

# THE TCSG TITLE IX GUIDEBOOK

**A Guide For College Title IX  
Coordinators, HR Directors,  
Advisors, and Decision-Makers**

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# Title IX Guidebook Overview

This guidebook is designed to assist local college Title IX Coordinators, HR Directors, Advisors, and Decision-Makers through the process and procedures of Title IX investigations and adjudication under the Technical College System of Georgia and U.S. Department of Education. Coordinators, HR Directors, Advisors, and Decision-Makers should use this document to guide all activities pertaining to Title IX awareness, prevention, and post-investigation activities.

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# Title IX Overview

The U.S. Department of Education's Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

*"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."*

On May 6, 2020, Betsy DeVos and the Federal Department of Education released the long awaited new Title IX regulations for educational institutions receiving federal funding. This represents the first full rulemaking on a major Title IX issue since 1975 and the only one dedicated to sexual harassment. The administration required all institutions to review and implement the changes by August 14, 2020 to be compliant with the new law. The new 2020 Title IX regulations replaced the 2011 Obama-era Title IX guidance.

## Scope of Title IX

Title IX applies to institutions that receive federal financial assistance from ED, including state and local educational agencies. These agencies include approximately 16,500 local school districts, 7,000 postsecondary institutions, as well as charter schools, for-profit schools, libraries, and museums. Also included are vocational rehabilitation agencies and education agencies of 50 states, the District of Columbia, and territories and possessions of the United States. Educational programs and activities that receive ED funds (recipient) must operate in a nondiscriminatory manner. Some key issue areas in which recipients have Title IX obligations are recruitment, admissions, and counseling; financial assistance; athletics; sex-based harassment; treatment of pregnant and parenting students; discipline; single-sex education; and employment. Also, a recipient may not retaliate against any person for opposing an unlawful educational practice or policy, or made charges, testified or participated in any complaint action under Title IX. For a recipient to retaliate in any way is considered a violation of Title IX.

## OCR's Enforcement of Title IX

The Office for Civil Right vigorously enforces Title IX to ensure that institutions that receive federal financial assistance from ED comply with the law. OCR evaluates, investigates, and resolves complaints alleging sex discrimination. OCR also conducts proactive investigations, called compliance reviews, to examine potential systemic violations based on sources of information other than complaints.

[https://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)

# Definitions of Title IX Violations

## Sexual Harassment

Title IX defines sexual harassment broadly to include any of three types of misconduct on the basis of sex, all of which jeopardize the equal access to education that Title IX is designed to protect: Conduct, on the basis of sex, that satisfies one or more of the following:

- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it denies a person equal educational access.
- An employee of the college conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

TCSG Program or Activity: locations, events, or circumstances over which TCSG and/or the College exercised substantial control over both the alleged Respondent and the context in which the Title IX Prohibited Conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by TCSG and/or the College.

**Sexual Assault:** Any of the following acts:

- Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.
- Sodomy: Oral or anal sexual intercourse with another person:
  - forcibly and/or against that person's will; OR
  - not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Sexual Assault with an Object: To use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person:
  - forcibly and/or against that person's will; OR
  - not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- Fondling: The touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification:
  - forcibly and/or against that person's will; OR
  - not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

**Domestic Violence:** a felony or misdemeanor crime of violence committed: (i) by a current or former spouse or intimate partner of the Complainant; (ii) by a person with whom the Complainant shares a child in common; (iii) by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Georgia; (v) by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Georgia. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

**Dating Violence:** violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant, including sexual or physical abuse or the threat of such abuse, but excluding acts covered under the definition of Domestic Violence.

**Stalking:** engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (i) fear for the person's safety or the safety of others; or (ii) 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 a person's property. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

**Retaliation:** unfavorable action taken, unfavorable condition created, or other action taken by a student or employee for the purpose of intimidation that is directed toward a student because the student initiated an allegation of sexual misconduct or participated in an investigation of an allegation.

**General Sex Discrimination:** the denial of benefits or admission to the college or to any of its programs or activities, either academic or nonacademic, curricular or extracurricular, because of sex.

# When Title IX is Applicable

Colleges are required to establish a clear, well publicized, and easy to use system to report allegations of sex discrimination, including sexual harassment for students, faculty, and staff. Colleges bear responsibility for redressing sexual harassment only when they have actual knowledge of such misconduct.

There is now a distinction of when Title IX applies and when it does not. Now the phrase education program or activity includes locations, events, or circumstances over which the recipient (institution receiving federal funds) exercised substantial control over both the respondent and the context in which the harassment occurs” as well as “any building owned or controlled by a student organization that is officially recognized by a post-secondary institution.” This narrows the application of Title IX considerably from former practice.

Finally, the new rules establish that Title IX jurisdiction only exists within the United States so that a college could not offer Title IX procedures for a study abroad program for example.

“Mandatory reporters” mean that such a person must report all instances of misconduct they have witnessed or heard about to the person responsible for investigating such allegations. The rules do not dictate who must be placed in this category at the post-secondary level.

Upon receiving a report about possible misconduct, whether from the alleged victim or anyone else, the Title IX coordinator must contact the person subject to the harassment and immediately offer “supportive measures” including but not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, [and] increased security and monitoring of certain areas of the campus.

