

## 6.7 Sexual Misconduct Policy

In accordance with federal and state law including, Title IX of the Education Amendments of 1972 (“Title IX”) and Title VII of the Civil Rights Act of 1964 (Title VII), the University System of Georgia (USG) prohibits discrimination on the basis of sex in any of its education programs or activities or in employment. The USG is committed to ensuring the highest ethical conduct of the members of its community by promoting a safe learning and working environment. To that end,

**Consent:** Words or actions that show a knowing and voluntary willingness to engage in mutually agreed-upon sexual activity. Consent cannot be gained by force, intimidation or coercion; by ignoring or acting in spite of objections of another; or by taking advantage of the incapacitation of another where the respondent knows or reasonably should have known of such incapacitation. Minors under the age of 16 cannot legally consent under Georgia law.

Consent is also absent when the activity in question exceeds the scope of consent previously

known) without revealing any information that would personally identify the alleged victim. This minimal reporting must be submitted in compliance with Title IX and the Clery Act. Confidential Employees may be required to fully disclose details of an incident in order to ensure campus safety.

**Privileged Employees:** Individuals employed by the institution to whom a complainant or alleged victim may talk in confidence, as provided by law. Disclosure to these employees will not automatically trigger an investigation against the complainant's or alleged victim's wishes. Privileged Employees include those providing counseling, advocacy, health, mental health, or sexual-assault related services (e.g., sexual assault resource centers, campus health centers, pastoral counselors, and campus mental health centers) or as otherwise provided by applicable law. Exceptions to confidentiality exist where the conduct involves suspected abuse of a minor (in Georgia, under the age of 18) or otherwise provided by law, such as imminent threat of serious harm.

**Reasonable Person:** An individual who is objectively reasonable under similar circumstances and with similar identities to the person being evaluated by the institution.

**Reporter:** An individual who reports an allegation of conduct that may violate this Policy but who is not a party to the complaint.

**Respondent:** An individual who is alleged to have engaged in conduct that violates this Policy.

**Responsible Employees:** Those employees who must promptly and fully report complaints of or information regarding sexual misconduct to the Coordinator. Responsible Employees include any administrator, supervisor, faculty member, or other person in a position of authority who is not a Confidential Employee or Privileged Employee. Student employees who serve in a supervisory, advisory, or managerial role are in a position of authority for purposes of this Policy (e.g., teaching assistants, residential assistants, student managers, orientation leaders).

**Sexual Exploitation:** Taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited.

Examples of sexual exploitation may include, but are not limited to, the following:

1. Invasion of sexual privacy;
2. Prostituting another individual;
3. Non-consensual photos, video, or audio of sexual activity;
4. Non-consensual distribution of photo, video, or audio of sexual activity, even if the sexual activity or capturing of the activity was consensual;
5. Intentional observation of nonconsenting individuals who are partially undressed, naked, or engaged in sexual acts;
6. Knowingly transmitting an STD or HIV to another individual through sexual activity;
7. Intentionally and inappropriately exposing one's breasts, buttocks, groin, or genitals in non-consensual circumstances; and/or

8. Sexually-based bullying.

**Sexual Harassment (Student on Student):** Unwelcome verbal, nonverbal, or physical conduct based on sex (including gender stereotypes), determined by a Reasonable Person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to participate in or to benefit from an institutional education program or activity in violation of Title IX.

**Sexual Harassment (Other than Student on Student):** Unwelcome verbal, nonverbal, or physical conduct, based on sex (including gender stereotypes), that may be any of the following:

1. Implicitly or explicitly a term or condition of employment or status in a course, program, or activity;
2. A basis for employment or educational decisions; or
3. Is sufficiently severe, persistent, or pervasive to interfere with one's work or educational performance creating an intimidating, hostile, or offensive work or learning environment, or interfering with or limiting one's ability to participate in or to benefit from an institutional program or activity.

The USG also prohibits unwelcome conduct determined by a Reasonable Person to be so severe,

## 6.7.2 (A) Institutional Reports

An institutional report occurs when the institution has notice of a complaint. That notice occurs in two instances:

1. When a Responsible Employee receives a complaint; or
2. When the Title IX Coordinator or their designee receives a complaint.

Any individual may make a report, but the institution does not have notice of the report until information is known to a Responsible Employee or the Coordinator. The report may be made directly to the Coordinator in multiple formats to include: writing, email, phone, letter, fax, interview, or other method that provides the basis of the complaint of sexual misconduct. There is no specific information required to constitute a report; however, the report should contain as much information as can be provided. Reporting options should be included on the Title IX website.

