

# East Georgia State College

## Sexual Misconduct Policy

Adopted by President's Cabinet 6/28/16

Revisions Adopted by President's Cabinet 8/15/17

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 employment programs and activities. To that end, this policy prohibits sexual misconduct, as defined herein. EGSC further strongly encourages members of the college community to report instances of sexual misconduct promptly. 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 is required to provide prevention tools and to conduct ongoing awareness and prevention programming and training for the campus community including students, faculty, and staff. Such programs will 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 will provide annual training for all students, faculty, and staff. Students who are 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. The EGSC Title IX Coordinator will coordinate regular trainings pertaining to sexual misconduct for any individual participating in investigations, resolutions, or appeals process of any sexual misconduct cases.

These policies and procedures shall become effective on August 15, 2017.

### Reporting Structure

The EGSC Equal Opportunity director and others having responsibility for coordination of Title IX ("Coordinators") at EGSC shall have 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 President shall determine the organizational and operating reporting relationships for the Coordinators at EGSC and exercise 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, change 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 from that person's acts 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

A complainant of sexual misconduct can choose among several reporting options at the College:

- may, but need not, file a criminal complaint with law enforcement officials;
- file a misconduct report with a Responsible Employee or the Colleges Office of the Title IX Coordinator; or file both. The Colleges Title IX Coordinator is Tracy Woods Director of Human Resources, East Georgia State College, 131 College Circle, Swainsboro, Georgia 30401; telephone 478-289-2035; email [twoods@ega.edu](mailto:twoods@ega.edu); or
- file an anonymous report at East Georgia State College Ethics and Compliance Reporting Hotline <https://ega.alertline.com/gcs/welcome> . A report may be filed anonymously, although anonymous reports may make it difficult for the College to address the complaint.

An individual who believes he/she is a victim of sexual misconduct is encouraged to report allegations of sexual misconduct promptly.

All reports of sexual misconduct alleged to have been committed by a student must be handled consistently with requirements set forth in Section 4.6.5, *Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings*.

All reports of sexual misconduct alleged to have been committed by a non-student member of the institution community will be addressed and/or resolved through the College's and the Board of Regents' applicable policies for discipline of non-students.

## III. Institutional Reports

Complainants of sexual misconduct who wish to file a report with the College should notify a Responsible Employee or the Office of the Title IX Coordinator. Responsible Employees informed about sexual misconduct allegations involving any student should not attempt to resolve the situation, but must notify and report all relevant information to the Coordinator as soon as practicable. 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 Office of the Title IX Coordinator, consistent with their ethical and legal obligations. All members of East Georgia State College communities are encouraged to report incidents of sexual misconduct promptly.

The contact information for the College's Title IX Coordinator is published at [http://www.ega.edu/offices/business\\_affairs/human\\_resources/office-of-title-ix](http://www.ega.edu/offices/business_affairs/human_resources/office-of-title-ix), and contained in relevant publications. East Georgia State College encourages complainants to report 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.

The Coordinator shall refer to the System Director any allegation(s) of sexual misconduct that could, standing along as reported, lead to: (1) the suspension of the student respondent; (2) suspension or termination of the employee respondent; or (3) expulsion of the student respondent(s). The System Director will work with the College to determine whether any 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, expulsion or termination of the respondent(s), but facts arise during the course of the investigation that would require transfer to the System Director, the Title IX Coordinator shall transfer oversight to the System Director or designee. The System Director shall have the discretion to retain oversight or transfer to the institution.

Complaints should include as much information as possible – that is: (1) the type of sexual misconduct experienced; (2) the name of the respondent; (3) the date(s), time(s), and place(s) of the sexual misconduct; (4) the name(s) 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. East Georgia State College, through its Title IX Coordinator will also assess the need for and institute interim measures as described below as appropriate and where reasonable, as well as work with the appropriate institutional department to determine the need to issue a broader warning to the community in compliance with the Clery Act or to report activity to the authorities.

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.

