

East Georgia State College

Sexual Misconduct Policy

Adopted by President's Cabinet 6/28/16

Revisions Adopted by President's Cabinet 8/15/17; revised policy links added 10/19/17

Revisions Adopted by President's Cabinet 3/27/18

Revisions Adopted by President's Cabinet 8/10/18; revised telephone 9/27/18

Revisions Adopted by President's Cabinet 6/25/19

Revisions Adopted by President's Cabinet 9/22/20

East Georgia State College (EGSC) is committed to ensuring a safe learning environment that supports the dignity of all members of the East Georgia State College community. 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), EGSC prohibits discrimination on the basis of sex in any of its education programs or activities or in employment. EGSC further strongly encourages members of the college community to promptly report instances of sexual misconduct. EGSC 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, this Policy prohibits Sexual Misconduct, a form of sex discrimination, as defined herein. The EGSC Sexual Misconduct Policy is pursuant with the [University System of Georgia Policy and Section 6.7, Sexual Misconduct Policy](#). These policies and procedures are intended to ensure that all parties involved receive appropriate support and fair treatment, and that allegations of sexual misconduct are handled in a prompt, thorough and equitable manner.

EGSC is committed to reducing incidents of Sexual Misconduct, providing prevention tools, conducting ongoing awareness and prevention programming, and training the campus community in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act") and the Violence Against Women Act ("VAWA"). Prevention is one of the primary mechanisms used to reduce incidents of sexual misconduct on campuses. EGSC provides prevention tools and conducts ongoing awareness and prevention programming and training for the campus community including students, faculty, and staff. Such programs promote positive and healthy behaviors and educate the campus community on consent, sexual assault, sexual harassment, alcohol and drug use, dating violence, domestic violence, stalking, bystander intervention, and reporting.

The College provides annual training for all students, faculty, and staff. Students enrolled in East Georgia State College's First Year Learning Experience class must complete the on-line EverFi courses. The course is available for all East Georgia State College's students to access. All faculty and staff are required to annually complete the on-line EverFi course for Employees. Faculty and staff who fail to complete the course will be subject to disciplinary action. All EGSC employees with assigned roles in Title IX, including but not limited to, the Title IX Coordinator, investigators, panel members, hearing advisors, officials conducting resolutions, officials conducting hearings and officials hearing appeals will attend regular trainings concerning Title IX. The Title IX Coordinator coordinates the trainings for all employees with assigned roles in Title IX. All training material is posted on the [EGSC Title IX website](#), in accordance with US DOE regulations.

When Sexual Misconduct does occur, all members of the EGSC community are strongly encouraged to report it promptly through the procedures outlined in this Policy. This Policy applies to all members (students, employees, contractors, vendors, visitors and guests) of the EGSC community. All Sexual Misconduct reports or complaints are managed by the Title IX Coordinator. However, separate processes for student and employee respondents, with policy references and links to each, are provided in Section V and VI. This Policy is not intended to infringe or restrict rights guaranteed by the United States Constitution including free speech under the First Amendment, or the due process clauses of Fifth and Fourteenth Amendments.

These policies and procedures shall become effective on August 15, 2017 and on the revision dates indicated above.

Reporting Structure

The EGSC Title IX Coordinator has a direct reporting relationship to both the EGSC President or the President's designee and the USG System Director for Equity and Investigations ("System Director"). The EGSC Title IX Coordinator ("Coordinator") is also responsible for managing complaints under the EGSC Non-Discrimination and Anti-Harassment Policy. The EGSC President determines the organizational and operating reporting relationships for the Coordinator and exercises oversight of institutional issues relating to Sexual Misconduct. However, the System Director shall have authority to direct the Coordinator's work at each institution as needed to address system-wide issues or directives. The President shall consult with the System Director on significant personnel actions involving Coordinators, to include but not be limited to, appointment, evaluation, discipline, changes in reporting structure, and termination.

