

4.1.7 Sexual Misconduct Policy

The University System of Georgia is committed to ensuring a safe learning environment that supports the dignity of all members of the University System of Georgia community. The University System of Georgia does not discriminate on the basis of sex or gender in any of its education or employment programs and activities. To that end, this policy prohibits specific forms of behavior that violate Title IX of the Education Amendments of 1972. The University System of Georgia will not tolerate sexual misconduct, which is prohibited, and which includes but is not limited to, domestic violence, dating violence, sexual assault, sexual exploitation, sexual harassment and stalking. The University System further strongly encourages members of the University System community to report instances of sex 612(r)-5(a)(3) 1 Tf -374)22(1)-2(d(a)4

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 video or audio of sexual activity;
4. Non-consensual distribution of video or audio of sexual activity, even if the sexual activity or video or audio taken of sexual activity was consensual;
5. Intentional observation of unconsenting individuals who are partially undressed, naked, or engaged in sexual acts;
6. Knowingly transmitting an STD or HIV to another individual;
7. Intentionally and inappropriately exposing one's breasts, buttocks, groin, or genitals in non-consensual circumstances; and/or
8. Sexually based bullying.

Sexual Harassment: Unwelcome verbal, nonverbal, or physical conduct, based on sex or gender stereotypes that is implicitly or explicitly a term or condition of employment or status in a course, program or activity; is a basis for employment/educational decisions;

The Title IX 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. Institutions should encourage complainants to report their complaints in writing, though oral complaints should also be accepted, taken seriously, and investigated to the extent possible. Further, while complaints should be made as quickly

drugs or alcohol will not be used against the particular individual disciplinary proceeding or voluntarily reported to law enforcement; however, individuals be provided with resources on drug and alcohol counseling and/or education, as appropriate.

Law Enforcement Reports

Because sexual misconduct may constitute criminal activity, complainants also have the option, should he or she so choose, of filing a report with campus or local police for his or her own protection and that of the surrounding community.

Complainants considering filing a report of sexual misconduct with law enforcement should preserve any evidence of sexual misconduct, including, but not limited to, the following:

1. Clothing worn during the incident including undergarments;
2. Sheets, bedding, and condoms, if used;
3. Lists of witnesses with contact information;
4. Text messages, call history, social media

Investigations

1. The Office of the Title IX Coordinator is primarily responsible for directly overseeing the investigation and resolution of complaints, and coordinating possible remedial actions or other responses reasonably designed to minimize the recurrence of the alleged conduct as well as mitigate the effects of any misconduct. The Title IX Coordinator will ensure prompt, fair, and impartial investigations and resolutions of complaints alleging violations of the sexual misconduct policy. The Title IX Coordinator shall be responsible for ensuring any individual participating in the investigation, resolution, or appeal of any sexual misconduct case has received regular training on issues pertaining to sexual misconduct.
2. The Title IX Coordinator shall designate an investigator to conduct a prompt, thorough, and impartial investigation into each complaint received. The investigation shall

9. The respondent and/or alleged victim may challenge the participation of the investigator on the grounds of personal bias by submitting a written statement to the Title IX Coordinator setting forth the basis for the challenge no later than three (3) business days after the party reasonably should have known of the bias. The Title IX Coordinator will determine whether to sustain or deny the challenge, and if sustained, to appoint a replacement.
10. At the conclusion of the investigation, the investigator will issue to the parties a written report setting forth charges and possible sanctions as well as an explanation of the evidence against the respondent.
11. The parties shall have at least three (3) business days to respond to the report in writing. The respondent's written response should outline his or her plea in response to the charge(s), and where applicable, his or her defense(s), and the facts, witnesses, and documents – whether written or electronic – in support.
12. The investigator shall, as necessary, conduct further investigation and update the report as warranted by the response, and will update the report as necessary.
13. Upon completion of the investigation, the investigator will review the evidence with the Title IX Coordinator. The Title IX Coordinator will ensure policies have been followed.
14. The Title IX Coordinator will contact the alleged victim(s) and the respondent(s) and schedule an opportunity to meet with each party individually. During these meetings, the Title IX Coordinator shall review the report with the parties (individually). Should the report be acceptable to all parties, an informal resolution may be made which would not require the parties to move to the hearing phase of these procedures. If, however, the parties agree on the conduct, but not on the sanctions, then the sanctions shall be addressed by the hearing panel.
15. Allegations of sexual misconduct involving a student that are brought against an institution's faculty or staff will be investigated as outlined above, but will be further addressed and/or resolved through the institution's applicable employment policies, and in accordance with the procedures for dismissal outlined in the Board of Regents Policy including procedures for appealing such decisions.
16. Where the respondent(s) is a student, a hearing, as well as corresponding procedures/rights to appeal, shall be administered as set forth below, and a final report shall be provided to all parties, which will also provide a date, and location for a hearing on the matter.
17. The final report should also be provided to the panel for their consideration in adjudicating the charges brought against the respondent. The investigator may testify as a witness before the panel regarding the investigation and findings, but shall otherwise have no part in the hearing process and shall not attempt to otherwise influence the panel outside of providing testimony during the hearing.