## Title IX does not apply if:

1. The behavior does not constitute sexual harassment as defined by Title IX. (pg. 5)
2. Did not occur in the institution’s education program or activity.
3. Did not occur against a person in the United States.

Students physically outside of the U.S. in study abroad programs do not fall under Title IX. Their complaint must be investigated under the college’s Student Code of Conduct procedure. Off-campus housing owned by student orgs (frat houses) is covered by Title IX. Off-campus events, in the U.S., hosted by the college, is covered by Title IX.

- *Example 1: A student is sexually assaulted off campus/in the community and the Respondent is, or is not, affiliated with the college or TCSG, the complaint does not fall under Title IX. The Complainant will need to contact local law enforcement. This could possibly be investigated under the Student Code of Conduct if the Respondent is affiliated with the college.*
- *Example 2: A student complained that an employee made sexually suggested comments to them in a local grocery store. This also would not fall under Title IX. It would need to be investigated under the employee handbook.*

# Roles Associated with TCSG Title IX Process

## Quick Overview

### The Title IX Coordinator

- Title IX requires all institutions to designate a Title IX Coordinator to handle complaints of sex discrimination and sexual harassment.
- The Title IX Coordinator is the local college's Title IX subject matter expert.
- The Title IX Coordinator is responsible for ensuring that the college is compliant with the requirements of the law, including training.
- The Title IX Coordinator serves as the co-investigator of Title IX complaints.

### The Statewide Title IX Investigator

- The TCSG state office has centralized the investigation process for Title IX complaints through the Statewide Investigator.
- The Title IX Investigator will conduct investigations with the Title IX Coordinator or HR Director for Title IX complaints.
- The Title IX Investigator assists the TCSG Title IX & Equity Coordinator in training the Title IX Coordinators.

### Title IX Advisors (One for each Complaint and one for each Respondent)

- The 2020 Title IX regulations have created the advisor position. If either party does not have an advisor to accompany them through the investigative process, including interviews and the live hearing, the college must provide one for them.
- The primary role of the advisor is to serve as the party's advocate, advise them through the process, and cross-examine other parties in the live hearing. (similar to a lawyer in a court room)
- The provided Advisor can be a college employee or an attorney contracted by the college.
- Colleges should have a pool of advisors who could participate in Title IX investigations and hearings in case there are multiple complaints or respondents, or multiple simultaneous investigations.

### The Decision-Maker

- Colleges are required to have a Decision-Maker for the live conduct hearings (An official designated by the Commissioner). This individual cannot be the Title IX Investigator, Title IX Coordinator, or Advisor.
- The Decision-Maker will need to have a separate training from others. Major topics include presiding over a hearing, relevancy of cross-examining questions, and support measure, etc.
- If the Decision-Maker is a college employee, it is highly suggested to have a 3-person panel (with panel chair) for conduct hearings to prevent individual biases, which could lead to due process issues.



# Title IX Coordinator's Role

Title IX regulations require a college to adopt and publish easily accessible grievance procedures providing for the prompt and equitable resolution of student and employee complaints under Title IX. These procedures provide an institution with a mechanism for discovering incidents of discrimination or harassment as early as possible and for effectively correcting individual and systemic problems.

Title IX Coordinators are responsible for facilitating all Title IX tasks at their institution, including awareness and prevention efforts, local administrative compliance and training activities, co-investigating Title IX investigations, as well as coordinating grievance procedures and live hearing logistics.

- The Title IX Coordinator should work with the college to help ensure that the grievance procedures are written in language appropriate for the age of the audience, and that they are easily understood and widely disseminated.
- The Title IX Coordinator should review the grievance procedures to help determine whether they incorporate all of the elements required for the prompt and equitable resolution of student and employee complaints under Title IX consistent with the Title IX regulatory requirement and OCR guidance.
- The Title IX Coordinator should communicate with students and school employees to help them understand the college's grievance procedures; train employees and students about how Title IX protects against sex discrimination and sexual harassment; and provide consultation and information regarding Title IX requirements to potential complainants.
- The Title IX Coordinator is responsible for coordinating the grievance process and making certain that individual complaints are handled properly. This coordination responsibility may include informing all parties regarding the process, notifying all parties regarding grievance decisions and of the right to and procedures for appeal, if any; monitoring compliance with all of the requirements and timelines specified in the grievance procedures; and maintaining grievance and compliance records and files.
- The Title IX Coordinator should work with the college to help ensure that its grievance procedures are accessible to English language learners and students with disabilities.
- The Title IX Coordinator should work with college leadership to develop and publish the college's Notice of Nondiscrimination, which includes the Title IX and 504 ADA Officer contact information.
- The Title IX Coordinator will be an active and assistive participant in the facilitation of Title IX investigations by the Statewide Title IX Investigator.

## Title IX Advisors Role

The Advisor is the individual who will attend the Hearing with a Party and conduct the oral cross-examination of the other Party and Witnesses. This person may also offer advice and support from the time the Notice of Formal Complaint is issued and may attend any meetings involved in the investigatory process, but may not speak on behalf of the party during such meetings. The Advisor may be chosen by the Party and is permitted to be, but need not be, an attorney. If either Party is unable to select an Advisor, the college will furnish an Advisor to the Party. The Advisors are intended to maintain privacy and confidentiality to the extent permitted by law.