I. Definitions and Prohibited Conduct

Community: Students, faculty and staff, as well as contractors, vendors, visitors and guests.

Complainant: An individual who is alleged to have experienced conduct that violates this Policy.

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 given. Past consent does not imply present or future consent. Silence or an absence of resistance does not imply consent.

Consent can be withdrawn at any time by a party by using clear words or actions.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. The existence of such relationship shall be determined based on the totality of the circumstances including, without limitation to: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence.

Domestic Violence: Violence committed by a current or former spouse or intimate partner of the alleged victim; by a person with whom the alleged victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the alleged victim .

Incapacitation: The physical and/or mental inability to make informed, rational judgments. It can result from mental disability, sleep or any state of unconsciousness, involuntary physical restraint, status as a minor under the age of 16, or from intentional or unintentional taking of alcohol and/or other drugs. Whether someone is incapacitated is to be judged from the perspective of an objectively reasonable person.

Nonconsensual Sexual Contact: Any physical contact with another person of a sexual nature without the person's consent. It includes but is not limited to the touching of a person's intimate parts (for example, genitalia, groin, breasts, or buttocks); touching a person with one's own intimate parts; or forcing a person to touch his or her own or another person's intimate parts. This provision also includes "Fondling" as defined by the Clery Act.

Nonconsensual Sexual Penetration: Any penetration of the vagina, anus, or mouth by a penis, object, tongue, finger, or other body part; or contact between the mouth of one person and the genitals or anus of another person. This provision also includes “Rape, Incest, and Statutory Rape” as defined by the Clery Act.

Confidential Employees: College employees who have been designated by EGSC to talk with a Complainant or Respondent in confidence. Confidential Employees must only report to the Title IX Coordinator or the EGSC Police Department that the incident occurred and provide date, time, location, and name of alleged Respondent (if known) without revealing any information that would personally identify the alleged victim. This minimal reporting must be submitted in compliance with the 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 College 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. Further, Privileged Employees must still submit anonymous statistical information for Clery Act purposes.

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: 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, etc.).

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 photos, 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 College also prohibits unwelcome conduct determined by a Reasonable Person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to an EGSC education program or activity in violation of Title IX.

Sexual Misconduct: Includes, but is not limited to, such unwanted behavior as dating violence, domestic violence, nonconsensual sexual contact, nonconsensual sexual penetration, sexual exploitation, sexual harassment and stalking.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

For the purposes of this definition:

1. Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with person's property.
2. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily, require medical or other professional treatment or counseling.

II. Reporting Sexual Misconduct

The College encourages the reporting of all Sexual Misconduct as soon as possible. While there is no statute of limitations on an institution's ability to respond to a report, the ability to respond diminishes with time as information and evidence may be more difficult to secure. 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, or the Coordinator's designee. An individual who believes he/she is a victim of sexual misconduct is encouraged to promptly report allegations of sexual misconduct. Several reporting options are available:

- File a complaint with an EGSC Responsible Employee or the Title IX Coordinator. The EGSC Title IX Coordinator is Robert Jones, East Georgia State College, 131 College Circle, Swainsboro, Georgia 30401; telephone 478-289-2015; email titleix@ega.edu. (See Section III-A);
- File a criminal complaint with law enforcement officials including EGSC Police Department (See Section III-B);
- File an anonymous report using the [EGSC Hotline](#). (See Section III-C).

There is no specific information required to constitute a report; however, the report should contain as much information as can be provided. Reporting options are also included on the [EGSC Title IX website](#).

III. 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.

A. Responsible Employee or Title IX Coordinator: Complainants, or anyone with knowledge of Sexual Misconduct, who wish to file a report with the College should notify a Responsible Employee or the Coordinator, or Coordinator's designee. That Responsible Employee must provide a complete reporting of all information known to them to the Coordinator. Responsible Employees informed about the 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. Any EGSC employee receiving a report under this policy should immediately notify the Title IX Coordinator.