### **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.

## **Anonymous Reports**

The College provides a mechanism by which individuals can report incidents of alleged sexual misconduct anonymously. 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.

**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.

**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.

**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.

**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**

### **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) should 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-information-and-procedures-for-victims.pdf?060916> (Need new link)

### **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. Before an interim suspension is issued, the College must make all reasonable efforts to give the respondent student the opportunity to be heard, consistent with the provisions in Policy 4.6.5 for students, and the respondent employee, as provided herein.

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 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 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. The Student Temporary Suspension Policy can be found at: <http://www.ega.edu/policy/04-temporary-emergency-suspension-policy.pdf?2102016>.

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 Title IX Coordinator or his/her designee within (3) three 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>.

## V. Process for Investigating and Resolving Institutional Reports

**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.

**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, pursuant to the provisions of Policy 4.6.5 for students.

The advisor may be present during meetings and proceedings during the investigatory and/or resolution process at which his or her advisee is present. The advisor may advise his or her advisee in any manner, including providing questions, suggestions, and guidance on responses to any questions posed to the advisee, but shall not participate directly during the investigation or hearing process. The College shall not prohibit family members of a party from attending the hearing if the party requests such attendance, but may limit each participant to having two family members present. Employees are permitted to using advisors as outlined in this section.

**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. .

**Informal Resolutions:** Allegations of sexual misconduct 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;
- 3.) When the complainant(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.



## A. Investigations, Hearings, Possible Sanctions and Appeals– Student Procedure

All sexual misconduct investigations involving a student respondent, whether overseen by the institution's Coordinator or the System Director, shall follow the investigation process set forth in Section 4.6.5, *Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings*.

All sexual misconduct hearings, sanctions, and appeals involving a student respondent, whether overseen by the College's Coordinator or the System Director, shall follow the investigation process set forth in Section 4.6.5, *Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings*.

## B. Investigations, Hearings, Sanctions, and Appeals – Employee Procedure:

### Investigations - Employees

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 or the System Director (in cases of suspension or termination) 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, Vicki Sherrod, telephone 478-289-2105, email [vsherrod@ega.edu](mailto:vsherrod@ega.edu);
  - Director of PE Complex/Military Resources Center, Stacey King, telephone 478-289-2145, email [sking@ega.edu](mailto:sking@ega.edu);
3. The alleged victim and respondent shall be provided with written notice of the complaint/allegations, pending investigation, possible charges, possible sanctions, and available support services. The notice should also include the identity of the Title IX Coordinator and any investigator(s) involved. Notice shall be provided via institution email to the address on file. If confirmation of receipt is not received by the Title IX Coordinator or the investigator, the Title IX Coordinator or the investigator shall engage in other measures to ensure notice is received by the respondent. A copy shall also be provided to the alleged victim via the same means.

4. The investigator will timely begin the investigation and will schedule an initial interview with the complainant, alleged victim, respondent and any known relevant witnesses. 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.
5. Each party shall have three (3) business days to submit a written statement to supplement the notice of complaint and the verbal interview. 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. If respondent has not otherwise responded, a non-written response will be considered a general denial of the alleged misconduct.
6. Based on this response and other relevant information, the investigator shall continue to interview witnesses for both sides, to re-interview parties where necessary, and to collect and review documents or other physical or electronic information, as well as other steps, as appropriate.
7. If the respondent admits responsibility and the respondent and victim agree to the proposed sanction proposed by the Title IX Coordinator, the matter is considered resolved and there is no appeal available. If the respondent admits responsibility but does not agree to the disciplinary action proposed by the Title IX Coordinator, the matter will be referred to the Title IX Panel for employee disciplinary action review.
8. If at any point the investigator determines there is insufficient evidence to support a charge or to warrant further consideration of discipline, then, if after review and agreement of the Title IX Coordinator, the complaint should be dismissed.
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(s), 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. Final Report and Consideration of Informal Resolution Where Appropriate.
15. 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.

