

East Georgia State College

Sexual Misconduct Policy

Adopted by President's Cabinet 6/28/16

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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 Title IX of the Education Amendments of 1972 ("Title IX"), EGSC does not discriminate on the basis of sex or gender in any of its education or programs and activities or employment. To that end, this policy prohibits sexual misconduct, as defined herein. EGSC further strongly encourages members of the college community to promptly report instances of sexual misconduct. 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.

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, alcohol 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 Critical Life Skills 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 Haven 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, 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.

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

The EGSC Sexual Misconduct Policy covers students, employees, contractors, vendors and guests. All sexual misconduct 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.

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 lodging a complaint. The complainant may not always be the alleged victim.

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 either 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. 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 under the domestic or family violence laws of the jurisdiction or by any other person against an adult or youth victim who is protected under the domestic or family violence laws of the jurisdiction.

Incapacitation: The physical and/or mental inability to make informed, rational judgments, and can result from mental disability, sleep, 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 touching (or penetrating) of a person's intimate parts (such as genitalia, groin, breasts, or buttocks); touching (or penetrating) a person with one's own intimate parts; or forcing a person to touch his or her own or another person's intimate parts.

Confidential Employees: College employees who have been designated by the College's Coordinator to talk with an alleged victim 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. The minimal reporting must be submitted in compliance with the Title IX and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("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.

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 Title IX 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 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: Unwelcome verbal, nonverbal, or physical conduct, based on sex or on 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; or 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 benefit from an institutional program or activity.

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

Stalking: Engaging in a course of conduct directed toward another person based upon sex that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. 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. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim. Substantial emotional distress means significant mental suffering or anguish that may but not necessarily, require medical or other professional treatment or counseling.

II. Reporting Sexual Misconduct

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 Kelly Ansley, East Georgia State College, 131 College Circle, Swainsboro, Georgia 30401; telephone 478-289-2088; 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 at East Georgia State College Ethics and Compliance Reporting Hotline <https://ega.alertline.com/gcs/welcome>. (See Section III-C).

III. Institutional Reports

A. Responsible Employee or Title IX Coordinator: Complainants who wish to file a complaint with the College should notify a Responsible Employee or 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. Any EGSC employee receiving a complaint under this policy should immediately notify the Title IX Coordinator. Confidential Employees are not bound by this requirement but may be required to report limited information about incidents without revealing the identities of the individuals involved to the Coordinator, consistent with their ethical and legal obligations. All members of East Georgia State College communities are encouraged to promptly report incidents of sexual misconduct.

The contact information for the Title IX Coordinator and related resources are published at http://www.ega.edu/offices/presidents_office/office-of-title-ix 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.

Referrals to System Director Cases with Possibility of Suspension or Expulsion: The Coordinator shall refer to the System Director any allegation(s) of sexual misconduct that could, standing alone as reported, lead to the suspension or expulsion of the student respondent as required by Board of Regent's Policy 4.6.5.

Institutional reports will be investigated by EGSC Title IX investigators or an investigator assigned by the System Director and adjudicated separately from any criminal complaints.

B. 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:

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 posts;
5. Pictures of injuries; and/or
6. Videos.

C. Anonymous Reports

Anonymous reports can be made at East Georgia State College Ethics and Compliance Reporting Hotline <https://ega.alertline.com/gcs/welcome> . Complainants should understand, however, that it will be more difficult for the College to investigate and to take action upon anonymous reports.

D. 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.

E. Retaliation: Anyone who, in good faith, reports what he or she believes to be misconduct under this Policy, or who participates or cooperates in, or is otherwise associated with any investigation, shall not be subjected to retaliation. Anyone who believes he or she has been the target of retaliation for reporting, participating or cooperating in, or otherwise being associated with an investigation should immediately contact the Title IX Coordinator for the College. Any person found to have engaged in retaliation in violation of this Policy shall be subject to disciplinary action.

F. False Complaints: Individuals are prohibited from intentionally giving false statements to a system or college official. Any person found to have intentionally 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 student conduct policy for students. Employees found to have intentionally submitted false complaints, accusations, or statements, including during a hearing, in violation of this Policy shall be subject to appropriate disciplinary action under the College's applicable employee policies and procedures.

G. Amnesty: Individuals should be encouraged to come forward and to report sexual misconduct notwithstanding their choice to consume alcohol or to use drugs. Information reported by an individual during an investigation concerning use of drugs or alcohol will not be used against the particular individual in a disciplinary proceeding or voluntarily reported to law enforcement; however, individuals may be provided with resources on drug and alcohol counseling and/or education, as appropriate.

IV. Handling Reports of Sexual Misconduct

A. Initial Evaluation of Allegations and Response by Title IX Coordinator

1. The Office of the Title IX Coordinator is primarily responsible for directly overseeing the investigation and resolution of complaints against student and employee respondents, providing information concerning available support services 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.
2. Upon receipt of the initial complaint, the Title IX Coordinator will evaluate the complaint to determine if the allegations describe conduct in violation of the college policies or EGSC Student Code of Conduct. If the reported conduct would not be a violation of college policies and/or the

EGSC Student Code of Conduct, even if true, the complaint should be dismissed. If the reported conduct, if proven, violated other college policies, the Coordinator will refer the complaint to the Director of Student Conduct or Human Resources, as appropriate. The Coordinator will also 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 initial evaluation will include interviews with the complainant and notification and interview (time permitting) of the respondent.

a. Support Services

Once a student or employee makes a complaint or receives notice that a complaint has been made against him or her, or the Coordinator otherwise learns of a complaint of sexual misconduct, the complainant, respondent and alleged victim (where applicable) will receive written information about support services, such as counseling, advocacy, housing assistance, academic support, disability services, health and mental services, and legal assistance, as is available. Information on support services will be provided regardless as to whether an individual elects to go forward with filing a formal complaint of sexual misconduct or with notifying law enforcement. Information on support services will also be provided to students and employees, regardless of where the alleged misconduct occurs.

