

Non-Discrimination and Anti-Harassment Policy

Revisions Adopted by President's Cabinet March 27, 2018

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Policy Statement: East Georgia State College affirms its commitment to keeping the college's living, learning and working environment free of discrimination and harassment and maintaining an environment that recognizes the inherent worth and dignity of every person. The Non-Discrimination and Anti-Harassment Policy (NDAH) prohibits any member of the college community (employee, student, volunteer, independent contractor retained by the college, visitor or patron) from harassing, threatening or physically or verbally abusing another individual with the intent or effect of unreasonably interfering with that person's work or academic performance or of creating an intimidating or hostile work or academic environment based on that person's membership in a protected group. Unlawful discrimination, harassment, and threatening conduct based on a complainant's membership in one or more of the following protected classes are prohibited: race, color, sex (including pregnancy), sexual orientation, national origin, genetic information, religion, age, veteran status, or disability.

Consistent with the College's commitment to equal opportunity, affirmative action, and academic freedom, this policy is intended to complement the College's Reaffirmation of the Equal Opportunity and Affirmative Action Policies, the ADA Policies on Employment and Public Accommodation, and the College's Statement on Academic Freedom. Complaints of Sexual Misconduct, including domestic violence, dating violence, sexual assault, sexual exploitation, sexual harassment and stalking, are covered under the EGSC Sexual Misconduct Policy:

All allegations of discrimination and harassment not covered by the EGSC Sexual Misconduct Policy based on the protected categories will be handled pursuant to this Policy.

<http://www.ega.edu/policy/08-sexual-discrimination-harassment-and-misconduct-policy.pdf?33018>

I. Definitions

Protected Classes

- A. Race discrimination** consists of unfair treatment of an individual or group based on characteristics traditionally associated with race, such as skin color, hair texture, and facial features. Race discrimination includes, without limitation, making employment or educational decisions -- or subjecting an individual to different, adverse treatment compared to other similarly-situated persons in the educational or employment context -- based on negative assumptions, biases, or judgments concerning race or color. Harassment on the basis of race or color is also a form of prohibited discrimination.
- B. Sex discrimination:** refers to, without limitation: (1) using sex as a selection criterion in education or employment; (2) making decisions in the educational or employment context based on sex; or (3) subjecting an individual to different, disparate treatment compared to others who are similarly situated based on the individual's sex. Employment and educational selection criteria and decision-making must be job or program-related, and sex-neutral. Making assumptions that men or women are better suited for a particular kind of job or program is prohibited. "Glass ceilings" are also prohibited, referring to women being either directly or indirectly discouraged from and/or rejected for promotions or other advancement. Employment decisions that cannot be based on sex include, without limitation, decisions relating to: recruitment, hiring, compensation and benefits, job assignments, training, promotions, leave, discipline and termination. Educational decisions that cannot be based on sex include, without limitation, decisions relating to: admission, financial aid, academic advising and instruction, class assignments, evaluation and grading, discipline, housing, athletics, health and counseling services, recreational/residential/extracurricular services or programs, and participation and status in any college program or activity, whether on or off campus.
- C. National Origin:** Federal law, including Title VI of the federal 1964 Civil Rights Act, prohibits denying any individual equal employment opportunity because of birthplace, ancestry, or cultural or linguistic characteristics common to a specific ethnic group or national origin. Georgia state law likewise prohibits employment discrimination based on national origin. EGSC's NDAH Policy further prohibits ethnicity or national origin discrimination in college employment or education. Discriminatory behavior based on ethnicity or national origin often, but not necessarily, also involves improper considerations of race or color. The NDAH Policy's prohibition on ethnicity and national origin discrimination includes, without limitation, making employment or educational decisions -- or subjecting an individual to different,

adverse treatment compared to other similarly-situated persons in the educational or employment context -- based on: the individual's marriage to or association with persons of a particular ethnic group or national origin; participation in organizations, schools, churches, temples, or mosques generally associated with a particular ethnic group or national origin; or surnames associated with a particular ethnicity or national origin. While EGSC is required by law to verify lawful presence in the United States of all employee and student applicants, hiring authorities and admissions personnel should not make judgments or assumptions about foreign-looking or foreign-sounding applicants, but only require that all entering or current employees provide proof of their authorization to work in the United States and that all students provide proof of their lawful presence in the United States.