16. If informal resolution is not successful then the matter will be referred to the Title IX Panel for review and hearing, or for disciplinary action review only, as appropriate.

### Hearings - Employees

1. At the conclusion of the investigative phase, when informal resolution has not been successful, the Title IX Coordinator will schedule a hearing as soon as possible. The hearing will be conducted by the Title IX Coordinator and/or his/her designee(s). The Panel must be composed of at least three (3) members. The College will have a pool of members to serve on the Panel.
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 and 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 disadvantaged 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 presented tainted testimony to the Panel, the Panel will disregard the testimony of that witness.
7. The standard of review shall be a preponderance of the evidence; however, any decision to suspend or terminate an employee must be supported by the evidence at the hearing.
8. The civil rules of evidence do not apply to the investigatory or resolution process.

9. Both the respondent and alleged victim shall be provided a written report via college email of the outcome and any resulting sanctions. The written report must summarize the evidence in support of the sanction. The report should include details on how to appeal, as outlined below.

### **Possible Sanctions**

The severity of sanctions or corrective actions may depend on the severity, frequency and/or nature of the offense, history of past discriminatory, harassing, or retaliatory conduct, the respondent's willingness to accept responsibility, previous institutional response to similar conduct, and the institution's interests. The Panel will determine the sanction after review of the investigatory findings.

For employee respondents the range of sanctions includes but is not limited to termination, suspension, reassignment of job duties or job location, no contact orders, required training or awareness programs, counseling, loss of institutional privileges or any combination of the above based on the offense.

### **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 respondent for the above reasons in any case where sanctions are issued.

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

Where the respondent or alleged victim appealing is an employee, the appeal should be made to the Vice President for Academic Affairs, Dr. Deborah Vess, telephone 478-289-2034; email [devess@ega.edu](mailto:devess@ega.edu). The appeal shall be a review of the record only, and no new meeting with the respondent or any alleged victim is required. The non-appealing party shall be given the opportunity to respond to the appellant's submission. The 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; remand the case back to the Title IX Coordinator 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 Vice President or his/her designee shall then issue a decision in writing to both the respondent and alleged victim simultaneously 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 College, Dr. Robert Boehmer, telephone 478-289-2027, email [bboehmer@ega.edu](mailto:bboehmer@ega.edu), solely on the three 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 Title IX Coordinator 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 and alleged victim (where applicable) and shall be issued within a reasonable amount of time. The President's decision shall be the final decision of the College.

Should the respondent or alleged victim 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 Appeal for Discretionary Review <http://www.usg.edu/policymanual/section8/C2363> .

### **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 College's designee setting forth the basis for the challenge. The designee shall 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 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's:

- Vice President for Information Technology, Michael Rountree, telephone 478-289-2093, email [routree@ega.edu](mailto:routree@ega.edu)

### **Further Review and Appeals Available**

If a finding of responsibility is made against a faculty member at the end of the Title IX hearing process, including all appeals, and dismissal is recommended, the matter will then be referred by the Title IX Coordinator to the President for handling in accordance with the review provisions of Board of Regents Policy 8.3.9 Discipline and Removal of Faculty Members. The President or his designee will refer the matter to a faculty panel for review. The faculty panel review procedure will consist of a review of the Title IX hearing record and will not include testimony or new information. The faculty panel will prepare a report and recommendation to the President indicating whether dismissal is appropriate. The recommendation is advisory to the President. The President's decision on the matter is the final institutional decision.

If a finding of responsibility is made against a staff member at the end of the Title IX hearing process, the matter will be referred to Human Resources and the staff member's immediate supervisor to implement disciplinary action up to and including termination. Both faculty and staff may appeal to the Board of Regents of the University System of Georgia requesting a discretionary appeal.

Applicable policies include but are not limited to the following:

- East Georgia State College Employee Handbook - <http://www.ega.edu/policy/08-employee-handbook.pdf?22316>
- BOR Policy 8.3 Additional Policies for Faculty <http://www.usg.edu/policymanual/section8/C245/>