Once a written determination is made by the Decision-Maker, the advisor is responsible for explaining the determination to the Party as well as the appeal process.

# Title IX Decision-Makers Role

The Decision-Maker is a professional appointed by the TCSG Commissioner experienced and trained in adjudicating matters of civil rights, sexual harassment and/or sexual violence and trained on the Title IX Procedure who will preside over the Hearing and will issue the Written Determination Regarding Responsibility.

The TCSG Office of Legal Services will staff the role of the Decision-Maker.

# Title IX at TCSG

The Technical College System of Georgia is federally obligated to investigate allegations of sex discrimination and sexual misconduct of students, faculty, and staff. The state office has created a centralized investigatory process involving Title IX complaints. The Statewide Title IX Investigator will be responsible for conducting Title IX investigations for complaints from all TCSG institutions.

The Statewide Title IX Investigator and the local Title IX Coordinator or local Human Resources Director will work in tandem to facilitate a fair and equitable investigation into allegations of sex discrimination and sexual harassment. It is incumbent on the local Title IX Coordinator to accurately identify and report these complaints.

The Statewide Title IX Investigator will assist the TCSG Title IX & Equity Coordinator in conducting trainings for Title IX Coordinators and other pertinent staff as a part of TCSG's compliance requirement.

Complaints and investigations will be tracked and housed at the TCSG state office for reporting and annual review purposes.

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## Applicable TCSG Title IX Procedures

### TCSG Procedure: 6.1.2p. Sexual Harassment and Misconduct

*(Used for all student-involved complaints, including student vs. employee complaints)*

### Georgia Statewide Sexual Harassment Prevention Policy

*(Used for all employee vs. employee complaints)*

### TCSG Procedure: 4.3.1p. Unlawful Discrimination, Harassment and Retaliation in Employment

*(Used in specific employee vs. employee sex discrimination complaints)*

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# Non-Title IX Complaints of Discrimination

Discrimination of individuals based on other protected characteristics, including: race, color, religion, national origin, age, genetic information, and disability, are considered equity complaints. These complaints are not covered under Title IX as Title IX is only associated with sex-based discrimination. Equity complaints are investigated by the Equity Coordinator or Human Resources Director at the college. In most cases, the Title IX Coordinator is also the Equity Coordinator. Equity complaints are investigated under:

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## Applicable TCSG Equity Procedures

[TCSG Procedure: 6.1.1p. Unlawful Harassment and Discrimination of Students](#)

[TCSG Procedure: 4.3.1p. Unlawful Discrimination, Harassment and Retaliation in Employment](#)

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*\*Based on the circumstances surrounding the allegation, complaints of sex discrimination in employment can be investigated under TCSG Procedure: 4.3.1p. Unlawful Discrimination, Harassment and Retaliation in Employment.*

# What You Need To Know About The Clery Act

At its core, the Clery Act is a consumer protection law. The Clery Act was named after Jeanne Clery, who was raped and murdered in her dorm room by a fellow student on April 5, 1986. Her parents championed the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (Clery Act) in her memory. This Act is a federal law that requires colleges to report crimes that occur “on campus” and school safety policies. This information is available each year in an Annual Security Report (ASR), which can be found on your school’s website. The Clery Act also requires schools to send timely warnings to the school community when there are known risks to public safety on campus.

The Clery Act also contains the Campus Sexual Assault Victim’s Bill of Rights, which requires colleges to disclose educational programming, campus disciplinary process, and victim rights regarding sexual violence complaints. The Clery Act was expanded in 2013 by the Campus SaVE Act, which broadened Clery requirements to address all incidents of sexual violence (sexual assault, domestic violence, dating violence and stalking).

Crimes that occur on school grounds and within school owned buildings qualify for reporting under the Clery Act. Some schools may also be required to record crimes at certain non-campus facilities, like Greek houses or public property adjacent to the institution. Also some off campus properties qualify as “on campus” under this Act, like remote classrooms and buildings owned by campus groups. Which locations qualify for reporting is very school specific, so if you are unsure if a location qualifies you should contact a lawyer or expert organization, like the Clery Center.

All reported campus crimes are recorded in a Daily Crime Log and an Annual Security Report, whose location may be found on your school’s website. Daily Crime Logs must be updated within 2 days of a report (unless it would jeopardize an ongoing police investigation). An Annual Security Report is released each October and contains the last 3 years of reported crimes occurring on campus. Several crimes must be listed, which include:

- **Stalking**: ongoing conduct that could cause a reasonable person to fear for the safety of themselves or others, or suffer emotional distress (e.g., following, monitoring, threatening, communicating to or about the victim, or interfering with a victim’s property)
- **Intimidation**: words or conduct that places the victim in reasonable fear of bodily harm (does not include use of a weapon, which is a different crime under Clery)
- **Dating Violence**: threats or actual sexual or physical abuse in a dating relationship
- **Domestic Violence**: crime of violence committed by former spouse, cohabiting partner, or someone with whom you share a child
- **Sexual Assault**: rape (oral, anal or vaginal), fondling, incest, or statutory rape
- **Hate Crimes**: any crime motivated by perpetrator bias against the victim based on race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability (whether actual or perceived)

The Clery Act does not require a college or university that receives a report of a campus crime to initiate an investigation, nor does it permit a university to release identifying information about a victim. Clery Act crime reports include only the date of the report, the date of the crime, and the general location.