Hearings

1. The hearing will be conducted by the Title IX Coordinator and/or his designee(s). The Panel must be composed of at least three (3) members.
2. The investigator shall not serve on the Panel.
3. No student shall serve on the Panel.
4. Both the alleged victim and respondent shall have the opportunity to present witnesses and evidence to the Panel. Both parties shall have the right to confront

any witnesses, including the other party, by submitting written questions to the Title IX Coordinator and/or his or her designee for consideration. Witness testimony, if provided, shall pertain to knowledge ~~facts~~ directly associated with the case being heard. Advisors may actively assist in drafting questions. The Panel shall ask the questions as written, and will limit questions only if they are unrelated to determining the veracity of the charge leveled against the respondent(s). In any event, ~~the~~ Panel shall err on the side of asking all submitted questions, and must document the reason for not asking any particular questions.

5. The Title IX Coordinator reserves the right to allow a party to testify in a separate room, when determined to be necessary. Where such a determination is made, special measures must be put in place to ensure no party is unfairly advantaged by this procedure. A party must still give testimony in the presence of the Panel, and the opposing party must have the opportunity to view the testimony remotely and to submit follow-up questions.
6. Similarly, where the Title IX Coordinator determines that a witness or party necessary to the proceedings is unavailable and unable to be present due to exigent circumstances (e.g., on a study abroad program, medical restrictions on travel, etc.) he or she may establish special procedures for providing testimony from a separate location. In doing so, the Title IX Coordinator must determine there is a valid basis for the unavailability, ensure proper sequestration in a manner that ensures the testimony has not been tainted, and make a determination that such an arrangement will not unfairly disadvantage any parties. Should it be reasonably believed that a party or witness who is not physically present has a

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privileges; delays in obtaining administrative services and benefits from the institution (holding transcripts, delaying registration, graduation, diploma); additional academic requirements relating to scholarly work or research on sexual misconduct; financial restitution; or any other discretionary sanctions directly related to the violation or conduct.

4.7.1.6 Appeals

Parties shall have the right to appeal the outcome on any of the following grounds: (1) to consider new information, sufficient to alter the decision, or other relevant facts not brought out in the original hearing, because such information was not known or knowable to the person appealing during the time of the hearing; (2) to allege a procedural error within the hearing process that may have substantially impacted the fairness of the hearing, including but not limited to whether any hearing questions were improperly excluded or whether the decision was tainted by bias; or (3) to allege that the finding was inconsistent with the weight of the information. Appeals may be made by the alleged offender for the above reasons in any case where sanctions are issued even those in which such sanctions are held "in abeyance," such as probationary suspension or expulsion.

The appeal must be made in writing, and must set forth one or more of the issues outlined above, and must be submitted within five (5) business days of the date of the final report.

Where the respondent alleged victim appealing the outcome is a student, the appeal should be made to the Vice President for Student Affairs or his/her designee. The appeal shall be a review of the record only, and no new meeting with the respondent or alleged victim will be held. The non-appealing party shall be given the opportunity to respond to the appellant's submission. The applicable Vice President or his/her designee may affirm the original finding and sanction; affirm the original finding but issue a new sanction of greater or lesser severity; and the case back to the Title IX Coordinator to correct a procedural or factual defect; or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand.

4. Addition to the Policy Manual: 4.6.5 Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings

The policy is being presented for review and approval. This policy, if approved, will establish uniform systemwide procedural standards for investigations and resolutions (including student conduct hearings) of alleged student conduct violations. Each institution will be required to incorporate these procedures into their respective codes of student conduct, which will become effective at all institutions on July 1, 2016.

4.6.5 Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings

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Where the potential sanctions for the alleged misconduct may involve a suspension or expulsion (even if such sanctions were to be held "in abeyance," such as probationary suspension or expulsion) the institution's investigation and resolution procedures must provide the additional, minimum safeguards:

1. The respondent shall be provided with written notice of the complaints, pending investigation, possible charges, possible sanctions, and available support services. The notice should also include the identity of any investigator(s) involved. Notice should be provided via institution email to the address on file. Where applicable, a copy shall also be provided to the alleged victim via the same means.
2. Upon receipt of the written notice, the respondent shall be given at least three (3) business days to respond in writing. In that response, the respondent shall have the right to admit or to deny the allegations, and to set forth a defense with facts, witnesses, and documents—whether written or electronic—in support. A nonresponse will be considered a general denial of the alleged misconduct.
3. Based on this response, the investigation shall consist of interviews of the respondent, the alleged victim (where applicable) and witnesses, and the collection and review of documents or other physical or electronic information, as well as other steps as appropriate. The investigator should retain written notes and/or obtain written or recorded statements from each interview. The investigator shall also keep a record of any proffered witnesses not interviewed, along with a brief, written explanation.
4. The investigation shall be summarized in writing in an initial investigation report provided to the respondent and the alleged victim (where applicable) in person or via email. This summary should clearly indicate any resulting charges (or alternatively, a determination of no charges), as well as the facts and evidence in support of the charges, witness statements, and possible sanctions.
5. To the extent the respondent is ultimately charged with any violation, he shall also have the opportunity to respond in writing. The respondent's written response to the charge(s) shall be due no earlier than three (3) business days following the date of the initial investigation report. The respondent's written response should outline his or her plea in response to the charge(s), and where applicable, his or her defense(s), and the facts, witnesses, and documents—whether written or electronic—in support. A nonresponse to the charge(s) by the respondent will be interpreted as a denial of the charge(s).
6. The investigator shall conduct further investigation and update the investigative report as warranted by the respondent's response.
7. The final investigative report should be provided to the student misconduct panel or hearing officer for consideration in adjudicating the charges brought against the respondent. A copy shall also be provided to the respondent and the alleged victim (where applicable) before any hearing. The investigator may testify as a witness regarding the investigation and findings, but shall otherwise have no part in the hearing process and shall not attempt to otherwise influence the proceedings outside of providing testimony during the hearing.

Interim Suspensions

Interim suspensions—that is, suspensions while the investigation and adjudication process are proceeding—should only occur where necessary to maintain safety, and should be limited to those situations where the respondent poses a serious and immediate danger 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 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.

Before an interim suspension is issued, the institution must make all reasonable efforts to give the respondent the opportunity to be heard on whether his or her presence on campus poses a danger. If an interim suspension is issued, the terms of the suspension shall take effect immediately. When requested by the respondent, a hearing to determine whether the interim suspension should continue will be held within three (3) business days of the request.

Resolution/Hearing

In no case shall a hearing to resolve charge(s) of student misconduct take place before the investigative report has been finalized or before the respondent has had an opportunity to respond in writing, unless the respondent has chosen to go through an informal process otherwise provided a written waiver of rights to these procedures. Further, unrelated charges and/or cases shall be heard separately unless the respondent voluntarily consents to the charges/cases being heard jointly.

Where the respondent indicates that he or she contests the charges, and once the investigative report has been finalized and copies provided to the respondent and alleged victim (where applicable), the case shall be set for hearing; however, the alleged victim (where applicable) respondent may have the option of selecting mediation as a possible resolution in certain student misconduct cases where they mutually agree except where deemed inappropriate by the Vice President for Student Affairs, or his/her designee.

Where a case is not resolved through mediation, the respondent shall have the option of having the charges heard either by an administrator (hearing officer) or a student panel. Notice of the date, time, and location of the hearing, shall be provided to the respondent and alleged victim (where applicable) at least five (5) business days prior to the hearing. Notice shall be provided via institution email or alternative method, if necessary. Additionally, the following standards will apply to any such hearing:

1. The respondent shall have the right to present witnesses and evidence to the hearing officer or panel, as well as to ask questions to any witnesses. At the determination of the hearing officer or panel, this questioning may take place through the submission of written questions to the panel hearing officer for consideration; however, the part

5. Institutions should maintain documentation of the proceedings, which may include written findings of fact, transcripts, audio recordings and/or video recordings.
6. Following a hearing, both the

The Vice President or his/her designee shall then issue a decision in writing to both the respondent within a reasonable time period

The decision of the Vice President or his/her designee may be appealed in writing within five (5) business days (as determined by the date of the decision letter) to the President of the institution solely on the four grounds set forth above.

The President may affirm the original finding and sanction, affirm the original finding but issue a new sanction of greater or lesser severity, remand the case back to the decision maker to correct a procedural or factual defect, or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The President's decision shall be issued in writing to both the respondent within a reasonable time period. The President's decision shall be the final decision of the institution.

Should the respondent wish to appeal the President's decision, he or she may appeal to the Board of Regents in accordance with the Board of Regents Policy 8.6.

4.6.5.4 Recusal/Challenge for Bias

Any party may challenge the participation of any institution official, employee or student panel member in the process on the grounds of personal bias by submitting a written statement to the institution's designee setting forth the basis for the challenge. The designee may not be the same individual responsible for investigating or adjudicating the conduct allegation. The written challenge should be submitted within a reasonable time after the individual reasonably should have known of the existence of the bias. The institution's designee will determine whether to sustain or deny the challenge, and if sustained, the replacement to be appointed.