D. Religion: Federal law, state law and this policy prohibit discrimination and harassment in the work and/or educational environment on the basis of religion or creed. This protection applies to all religious and spiritual observances, practices, and sincerely held beliefs. Religious discrimination includes, without limitation, making employment or educational decisions -- or subjecting an individual to different, adverse treatment compared to other similarly-situated persons in the educational or employment context -- based on negative assumptions, biases, or judgments about the individual's religion or creed.

E. Age: The Age Discrimination in Employment Act of 1967 (ADEA), as amended, prohibits age-related discrimination by employers with 20 or more employees against persons 40 years of age or older. This means age cannot be the basis for different, adverse treatment of an employee, as compared to other similarly situated individuals, with respect to any term or condition of employment. Nor can age be the basis for employment decisions concerning, without limitation, recruitment, hiring, firing, promotion, layoff, compensation, benefits, job assignments and training. Rather, employment decisions are to be based on the individual person's skills and abilities, irrespective of age. Required or preferred qualifications identified in job postings should be stated in age-neutral terms (e.g., avoiding terms like "recent graduate" that suggests a desired age group) that objectively describe the level of education/training and years of experience, if any, required for the job. Georgia state law similarly prohibits age discrimination by any employer against persons who are age 40 to 70 years old. Georgia state law also prohibits age discrimination by public employers (like state agencies and local governments) against persons of any age. The Age Discrimination Act of 1975 generally prohibits age discrimination against persons of any age in all programs or activities that receive federal financial assistance. Consistent with the foregoing laws, the EGSC's NDAH Policy prohibits age-related discrimination or harassment in either employment or education against persons of any age.

Age-related harassment includes conduct or remarks based on stereotypes about age. For example, that older workers are: over-qualified, under-qualified, likely to retire soon, require more time off, are less responsive to supervision than younger individuals, or are unable to learn and utilize new procedures and new technologies.

F. Veteran Status: The Vietnam Era Veterans Readjustment Assistance Act of 1974 (VEVRAA), as amended, prohibits discrimination and requires affirmative action in all employment practices for disabled and other protected veterans. A "disabled veteran" is defined as: A veteran of the U.S. military, ground, naval or air service who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under the laws administered by the Secretary of Veterans Affairs; or a veteran who was discharged or released from active duty because of a service-connected disability. "Other protected veteran" is defined as a veteran who served on active duty in the U.S. military, ground, naval, or air service during a war or in a campaign or expedition for which a campaign badge has been authorized, under the laws administered by the Department of Defense.

EGSC's Military Resource Center is located in Room D147 of the Physical Education Building on the Swainsboro Campus (478) 289-2145, provides support, advocacy, and a convenient respite for student veterans. EGSC's NDAH Policy prohibits discrimination -- including adverse treatment compared to other similarly-situated persons -- based on veteran status in the educational and employment contexts. The Policy also prohibits harassment based on veteran status.

G. Disability: The Americans with Disabilities Act, as amended, the Workforce Reinvestment Act and the Rehabilitation Act of 1973 prohibit discrimination against qualified individuals with disabilities as students, job applicants, employees, and users of public accommodations and services at EGSC. These laws also require that EGSC programs, services and activities, when viewed in their entirety, be readily accessible to and usable by qualified individuals with disabilities and require that EGSC make reasonable modifications in its policies, practices, and procedures to give equal access to qualified individuals with

disabilities. The NDAH Policy prohibits discrimination and harassment within the college community of individuals with disabilities.

Definitions – Other

Bullying: Unwanted offensive and malicious behavior that undermines an individual or group through persistently negative attacks. The behavior generally includes an element of vindictiveness, and is intended to undermine, patronize, humiliate, intimidate or demean the recipient. Bullying targeting an individual member of a protected class under this policy will be investigated as provided herein. Bullying that is not based on an individual's membership in a protected class will be investigated through the college's employee investigative process, unless violence or threat of violence is involved. In such cases, the bullying will be addressed under the college's Workplace Violence Policy. Student's accused of bullying will be referred to the Director of Student Conduct.