# What You Need To Know About VAWA

In recognition of the severity of the crimes associated with domestic violence, sexual assault and stalking, Congress passed the Violence Against Women Act of 1994 (VAWA 1994) as part of the Violent Crime Control and Law Enforcement Act of 1994. The protections and provisions afforded by the 1994 legislation were subsequently expanded and improved in the Violence Against Women Act of 2000 (VAWA 2000) and the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005).

The passage of VAWA in 1994 and its reauthorization in 2000, 2005 and 2013, has changed the landscape for victims who once suffered in silence. Victims of domestic violence, dating violence, sexual assault and stalking have been able to access services, and a new generation of families and justice system professionals has come to understand that domestic violence, dating violence, sexual assault and stalking are crimes that our society will not tolerate.

VAWA sought to improve criminal justice and community-based responses to domestic violence, dating violence, sexual assault and stalking in the United States. VAWA and its subsequent reauthorizations have vastly improved services for victims of sexual and domestic violence and stalking, as well as education and training about violence against women for victim advocates, health professionals, law enforcement, prosecutors and judges.

[www.thehotline.org/resources/vawa/](http://www.thehotline.org/resources/vawa/)  
[www.legalmomentum.org/history-vawa](http://www.legalmomentum.org/history-vawa)

# The Title IX Grievance Process



# The TCSG Title IX Grievance Process

The Title IX grievance procedure is comprised of four major parts: (1) The Complaint, (2) The Investigation, (3) The Live Hearing, and (4) The Appeal. Below, you will find the standard process for each section of the grievance procedure.

## The Complaint Process

### Initial Complaint Intake Process

1. A party who experiences alleged Title IX prohibited conduct may submit a written Title IX complaint, or under appropriate circumstances, the Title IX Coordinator may submit a written Title IX complaint on their behalf. Only the Complainant or Title IX Coordinator can submit a complaint.
2. Once the Title IX Coordinator has been made aware of the complaint by the Complainant, the first step is to speak with the Complainant to determine (1) if there is in fact a complaint, (2) if the complaint falls under Title IX, (3) gather as much initial information as possible (date, location, contact info, potential witnesses, etc.), and (4) have the complainant submit a written and signed initial statement.
3. If the complaint is not Title IX-related, it should be forwarded to the appropriate local point of contact. The Title IX Coordinator is highly encouraged to have a phone conversation with the Statewide Title IX Investigator to confirm.
4. To be an official complaint, the Complainant must provide a written and signed statement describing the alleged incident.
5. The Title IX Coordinator is not to interview witnesses or the Respondent at this time.
6. The Title IX Coordinator will assess the complaint to determine if support measures are needed.
7. The Title IX Coordinator will inform the Complainant of the process and next steps.
8. If the allegation is Clery-related or VAWA-related, the Title IX Coordinator is required to inform the campus police department of an alleged crime. The Coordinator will also provide the Complainant with the opportunity to speak with campus police or inform the local police department.

### Notifying TCSG

1. The Title IX Coordinator will submit the complaint into the TCSG Title IX Intake Form on the TCSG website:
  - <https://tcsge.edu/about-tcsg/system-office-services/legal-services/title-ix/>
  - Password: TitleIX
2. The Title IX Coordinator and Statewide Title IX Investigator will discuss the complaint, initial information, and schedule interview times for all parties involved. At this time, the Title IX Coordinator will also inform the Advisors and Decision-Maker of the impending investigation.
3. If there is a conflict of interest for the Title IX Coordinator, this is the time to assign another Title IX designee to co-investigate the allegation.
4. Once notified by the Title IX Coordinator or HR Director, the Statewide Title IX Investigator has 45 calendar days to complete a Title IX investigation, which includes a 10-day review and response period.

## The Investigation Process

### Pre-Investigation Process

1. The Statewide Investigator and Title IX Coordinator or HR Director will create a plan for the investigative interviews, including: identifying all parties involved, setting the order of party interviews, listing questions to ask, gathering pertinent evidence, etc.
2. The Title IX Coordinator will gather the contact information for both the Complainant and Respondent so that they can be sent an official notice of investigation by the Statewide Title IX Investigator. Generally, this will be the first notification to the Respondent.
3. The Title IX Coordinator will notify both parties that they have the right to bring an Advisor of their choice to the investigative interview. If either the Complainant or Respondent does not have an Advisor, the college is required to provide an advisor for them prior to, and to attend, the interview.
4. The Title IX Coordinator will work with the Statewide Title IX Investigator to schedule the location and time of the interviews that is conducive to both parties' schedules and ensures they are separated by proximity and time from the other party.

### Investigation Process

1. The Statewide Investigator and Title IX Coordinator or HR Director will interview all parties involved, gather supporting evidence, and discuss circumstances surrounding the investigation.
2. The Statewide Investigator will write the initial draft report. The initial draft report and supporting evidence will be sent to both parties and their advisors. Both parties have 10 days to review and respond to the draft report.
3. After the 10-day review and response period, the Statewide Investigator will consider any responses given, include them in the report, and make a final determination on the complaint in a final investigative report. The report will be sent to the Title IX Coordinator to be disbursed to both parties and their Advisors.