Reports may be made in writing, by email, phone, letter, fax, interview or other method that provides the basis of a complaint of sexual misconduct.

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 contact information for the Title IX Coordinator and related resources are published at [EGSC Title IX webpage](#). East Georgia State College encourages complainants to put their complaints in writing, though oral complaints are accepted, taken seriously, and investigated, to the extent possible. Further, while complaints should be made as quickly as possible following an alleged incident of sexual misconduct, all reports are accepted regardless of when reported.

Complaints should include as much information as possible – that is: (1) the type of sexual misconduct experienced; (2) the name and contact information of the respondent; (3) the date(s), time(s), and place(s) of the sexual misconduct; (4) the name(s) and contact information of any individual(s) with knowledge of the incident; (5) whether any tangible evidence has been preserved; and (6) whether a criminal complaint has been made. Information from complaints will be shared only as necessary to investigate and to resolve the alleged sexual misconduct. Complaints will be investigated and resolved as outlined below.

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 a Student 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 Student Respondent(s), but facts arise during the course of the investigation that could lead to the Student Respondent's suspension or expulsion, the Title IX Coordinator shall notify the System Director or designee. The System Director shall have the discretion to oversee the handling of the complaint.

B. Confidential Reports

Confidential Employees or Privileged Employees may receive reports of Sexual -based Misconduct without the requirement to report that information to the Coordinator, except as dictated by law or professional standards. Upon request by the Complainant, Confidential 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 Clery Act) to report information or statistical data as required.

C. Law Enforcement Reports

Because sexual misconduct may constitute criminal activity, a complainant also has the option, should he or she so choose, of filing a report with EGSC Police Department (Swainsboro: 478-289-2090; Statesboro: 478-455-1606; Augusta: 706-721-2911) or local police, for his or her own protection and that of the surrounding community. The College may assist the complainant in reporting the situation to law enforcement officials.

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:

- a. Clothing worn during the incident including undergarments;
- b. Sheets, bedding, and condoms, if used;
- c. Lists of witnesses with contact information;
- d. Text messages, call history, social media posts;
- e. Pictures of injuries; and/or
- f. Videos.

Filing a criminal report does not automatically constitute an institutional report.

D. Anonymous Reports

Anonymous reports can be made at [EGSC Hotline](#). Complainants should understand, however, that it will be more difficult for the College to investigate and to take action upon anonymous reports.

E. Complaint Consolidation

EGSC may consolidate complaints as to allegations of Sexual Misconduct against more than one Respondent, by more than one Complainant against one or more Respondents, or cross-complaints between parties, where the allegations of sexual misconduct arise out of the same facts or circumstances. The parties may object to consolidation; however, the college has the authority to make the final determination. Consolidation can occur during the investigation stage and/or adjudication phases of the sexual misconduct process.

F. Complaint Dismissal

The College is permitted, but not required, to dismiss complaints on the following grounds:

- a. The alleged conduct, even if proved, would not constitute sexual misconduct;
- b. The Complainant notifies the Coordinator in writing that they would like to withdraw the complaint;
- c. The Respondent is no longer enrolled or employed by the institution; or
- d. There are circumstances that prevent the institution from gathering evidence sufficient to reach a determination regarding the complaint.

The parties shall receive simultaneous written notice of the dismissal from the Title IX Coordinator and the reason(s) for the dismissal. The parties shall have a right to appeal the institution's decision to dismiss the complaint.

G. Confidentiality

Where a complainant or alleged victim requests that his or her identity be withheld or the allegation(s) not be investigated, the College should consider whether or not such request(s) can be honored while still providing

a safe and nondiscriminatory environment for the College and conducting an effective review of the allegations. The requesting party should be informed that the College cannot guarantee confidentiality.

H. 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 they have been 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.

I. False Complaints

Individuals are prohibited from knowingly making false statements or knowingly submitting false information to a system or institution official. Any person found to have knowingly submitted false complaints, accusations, or statements, including during a hearing, in violation of this Policy shall be subject to appropriate disciplinary action (up to and including suspension or expulsion) and adjudicated under the appropriate institutional process.