Complainants, or anyone with knowledge of Sexual Misconduct, may file a report with a Responsible Employee or the Coordinator. That Responsible Employee must provide a complete reporting of all information known to them to the Coordinator. Responsible Employees informed about Sexual Misconduct allegations should not attempt to resolve the situation, but must notify and report all relevant information to the Coordinator as soon as practicable

Upon receipt of an institutional report, the Coordinator will contact the Complainant. That contact will discuss the availability of supportive measures, the invitation to discuss their wishes with respect to implementation of supportive measures, and explain the process of filing a complaint. An institutional report does not automatically prompt an investigation.

The Coordinator's identity and contact information shall be published by each institution prominently on the institution's website, as well as in any relevant publication. Each institution may choose to have Deputy Title IX Coordinators to whom reports may be made, as well.

The Coordinator shall notify the System Director of any allegation(s) of Sexual Misconduct that could, standing alone as reported, lead to the suspension or expulsion of the Respondent(s). The System Director will work with the institution to determine whether any support services or interim measure(s) are necessary and to assign an investigator who will work under the direction of the System Director or designee, if directed by System Director. If an allegation is not initially identified as one that would lead to the suspension or expulsion of the Respondent(s), but facts arise during the course of the investigation that could lead to the Respondent's suspension or expulsion, the Title IX Coordinator shall notify the System Director or designee. The System Director shall have the discretion oversee the handling of the complaint.

## 6.7.2 (B) Confidential Reports

Confidential Employees

Employees and Privilege Employees may make a report to the Coordinator within the degree of specificity dictated by the Complainant.

Nothing in this provision shall prevent an institution staff member who is otherwise obligated by law (i.e, the C

### 6.7.2 (G) Retaliation

Anyone who has made a report or complaint, provided information, assisted, participated or refused to participate in any manner in the Sexual Misconduct Process, shall not be subjected to retaliation. Anyone who believes that of they have subjected to retaliation should immediately contact the Coordinator or their designee. Any person found to have engaged in retaliation in violation of this Policy shall be subject to disciplinary action.

### 6.7.2 (H) False Complaints

### 6.7.3 (B) Interim Measures

Interim measures may be implemented at any point after the institution becomes aware of an allegation of sexual misconduct and should be designed to protect any student or other individual in the USG community. Such measures are designed to restore or preserve equal access to the education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the campus community, or deter Sexual Misconduct and retaliation. Interim measures must be provided consistent with the provisions in applicable Board and institutional policies and procedures.

### 6.7.3 (C) Emergency Removal

Emergency removal should only occur where necessary to maintain safety and should be limited to those situations where the Respondent poses a serious and immediate danger or threat to persons or property. In making such an assessment, the institution should consider the existence of a significant risk to the health or safety of the Complainant or the campus community; the nature, duration, and severity of the risk; the probability of potential injury; and whether less restrictive means can be used to significantly mitigate the risk.

### 6.7.3 (D) Jurisdiction

Each USG institution shall take necessary and appropriate action to protect the safety and well-being of its community. Sexual misconduct allegedly committed is addressed by this Policy when the misconduct occurs on institution property, or at institution-sponsored or affiliated events, or off-campus, as defined by other Board or institution student conduct policies.

### 6.7.3 (E) Advisors

Both the Complainant and the Respondent, as parties to the matter, shall have the opportunity to use an advisor (who may or may not be an attorney) of the party's choosing at the party's own expense. The advisor may accompany the party to all meetings and may provide advice and counsel to their respective party throughout the Sexual Misconduct process, including providing questions, suggestions and guidance to the party, but may not actively participate in the process except as outlined in BOR 6.7.4 (D). All communication during the Sexual Misconduct process will be between the institution and the party and not the advisor. With the party's permission, the advisor may be copied on all communications.

### 6.7.3 (F) Informal Resolutions

Allegations of Sexual Misconduct may be resolved informally. The Complainant, the Respondent, and the institution must agree to engage in the informal resolution process and to the terms of the informal resolution. The Complainant(s) and the Respondent(s) have the option to end informal resolution discussions and request a formal process at any time before the terms of an informal resolution are reached. However, matters resolved informally shall not be appealable.







All Sexual Misconduct investigations involving an employee Respondent, shall be addressed utilizing Board and institutional employment policies and procedures.

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## 6.7.6 Hearings, Possible Sanctions and Appeals

All Sexual Misconduct hearings, sanctions, and appeals involving a student Respondent, shall follow the hearing and resolution process set forth in this Policy and [Section 4.6.5, Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings](#).

All Sexual Misconduct adjudication involving an employee Respondent, shall be addressed utilizing Board and institutional employment policies and procedures.