### Post-Investigation Process

1. After receiving the final investigation report and disseminating it to both parties and their Advisors, the Title IX Coordinator will collaborate with the Decision-Maker to begin the process of scheduling the live hearing at least 10 days after the parties receive the report.
2. The report will determine if the allegation is substantiated or not, and if the behavior rises to a violation of their appropriate procedure. If a violation is substantiated, the Title IX Coordinator will need to inform the Decision-Maker to prepare for an impending live hearing as a part of the grievance procedure.
3. If a Title IX violation is not substantiated, but during the investigation, the investigators determine there may be a violation of the Student Code of Conduct, the information will be forwarded to the appropriate local personnel for investigation.

## The Live Hearing Process

### Pre-Live Hearing Process

1. Both parties are required to have a second 10-calendar day preparation period prior to participating in a live hearing.
2. The Decision-Maker is the presiding officer of the live hearing.
3. The role of the Advisors is to cross-examine the other party and/or any witnesses during the live hearing.
4. The Title IX Coordinator is not necessarily involved in the live hearing, but will serve in the role of Hearing Coordinator. This role is responsible for managing the logistics of the hearing, including confirming Decision-Maker attendance, confirming party and witness attendance, arranging technology for recording the hearing, making arrangements if a party requests to be in a separate location from the other party, etc.

### Live Hearing Process

1. The Hearing Coordinator (*Title IX Coordinator*) and Decision-Maker will confirm both parties have Advisors present. If not, the hearing will need to be postponed until both parties have an Advisor.
2. The Hearing Coordinator (*Title IX Coordinator*) will initiate the selected recording option for the hearing. (Ex. WebEx, court reporter, film, etc.). The college is responsible for making a record of the hearing.
3. The Decision-Maker will open the hearing by explaining the purpose and procedure.
4. Advisors of each party will introduce relevant evidence and question witnesses, including the other party.
5. The Decision-Maker has the right to ask questions of the parties and witnesses.

### Post Live Hearing Process

1. The Decision-Maker will send both parties a written determination. The written determination will make findings of fact, reasons for decision, sanctions (if any), and instructions for appeal, within 10 business days after the hearing.
2. The results of the Decision-Maker's written determination will either: (1) Dismiss the complaint, (2) impose sanctions, or (3) either party can appeal.

## The Appeal Process

### The Appeal Process – Post Investigation

1. If the investigation is completed with an unsubstantiated conclusion (a finding that the alleged behavior did not occur or did constitute a Title IX violation), which would result in not having a live hearing, the Complainant can appeal the decision.
2. Within 10 calendar days from receiving final investigation report, the Complainant can appeal the results of the investigation. The appeal must be submitted in writing to Title IX Coordinator, up to 6,000 words.
3. Appeals are approved on limited grounds:
  - Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the appealing Party?
  - Was there any substantive new evidence that was not available at the time of the decision or Hearing and that could not have been available based on reasonable and diligent inquiry that would substantially affect the outcome of the decision?
  - Did the Investigator or Co-investigator (Title IX Coordinator) have a conflict of interest or bias for or against Complainant that affected the outcome of the matter?
  - The option to appeal based on sanctions being too harsh would not apply in this situation because sanctions are only given after live hearings.
4. The Title IX Coordinator will send the appeal to the TCSG Commissioner or his designee. The Title IX Coordinator will also send the appeal to the other party for response.
5. The other party has 10 calendar days to respond to the appeal.
6. The Title IX Coordinator has the right to submit a written response to the appeal, but is not required to.
7. The TCSG Commissioner or his designee will have 10 business days after receiving all appeal documentation to submit a final notice of outcome appeal.
8. The Respondent does not have the option to appeal after an investigation with an unsubstantiated conclusion because Title IX requires substantiated complaints to proceed to a live hearing. The Respondent will have the opportunity to appeal a decision after the live hearing.

### The Appeal Process – Post Live Hearing

1. Within 10 calendar days from receiving written determination, either party can appeal the results of the hearing. The appeal must be submitted in writing to the Hearing Coordinator (*Title IX Coordinator*), up to 6,000 words.
2. Appeals are approved on limited grounds:
  - Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the appealing Party?
  - Was there any substantive new evidence that was not available at the time of the decision or Hearing and that could not have been available based on reasonable and diligent inquiry that would substantially affect the outcome of the decision?
  - Did the Title IX Coordinator, Investigator(s), or Decision-Maker have a conflict of interest or bias for or against Complainants or Respondents that affected the outcome of the matter?
  - For matters that proceeded to Sanctioning and imposition of Remedies, are the Sanction and/or Remedies ones that could have been issued by reasonable persons given the findings of the case?
3. The Hearing Coordinator (Title IX Coordinator) will send the appeal to the TCSG Commissioner or his designee. The Hearing Coordinator (*Title IX Coordinator*) will also send the appeal to the other party for response.
4. The other party has 10 calendar days to respond to the appeal.
5. The Title IX Coordinator has the right to submit a written response to the appeal, but is not required to.
6. The TCSG Commissioner or his designee will have 10 business days after receiving all appeal documentation to submit a final notice of outcome appeal.