J. Amnesty

Students should be encouraged to come forward and to report Sexual Misconduct notwithstanding their choice to consume alcohol or to use drugs. Information reported by a student during an investigation concerning the consumption of drugs or alcohol will not be used against the particular student in a disciplinary proceeding or voluntarily reported to law enforcement; however, students may be provided with resources on drug and alcohol counseling and/or education, as appropriate. Nevertheless, these students may be required to meet with staff members regarding the incident and may be required to participate in appropriate educational program(s). The required participation in an educational program under this amnesty procedure will not be considered a sanction. A student may use this provision one time while enrolled at EGSC. This provision does not apply to employees.

Nothing in this amnesty provision shall prevent an institution staff member who is otherwise obligated by law (the Clery Act) to report information or statistical data as required.

IV. Responding to Reports of Sexual Misconduct

A. Support Services

Once the Title IX Coordinator has received information regarding an allegation of Sexual Misconduct the parties will be provided written information about support services. Support services are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without charge that are made available to the Complainant and Respondent before or after the filing of a complaint or where no complaint has been filed. Support services include counseling, advocacy, housing assistance, academic support, disability services, health and mental services, and other services, available at the institution. Available support services are listed on the [EGSC Title IX website](#) and in the [Information and Support Services for Title IX Complainants and Respondents](#) document.

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 College 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 USG and EGSC policies and procedures.

To the extent interim measures are imposed, they should minimize the burden on both the alleged victim and the respondent, where feasible. Interim measure may include, but are not limited to:

1. Change of housing assignment;
2. Issuance of a “no contact” directive;
3. Restrictions or bars to entering certain institution property;
4. Changes to academic or employment arrangements, schedules, or supervision;
5. Interim suspension; and Other measures designed to promote the safety and well-being of the parties and the College community.

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.

D. Jurisdiction

The College shall take necessary and appropriate action to protect the safety and well-being of the EGSC 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 USG and EGSC student conduct policies. Any conduct that falls outside of the jurisdiction of Title IX will be handled by Student Conduct or Human Resources under other applicable policies.

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 Section V and VI. 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.

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.

G. Timeframe

Efforts will be made to complete the investigation and resolution within 120 business days. Temporary delays and limited extensions may be granted by the institution for good cause throughout the investigation and resolution process. The parties will be informed in writing of any extension or delay and the applicable reason. The College shall keep the parties informed of the status of the investigation.

V. Investigations

All Sexual Misconduct investigations involving a Student Respondent, shall follow the investigation process set forth in [Section 4.6.5, Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings](#), and [EGSC Standards for Handling Sexual Misconduct of Students under the Student Code of Conduct and Disciplinary Procedures](#).

All Sexual Misconduct investigations involving an Employee Respondent, shall be addressed utilizing the [EGSC Non-Discrimination and Anti-Harassment Policy](#) and the applicable policies for discipline of employees: [EGSC Employee Handbook](#), [USG 8.3.9 Discipline and Removal of Faculty Members](#)

The College's designated Title IX Investigators are located on the [EGSC Title IX Webpage](#)

VI. 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](#), and the [Standards for Handling Sexual Misconduct of Student under Student Conduct Code and Disciplinary Procedures](#)

Reports will be investigated by the EGSC Title IX investigator or USG Title IX Office, as appropriate, using the above mentioned policies, and resolved through informal resolution or by referral to the Director of Student Conduct for handling according to the [Standards for Handling Sexual Misconduct of Student under Student Conduct Code and Disciplinary Procedures](#).

All reports of sexual misconduct alleged to have been committed by an employee Respondent of the institution community will be handled through the process described in Section III of the [EGSC Non-Discrimination and Anti-Harassment Policy](#) and Board of Regents' applicable policies for discipline of employees cited above.

VII. 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 – rountree@ega.edu; telephone: 478-289-2093.