Retaliation: Retaliation includes intimidating, threatening, coercing or in any way discriminating against the individual because of the individual's complaint or participation in an investigation or proceeding concerning a potential civil rights violation. Retaliation is a violation of federal civil rights law. East Georgia State College prohibits any retaliation, at any time, against the complainant or against those individuals participating in the investigation. Retaliation by any individuals associated with the respondent, such as social friends, colleagues, team members and others under the jurisdiction of the College against the complainant or individuals participating in an investigation or proceeding concerning an alleged civil rights violation could be subject to disciplinary action as provided under the policies and procedures of the college.

II. Reporting Procedure: Any member of the college community who believes he or she has experienced or witnessed discriminatory, harassing, or threatening behavior should report the incident(s) promptly by notifying any member of the College's administrative staff (Vice President, Dean, Department Head, supervisor or Director) or report the incident directly to the person having oversight of discrimination, harassment and Title IX claims: Dr. Donald Avery, Associate Vice President for Academic Resources and Services and Title IX Coordinator, hereinafter referred to in this policy as the "Coordinator." The Coordinator receives all discrimination and harassment complaints and provides oversight for the college's complaint process. A record of each complaint and subsequent related actions, including all information required for compliance, will be maintained in the office of the Coordinator.

Students may also notify a faculty member. In the case of violence or the threat of violence, EGSC Police Department (Swainsboro: 289-2090; Statesboro: 478-455-1606; Augusta: 706-721-2911) or other appropriate local law enforcement agency should be notified immediately. Supervisors, administrative staff, and members of the faculty shall respond immediately to complaints of discrimination and harassment by notifying the Coordinator when they receive or otherwise become aware of such complaints. Prompt reporting of complaints is vital to the College's ability to resolve the complaint.

III. Filing a Complaint: East Georgia State College employees and students, applicants for employment or admission, and participants in any of the College's programs may file a complaint against a member of the college community on the basis of allegations of unlawfully discriminatory, retaliatory, threatening or harassing behavior, or noncompliance with state or federal antidiscrimination laws, or Board of Regents and College antidiscrimination policies. Such complaints may be filed by either a person who alleges that he or she personally suffered as a result of such behavior, or any person who has knowledge that an individual or any specific class of individuals has been subjected to such behavior. Complaints may be filed in person, in writing (via email or otherwise) or by telephone. Complaints will be memorialized into a written complaint by the Coordinator. Complaints may also be made using the EGSC Hotline <https://ega.alertline.com/gcs/welcome>. Anonymous complaints may limit the extent to which the complaint can be investigated.

Supervisors, administrators, or members of the faculty to whom a report is made are required to forward complaints to the Coordinator. The complaint should be initiated as soon as possible from the date when the alleged behavior/action occurred or when the complainant first obtained knowledge of the facts of the allegation.

Members of the college community may also file a report with campus police and file a complaint with a state or federal agency or court.

IV. Processing, Investigating and Resolution of Complaints

A. Processing

The college's complaint process is the procedure to be used to investigate complaints or reports of discrimination and harassment, to end any discrimination and harassment found, to remedy the effects of discrimination and harassment, and to prevent any recurrence.

Complaints will be investigated in a manner that protects the confidentiality of the parties and the facts of the case to the extent allowed by applicable law, including the *Georgia Open Records Act* and the *Family Educational Rights and Privacy Act (FERPA)*. Information obtained during the course of the complaint process will be shared only to the extent necessary to conduct a thorough, fair and impartial investigation. Cabinet level supervisors will be informed of discrimination and harassment complaints filed against an employee within his or her unit. The President will be informed of discrimination and harassment complaints filed against a Cabinet member.

College employees identified as witnesses are required to fully cooperate with an investigation. Any member of the college community who willfully disregards, delays or thwarts an investigation or makes false statements during an investigation will be found in violation of this policy and subject to disciplinary action under this policy.

