (if applicable).

If the respondent does not take responsibility for the alleged violation, chooses not to participate in the resolution process, or an agreement between the respondent and Conduct Officer is not reached, the Conduct Officer shall determine, based upon the review of the respondent's previous disciplinary history and the nature of the violation, and will consult with BIT for appropriate sanctions.

Disruptive Behavior in the Classroom

Classroom disruptions will first be addressed informally by the faculty member to articulate the problem and expectations of classroom behavior clearly. If a student engages in behavior that is disruptive to the learning environment, the student may be denied access to the classroom upon the faculty member's notification of the Dean and submission of a BIT report. The behavior misconduct procedures will ensue. This applies to online and face-to-face classrooms. Students who are removed from class have a right to due process procedures to ensure fair treatment in such circumstances.

Examples of common disruptive behavior include, but are not limited to:

- Persistent late arrival or departure that disrupts the class.
- Repeated cell phone use during class.
- Intentionally disrupting class with the use of language or physical behaviors.
- Loud and/or frequent interruption of class flow with inappropriate questions or remarks.
- Persistent contact outside of class that hampers the instructor's ability to do normal work or assist other students.
- Belligerent behavior
- Verbal and/or physical threats.
- Threatening or harassing emails, letters, messages or voicemails.
- Inappropriate contact at the instructor's home.
- Any behavior indicating a romantic or obsessive interest.
- Distressing, disturbing or other dangerous behaviors.

If the faculty member feels that there is an immediate threat to the health or safety of others, the instructor will call 911 and then call Campus Security. Disruptive behavior, particularly when such behavior is repeated, threatening, harassing or dangerous, is a violation of the Student Code of Conduct and shall be handled accordingly. In all cases, the faculty member is asked to submit a report using the Behavior Intervention Team (BIT) report.

Sanctions

The following sanctions for behavioral misconduct that may be imposed upon the respondent include, but are not limited to:

- Verbal Warning – Respondent will be notified verbally that they have violated the Student Code of Conduct and must act more responsibly in the future.
- Written Warning – Respondent will be notified in writing that they have violated the Student Code of Conduct and must act more responsibly in the future.
- Corrective Action – Required corrective action includes, but is not limited to, academic counseling and/or tutoring, substance abuse screening, mental health assessment, writing a letter of apology, service to the College, etc.
- Educational Program - Enrolling in an educational program addressing the related issues. Referral to an off-campus education program may be recommended.
- Loss of Privileges – Denial of specified privileges for a designated period of time.
- Restitution – Monetary penalties for loss, damage, or injury.

- No Contact Directive – Directive to avoid all contact with the complainant or other individuals. This includes contact through in-person, email, phone, social media, or other electronic mediums.
- Confiscation of Prohibited Property – Confiscation of illegal or prohibited items for a designated period of time. Any controlled substances, including alcohol, will be discarded or turned over to law enforcement.
- College Suspension – Separation from the College for a specified period of time, after which the respondent is eligible to return. Conditions for return may be specified. During the suspension period, the student is banned from property owned, leased, or controlled by the College and is banned from College sponsored events and activities. The sanction may be enforced with a trespass action as necessary.
- College Expulsion – Permanent separation of the student from the College with no opportunity to return.
- Withholding Degree – The College may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Code of Conduct including the completion of all sanctions imposed if any.
- Revocation of Admission and/or Degree - Admission to or a degree awarded from the College may be revoked for fraud, misrepresentation, or other violation of College standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- Other Sanctions – Additional or alternate sanctions may be created and designed as deemed appropriate.

The Conduct Officer/BIT may not impose College suspension, College expulsion, withholding degree, nor revocation of admission and/or degree upon a respondent, such sanctions may be recommended to the Executive Director of Student Services for final determination.

When a violation of the Student Code of Conduct occurs regarding College groups, organizations, and/or member of groups or organizations acting on behalf of the group or organization, the Conduct Officer may impose the loss of selected rights and privileges for a specific period of time, including College recognition.

Interim Suspension

In certain circumstances, a campus interim suspension may be recommended by the Conduct Officer/BIT to the Executive Director of Student Services. An interim suspension may be imposed to ensure the safety and well-being of members of the College community or preservation of College property, to ensure the respondent's own physical or emotional safety and well-being, or if the respondent poses an ongoing threat of disruption of, or interference with, the normal operations of the College. If an interim suspension is imposed:

- The respondent shall be notified in writing of this action at the time it is imposed. Notification will include the reasons for the interim suspension. The notice will include the place, date, and time (within 24 hours of the notification) of an appeal meeting at which the respondent may show why their continued presence on campus does not constitute a threat.
- During the interim suspension, the respondent will be denied access to the College (including classes) and all other College activities or privileges for which the respondent might otherwise be eligible.

Any negative impact (including academic or financial) of interim suspension is the responsibility of the respondent.

- The interim suspension does not replace the regular resolution process, which will proceed as outlined in this policy.

Temporary Suspension When Certain Criminal Charges are Pending

The College may temporarily suspend any student when certain criminal charges, on or off-campus, are pending against that student. Specifically, a temporary suspension may be mandated where the crime involves an act of violence, the sale, manufacture or delivery of drugs, or any other conduct that is egregiously offensive to the College's mission.

Emergency Suspension

The College may remove any student where the continued presence of the student on campus poses a threat to the safety or rights, welfare, or property of the individual, others, and/or the College.

Student Records

Only sanctions of expulsion, revocation, or withholding of a degree for violation of Student Code of Conduct will be made part of the respondent's permanent academic record, and all other sanctions will become part of the respondent's disciplinary record. Upon graduation, the respondent's disciplinary record may be expunged of disciplinary actions other than, College disciplinary suspension, expulsion, revocation, or withholding of a degree.