# Title IX

# Check-Off Sheets

# Title IX Coordinator's Compliance Check-Off

- Each Title IX Coordinator must assist their institution with developing a method to survey the school climate and coordinate the collection and analysis of information from that survey.
- Each Title IX Coordinator must facilitate a review of the institution's website to confirm the Title IX information is easily accessible.
- Each Title IX Coordinator must facilitate sexual harassment awareness activities for students. (Ex. HAVEN training, workshops, etc.)
- Each Title IX Coordinator must have printed materials distributed around the college promoting sexual harassment awareness and informing students, faculty, and staff of the local grievance procedures. (Ex. brochure, flyer, poster, etc.)
- Each Title IX Coordinator must attend at least one TCSG Title IX training each academic year (Title IX Peer Group)
- Each Title IX Coordinator will provide at least one training to college faculty and staff each academic year.
- Each Title IX Coordinator must complete the annual State of Georgia sexual harassment prevention training.
- Each Title IX Coordinator must confirm that the most up to date EEO statement, including the contact information is included on the college website, course catalogs, course syllabi, and other college printed materials.
- Each Title IX Coordinator must confirm that the training material used for their personal training is available on the college website.



# Title IX Coordinator's Investigation Check-Off

- The Title IX Coordinator will work with the Title IX Investigator to confirm that both Parties receive an official notice of investigation.
- The Title IX Coordinator will schedule the time and room locations for the investigative interviews.
- The Title IX Coordinator will co-investigate and interview all relevant Parties to the allegation.
- The Title IX Coordinator will send the draft investigation report to both Parties and their Advisors for a 10-day review and response period.
- The Title IX Coordinator will send any responses to the Title IX Investigator and discuss potential affects.
- The Title IX Coordinator will send final the investigative report to both Parties and their Advisors.
- Begin the process of administrative and logistical set up of the live hearing (if the complaint is substantiated).

# Title IX Coordinator's Hearing Check-Off

- Day-of responsibilities include reconfirming attendance of all parties, including Complainant and Respondent, their Advisors, Witnesses, and the Decision-Maker. The hearing cannot go forward if the either party does not have an Advisor present.
  
- Ensuring that all parties have access to the location of the hearing, including if a party requests to be separated from the other.
  
- Confirming technology is set up and record function is enabled. The hearing will need at least four (4) computers available for the hearing for WebEx recording (1) The Decision-Maker, (2) Complaint & Complaint's Advisor, (3) Respondent & Respondent's Advisor, (4) Witness table/desk area.
  
- Confirm a member of campus safety is available to show presence especially if violence is alleged.

# Sample Title IX Support Measures

# Sample Support Measures

Individualized interim services may need to be offered, as appropriate, to either or both the Complainant and Respondent prior to, or during the investigation. In assessing the need for a party to receive interim measures, a college must fairly execute the service. The local Title IX Coordinator should make every effort to avoid depriving any student of his or her education. They should also communicate with each student throughout the investigation to ensure any interim measures are necessary and effective based on the student's evolving needs.

Examples of Potential Interim Protective Measures
<ul style="list-style-type: none"><li>• Counseling Services</li><li>• Extension of time or other course related adjustments</li><li>• Modification of work or class schedules</li><li>• Campus escort service</li><li>• Restriction on contact between the parties</li><li>• Changes in work or housing locations</li><li>• Leaves of absences</li><li>• Increased security and monitoring of certain areas on campus</li></ul>

# Sample Title IX Sanctions

# Sample Sanctions

Adjudication of substantiated Title IX complaints will be conducted by the local process established by Title IX and executed by the Decision-Maker. The Statewide Title IX Investigator will not recommend sanctions for the colleges.

Examples of Potential Sanctions
<ul style="list-style-type: none"><li>• Academic Assignments/Trainings</li><li>• Simple Reprimand</li><li>• Restricted access to a building or campus</li><li>• No Contact Orders</li><li>• Administrative registration holds</li><li>• Disciplinary Probation</li><li>• Disciplinary Suspension</li><li>• Expulsion</li></ul>

# TCSG Procedures

## 6.1.2p. Sexual Harassment and Misconduct

Revised: August 14, 2020; March 13, 2018; January 12, 2016; July 16, 2014; April 25, 2013;  
March 9, 2007

Last Reviewed: September 27, 2019; March 13, 2018

Adopted: April 25, 2013

### I. PURPOSE:

It is the purpose of this procedure to ensure that all students within the Technical College System of Georgia (TCSG) and its colleges are provided access to a safe educational environment free from any discrimination on the basis of sex. To that end, this procedure prohibits sex discrimination of any kind, including sexual harassment and sexual misconduct (“prohibited conduct”). Sexual misconduct includes, but is not limited to, domestic violence, sexual violence, dating violence, sexual assault, sexual exploitation, and stalking.

All students and employees are expressly prohibited from engaging in any form of prohibited conduct in all interactions with each other, whether or not the interaction occurs during class or on or off campus. Visitors to campuses also shall not engage in prohibited conduct, and may be barred from campus.

Any student or employee who has engaged in prohibited conduct will be subject to disciplinary action up to and including expulsion or dismissal. Nothing in this procedure shall be interpreted to interfere with any person’s right to free speech as provided by the First Amendment to the Constitution of the United States of America.