B. Imminent Threat and Interim Measures Analysis

Upon receiving a complaint, the Coordinator will conduct an initial assessment to determine if an imminent threat exists for the complainant or for the campus community such that a timely warning, temporary suspension of the respondent, and/or interim protective measures for the complainant are necessary. The Coordinator will conduct such assessment with assistance from appropriate college officials (Human Resources, Director of Student Conduct and USG System Director, Police Department) as necessary to evaluate the circumstances and implement the procedures necessary to provide for the safety and security of the complainant and the campus.

The Coordinator will work with appropriate college officials to impose interim protective measures before the final outcome of the investigation if failure to take the interim measures would constitute a threat to the safety and well-being of the complainant or members of the college community or to ensure equal access to the college's education programs and activities. Imposing interim protective measures does not indicate that a violation of this policy has occurred. Interim measures may include, but are not limited to: change in a college housing assignment, issuance of a "no contact" directive, restrictions or bar to entering certain college property, changes to academic or employment arrangements, schedule or supervision, interim suspension, and other measures designed to promote the safety and well-being of the parties. The Coordinator will attempt to minimize the burden on both the complainant and respondent when imposing interim measures. Any party may appeal interim measures in writing to the President within two working days of the party's receipt of the notification of the restriction. All interim protective measures will remain in effect during the appeal and thereafter unless modified by the Coordinator or President, or overturned by the President.

The Coordinator will advise the complainant and the respondent of the availability of counseling services that are available on campus and off campus, confidentiality, retaliation, EGSC reporting options and of the right to file criminal charges or elect to file no charges, and the relevant EGSC disciplinary procedures.

Procedures under this policy may be carried out prior to, simultaneously with or following civil or criminal proceedings. Decisions about the timing of specific actions will be made by the Coordinator based on the status of the evidence and other relevant case factors. These procedures do not replace the right of the complainant to file complaints or seek remedies available under state or federal law.

C. Investigation

Investigative procedures begin with the written complaint of the complainant. A complainant who is unable to put a complaint in writing will be assisted in the process by the Coordinator. The Coordinator will provide a copy of

this policy to the complainant. The Coordinator will determine if the complaint falls under the policy; and if not, refer to the appropriate college resource. The Coordinator will notify the respondent of the specific nature of the charges, and the applicable state and federal laws, Board of Regents policies, or College policies he or she is alleged to have violated, and provide a copy of this policy to the respondent. All parties will be advised of the college's policy prohibiting retaliation.

Informal Resolution: The informal resolution provides an opportunity to resolve a complaint through awareness, education and/or a facilitated discussion. Informal resolution may be appropriate if the complainant, respondent and Coordinator reach agreement on the outcome. Fact finding occurs to the extent necessary to resolve the conflict and protect the interests of the parties and the college community. The Coordinator does not make a determination of whether the policy has been violated. Informal resolution outcomes include but are not limited to: Changes to academic or work arrangements, housing reassignment, informal discussion with person whose conduct, if not stopped, could rise to the level of discrimination or harassment, advisory discussion with the respondents' supervisor, professor or advisor, no contact directive, and/or suspension.

The Coordinator may recommend that the complainant and the respondent attempt to resolve their differences through conflict resolution (CR) where a neutral mediator guides the parties through the issues seeking a mutual resolution.

Formal Resolution: If informal resolution fails or CR is not appropriate or does not generate a satisfactory resolution, and after an assessment of interim measures and imminent threat are completed and resolved, the Coordinator will begin investigative procedures within 7 days of the receipt of the initial complaint with the assignment of an investigator. The College reserves the right to require that the Coordinator appoint an investigator to conduct an investigation of a complaint even when no formal complaint has been filed, when a complaint is filed anonymously or when a filed complaint is subsequently withdrawn by the complainant. The investigator serves as fact finder and has authority to recommend, but not initiate or implement disciplinary action.