Available support services are listed on the College's Title IX website.

<http://www.ega.edu/policy/08-resources-for-sexual-misconduct-complainants-and-respondents.pdf?82417>

b. Interim Protective Measures

Interim measures may be undertaken at any point after the College becomes aware of an allegation of sexual misconduct and should be designed to protect the alleged victim and the community. Imposing interim measures does not indicate that a violation of this or other policies have occurred. The Coordinator will attempt to minimize the burden on both the complainant and respondent when imposing interim measures.

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
6. Other measures designed to promote the safety and well-being of the parties and the College community.

An interim suspension 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 College will consider the existence of a significant risk to the health or safety of the alleged victim 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.

Before an interim suspension is issued, the College must make all reasonable efforts to give the respondent student and respondent employee the opportunity to be heard on whether his or her presence on campus poses a danger, consistent with the provisions in Policy 4.6.5 for students, and the EGSC Dismissal, Demotions and Suspension Policy for employees. If suspension is issued, the terms of the suspension take effect immediately. Upon request, the respondent will have an opportunity to be heard by the respective conduct officer, Title IX Coordinator, or System Director,

as appropriate, within (3) three business days in order to determine whether the interim suspension should continue, consistent with Board of Regent's Policy 4.6.5. The Student Temporary Suspension Policy can be found at: <http://www.ega.edu/policy/04-interim-suspension-policy.pdf>

When an interim suspension is issued for a college employee under this Policy, upon request, the respondent will have the opportunity to be heard by the next level of authority within (5) five business days in order to determine whether the interim suspension should continue. Information regarding employee suspensions can be found at <http://www.ega.edu/policy/08-employee-handbook.pdf?11017>

- c. Jurisdiction: The College shall take necessary and appropriate action to protect the safety and well-being of its community. Accordingly, sexual misconduct perpetrated against any member of the EGSC community as defined in paragraph one herein should be addressed whenever such acts occur on or off campus, in connection with an institution's program or activity, or in a manner that creates a hostile environment for members of the institution community. Further, the policy is applicable to all EGSC students, faculty, and staff, as well as contractors, vendors, visitors, guests or other third parties.
- d. Advisors: Both the alleged victim and 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 for the express purpose of providing advice and counsel. See Board of Regents Policy Manual Section 4.6.5 and EGSC Student Code of Conduct and Disciplinary Process for more information on student advisors and see the EGSC Non-Discrimination and Harassment Policy for information on advisors for non-students.
- e. Assignment of a Title IX Investigator: The Title IX Coordinator or the System Director (in cases of student suspension) shall designate an investigator to conduct a prompt, thorough, and impartial investigation into each complaint received. The investigation shall consist of interviews of the complainant, alleged victim, respondent, and witnesses, and the collection and review of documents or other physical or electronic information, as well as other steps, as appropriate. The College has designated the following Title IX Investigators:
 - Director of Student Life, Stacey Grant, telephone 478-289-2105, email skgrant@ega.edu;
 - Director of Fire and Emergency Services Program, Beverley Walker, telephone 478-289-2051, email bewalker@ega.edu;
 - Director of Human Resources, Tracy Woods, telephone 478-289-2035, email twoods@ega.edu;
 - Director of Housing, Angela Stork, telephone 478-289-2172, email astorck@ega.edu;
 - Associate Professor of English and Spanish, Jessica Todd, telephone 478-289-2021, email jatodd@ega.edu.
- f. Informal Resolutions: Violations of this policy or the college's code of conduct may be informally resolved, unless otherwise excluded. Informal resolutions provide an opportunity to resolve the complaint through awareness and education and/or facilitated discussion. Allegations of sexual misconduct, except non-consensual sexual contact, may be resolved informally, without a determination of misconduct or the need for a formal hearing, if all of the following are met:
 - 1.) When complainant(s) and respondent(s) agree to an informal resolution;
 - 2.) When the initial allegation could not result in expulsion or termination;
 - 3.) When the complainants(s) and respondent(s) agree to the terms of the informal resolution;and

- 4.) When the investigator concludes that informal resolution is in the best interest of the parties and the institution's community.

The alleged victim(s) and 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. 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.

- g. **Timeframe:** Reasonable efforts will be made to complete the investigation and resolution within a reasonable time frame, usually not to exceed 60 calendar days of the initial complaint, though a longer period of time may be needed in some cases. The Title IX Coordinator will notify the respondent and the alleged victim, in writing, of any extension of this timeframe and keep the parties informed of the status of the investigation.

V. Investigations, Resolution, Possible Sanctions and Appeals

Student Procedure

All reports of sexual misconduct alleged to have been committed by a student will be handled consistently with requirements set forth in Board of Regents Policy Section 4.6.5, *Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings and the EGSC Student Code of Conduct 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 EGSC Student Code of Conduct and Disciplinary Procedures, <http://www.ega.edu/policy/04-student-code-conduct-disciplinary-process.pdf?4918>

Employee Procedure

All reports of sexual misconduct alleged to have been committed by a non-student member of the institution community will be handled through the process described in Section III, IV and V of the *EGSC Non-Discrimination and Anti-Harassment Policy* and the EGSC and Board of Regents' applicable policies for discipline of employees. <http://www.ega.edu/policy/08-non-discrimination-and-anti-harassment-policy.pdf?4518>