TCSG strongly encourages all students and requires employees to report any instances of sexual harassment or sexual misconduct promptly and accurately. TCSG will not tolerate retaliation for having filed a good faith complaint or for having provided any information in an investigation. Any individual who retaliates against a complainant or witness in an investigation will be subject to disciplinary action, up to and including expulsion or dismissal.

Employee complaints of unlawful harassment or discrimination shall be conducted pursuant to the process outlined in the procedure governing Unlawful Harassment, Discrimination, and Retaliation in Employment.

### II. RELATED AUTHORITY:

20 U.S.C. §§ 1681 et seq. O.C.G.A. § 19-7-5 Violence Against Women Reauthorization Act of 2013 Campus Sexual Violence Elimination Act (Campus SaVE) Titles VI and VII of the Civil Rights Act of 1964 Title IX of the Educational Amendments of 1972



### III. APPLICABILITY:

All work units and technical colleges associated with the Technical College System of Georgia. 2

### IV. DEFINITIONS:

**Advisor:** the person who will attend the Hearing with a Party and conduct the oral cross-examination of the other Party and Witnesses. This person may also offer advice and support from the time the Notice of Formal Complaint is issued and may attend any meetings involved in the investigatory process, but may not speak on behalf of the party during such meetings. The Advisor may be chosen by the Party and is permitted to be, but need not be, an attorney. If either Party is unable to select an Advisor, TCSG will furnish an Advisor to the Party. The Advisors are intended to maintain Privacy and confidentiality to the extent permitted by law.

**Affirmative Consent:** affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that the person has the Affirmative Consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean Affirmative Consent, nor does silence or incapacitation mean Affirmative Consent. Affirmative Consent also cannot be procured by duress or intimidation, or by the use of anesthetizing or intoxicating substances. Affirmative Consent must be ongoing throughout a sexual activity and can be revoked at any time. Affirmative Consent may be based on a condition(s), e.g., the use of a condom, and that condition(s) must continue to be met throughout an activity, unless there is mutual agreement to forego or change the condition. When there is no Affirmative Consent present during sexual activity, the activity at issue necessarily occurred “against the person’s will.”

**Appeal Officer:** the Commissioner of TCSG or his designee, who will review the Parties’ appeals and issue the Notice of Outcome of Appeal.

**Clinical Site:** any off-campus location to which students or faculty are assigned for completion of program requirements including labs, internships, or practicums.

**Complainant:** the Party to the process who has allegedly experienced the alleged Title IX Prohibited Conduct at issue.

**Confidential Resource:** a person who, by law, is exempted from the obligation to report an allegation of conduct that could constitute Title IX Prohibited Conduct to any entity, including the College’s Title IX Coordinator or law enforcement in circumstances in which the reported conduct could be a crime (except, as to law enforcement, if the Complainant is a minor or if there is a belief that there is an imminent threat of harm to self or others).

**Confidentiality:** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses.

**Court Order:** any formal order issued by a state or federal court or authorized police officer that restricts a person's access to another TCSG community member, such as an emergency, temporary or permanent restraining order.

**Dating Violence:** violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant, including sexual or physical abuse or the threat of such abuse, but excluding acts covered under the definition of Domestic Violence.

**Decision-Maker:** a professional appointed by the TCSG Commissioner experienced and trained in adjudicating matters of civil rights, sexual harassment and/or sexual violence and trained on this Title IX Procedure who will preside over the Hearing and will issue the Written Determination Regarding Responsibility

**Domestic Violence:** a felony or misdemeanor crime of violence committed: (i) by a current or former spouse or intimate partner of the Complainant; (ii) by a person with whom the Complainant shares a child in common; (iii) by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; (iv) by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Georgia; (v) by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Georgia. To categorize an incident as Domestic Violence, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

**Duress:** a direct or implied threat of force, violence, danger, hardship, or retribution that is enough to cause a reasonable person of ordinary sensitivity to do or submit to something that they would not otherwise do or submit to. When deciding whether the act was accomplished by duress, all the circumstances, including the age of the Complainant and their relationship to the Respondent, are relevant factors.

**Employee:** any individual employed in a full or part time capacity in any TCSG work unit or technical college.

**Expert Witness:** a Witness identified by a Party or the Title IX Office that has special expertise in a technical matter, such as forensic evidence. Force: an act is accomplished by force if a person overcomes the other person's will by use of physical force or induces reasonable fear of immediate bodily injury.

**Formal Complaint:** a document filed and signed by a Complainant or filed and signed by the Title IX Coordinator alleging Title IX Prohibited Conduct against a Respondent and requesting that TCSG investigate the allegations.

**Hearing:** a live hearing conducted with all Parties physically present in the same geographic location or with participants appearing virtually with technology enabling participants simultaneously to see and hear each other. During the Hearing, the Decision-Maker permits each Party's Advisor to ask the other Party and Witnesses all relevant questions and follow-up questions, including those challenging credibility. A recording or transcript of the hearing will be made.

**Hearing Coordinator:** the person who manages Hearings under this Title IX Procedure.

**Hearing File:** the information collected during the Investigation that is deemed relevant to be considered by the Decision-Maker.

**Hearing Schedule:** a time-table specific to each matter that schedules key dates for the matter after it has been charged.

**Human Resources Director:** the highest ranking employee responsible for the human resources function at a technical college or TCSG work unit.