The Coordinator will assign an investigator to investigate the complaint thoroughly, impartially and complete the investigation as expeditiously as possible, with a goal of completion of 60 days or less. The Coordinator will permit additional time upon request of either party and as necessary to ensure a thorough investigation. The complainant and the respondent(s) will be interviewed separately by the investigator during which time they should present any information in support of their respective positions. The investigation may extend to interviews with other individuals to provide additional information relevant to the charge: witnesses named by either the respondent or the complainant. Both the complainant and the respondent will have equal opportunities to identify witnesses and evidence with respect to their positions. The respondent and the complainant have the right to an advisor, a person with no formal legal training, to accompany them at meetings relevant to the proceeding. Attorneys may attend East Georgia State College student and employment investigation meetings as advisors, but will not be allowed to participate. The investigator will collect and maintain appropriate documentation and disclose appropriate information to others only on a need-to-know basis consistent with federal and state law. Following the conclusion of the formal investigation, the investigator will prepare a written investigative report with recommendations, and forward it to the Coordinator for review. When the investigative report includes a finding of violation under this policy, the investigative report recommendations should include actions needed to end any discrimination and harassment found, to remedy the effects of discrimination and harassment, and to prevent any recurrence. The Coordinator will inform the supervisors/administrators/faculty at the conclusion of the investigation, and seek input from them as appropriate when implementing any resolution or discipline.

D. Resolution

The Coordinator will forward the investigator's report with recommendations to the Non Discrimination and Anti-Harassment Review Panel (hereafter "Review Panel") within ten (10) business days. The Coordinator will provide a copy of the report to the complainant and the respondent. The Review Panel is appointed annually by the President and consists of one faculty and two staff members trained in the Non-Discrimination and Anti-Harassment Policy and procedure.

The Review Panel will review the investigative report, weigh the evidence from the complainant, the respondent and any witnesses, and apply the preponderance of the evidence standard in determining whether the respondent is responsible for harassment and/or discrimination.

The Review Panel has the option to accept the report and recommendations, require further fact finding, or reject the findings and recommendation. Within 15 days after receipt of the investigative report, the Coordinator will inform the supervisors/administrators/faculty at the conclusion of the investigation, and seek input from them as appropriate when implementing any resolution or discipline. The Review Panel will make a finding. If a finding of Non-Discrimination and Anti-Harassment Policy violation, the Review Panel will instruct the Coordinator to refer the matter to the appropriate disciplinary authority to determine the sanction. Sanctions for disciplinary action for an employee will be referred to Human Resources and the respondent employee's direct supervisor, and sanctions for disciplinary action for a student will be referred to the Director of Student Conduct. If the Review Panel makes a finding of no violation of the Non-Discrimination and Anti-Harassment Policy, but finds that other college policies were violated, the Review Panel will refer the matter to the appropriate disciplinary authority for determining a sanction, or when appropriate, for further investigation. Faculty respondents found to have violated this policy or other college policy will be afforded due process as provided in the Board of Regents' discipline and removal of faculty members procedures, prior to the imposition of any sanctions.

All correspondence to the complainant and the respondent related to the complaint will originate from the Coordinator. The Coordinator will notify the complainant, with a copy to the respondent, of the Review Panel's decision and, if appropriate, any future course of action, including the taking of steps to prevent any recurrence of harassment or violence and to correct any adverse effects. If disciplinary action is to be taken, notification of such should be sent to the respondent with no copy to the complainant, unless the disciplinary action relates directly to the well being of the complainant, such as a no contact requirement, in which case the complainant will be notified of all provisions related to personal well being.

Every effort will be made to adhere to the above investigative steps and related time frame unless precluded by such circumstances as the unavailability of one or more of the participants in the investigation process. The complainant will be notified if such delays arise.

E. Recusal / Challenge for Bias

Any party may challenge the participation of any college official or employee 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 written challenge should be submitted within a reasonable time after the individual reasonably should have known of the existence of the bias. The college's designee, will determine whether to sustain or deny the challenge, and if sustained, the replacement to be appointed. The College has appointed the following designee: Mike Rountree, Vice President for Information Technology – routree@ega.edu; telephone: 478-289-2093.

V. Appeal Procedure

The decision of the Review Panel and the sanction may be appealed to the President within 10 days of the panel's finding. The appeal will consist of a review of the record only; no new information may be presented. An appeal to the President will be decided within 5 days of receipt of the appeal by the President. A student or employee may apply to the Board' of Regents' Office of Legal Affairs for a review of the decision, in accordance with Policy 8.6 Applications for Discretionary Review.