**Incapacitation:** a state where a person lacks the ability to voluntarily agree (that is, to give Affirmative Consent) to sexual activity because the person is asleep, unconscious, under the influence of an anesthetic or intoxicating substance such that the person does not have control over their body, is otherwise unaware that sexual activity is occurring, or is unable to appreciate the nature and quality of the act. Incapacitation is not necessarily the same as legal intoxication.

**Informal Resolution:** a voluntary process that the Parties may consent to participate in, as described in Section IV.F.

**Initial Report:** a report of conduct that may constitute Title IX Prohibited Conduct, which may be made by any individual, even if not the person alleged to have experienced the conduct. An Initial Report is made prior to a Formal Complaint, and triggers the Title IX Coordinator's obligation to contact the Complainant and inform the Complainant of Supportive Measures, as described in Section IV.A.1.

**Intimidation:** includes any threatening statement or conduct made with the intent to prevent or dissuade any Party or Witness from reporting or participating in the Title IX Procedure. Intimidation also includes the use of implied threats to overcome a person's freedom of will to choose whether or not to participate in sexual activity or provide affirmative consent.

**Investigation:** the phase of the Title IX Procedure when the Parties are invited to provide evidence and identify Witnesses to the Investigator related to the allegations in the Notice of Formal Complaint.

**Investigative Report:** a formal written document that fairly summarizes the relevant evidence gathered during the Investigation, including the parties' responses to the preliminary report.

**Investigator:** the person assigned by TCSG to investigate Formal Complaints under this Title IX Procedure. The Investigator shall have been trained on all elements of an Investigation as required by federal and state law.

**Menace:** a threat, statement, or act showing intent to injure someone.

**New Evidence:** evidence that was not available at the time of the charge decision, could not have been available based on reasonable and diligent inquiry, and is relevant to the matter.

**Nonforcible Sexual Violations:** Any of the following acts: 1. Incest: nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Georgia law. 2. Statutory Intercourse Violation: nonforcible sexual intercourse with a person who is under the statutory age of consent of Georgia.

**Notice of Charge:** the formal notification issued by the Title IX Coordinator following an Investigation that the matter will be charged and will proceed to a Hearing.

**Notice of Dismissal:** the formal notification issued by the Title IX Coordinator following a determination that the matter does not meet the definitional or jurisdictional standards of Title IX and stating the reasons for dismissal.

**Notice of Formal Complaint:** the formal notification issued by the Title IX Coordinator that a Formal Complaint has been filed and including the details set forth in Section IV.C.1.

**Notice of Outcome of Appeal:** a written determination describing the Appeal Officer's final decision of a matter brought forward on appeal. Party/Parties: the generic or collective term used to refer to Complainant(s) and Respondent(s).

**Preponderance of the Evidence:** the standard of proof used by the Investigator and the Decision Maker. A finding by the Preponderance of the Evidence means that the credible evidence on one side outweighs the credible evidence on the other side, such that, as a whole, it is more likely than not that the alleged fact or conduct occurred. It does not mean that a greater number of Witnesses or documents is offered on one side or the other, but that the quality or significance of the evidence offered in support of one side is more convincing than the evidence in opposition.

**President:** the chief executive officer responsible for the management and operation of the technical college where the complainant and/or accused violator are enrolled or employed.

**Privacy:** means that information related to a complaint will be shared with only a limited number of TCSG employees who “need to know” in order to assist in the assessment, Investigation, and resolution of the report. All employees who are responsible for TCSG’s response to Title IX Prohibited Conduct receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), and the privacy of employee records will be protected in accordance with Georgia law and TCSG policy.

**Rebuttal Evidence:** evidence presented to contradict other evidence in the Hearing File, which could not have been reasonably anticipated by a Party to be relevant information at the time of the Investigation.

**Remedies:** individualized measures implemented after a Hearing or as part of an Informal Resolution that are designed to restore or preserve equal access to College Programs or Activities, and may include Supportive Measures, but need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

**Respondent:** the person alleged to have engaged in Title IX Prohibited Conduct.

**Retaliation:** includes, but is not limited to, adverse action related to employment, academic opportunities, participation in TCSG and/or College programs or activities, or similar punitive action taken against an individual because that person has made an Initial Report or Formal Complaint, responded to a Formal Complaint, testified, assisted, or participated or refused to participate in any manner in an Investigation, proceeding, or Hearing.

**Sanctions:** individualized measures implemented after a Hearing that may be disciplinary in nature.

**Sexual Assault:** any of the following acts: 1. Rape: penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant. 2. Sodomy: oral or anal sexual intercourse with another person: • forcibly and/or against that person’s will; OR • not forcibly or against the person’s will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. 3. Sexual Assault with an Object: to use an object or instrument to penetrate, however slightly, the genital or anal opening of the body of another person: • forcibly and/or against that person’s will; OR • not forcibly or against the person’s will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. 4. Fondling: the touching of the private body parts of another person (buttocks, groin, breasts) for the purpose of sexual gratification: 6 • forcibly and/or against that person’s will (non-consensually); OR • not forcibly or against the person’s will in instances where the Complainant is

incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

**Stalking:** engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (i) fear for the person's safety or the safety of others; or (ii) 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 a person's property. Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

**Supportive Measures:** non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after the filing of a Formal Complaint or where no Formal Complaint has been filed. Such measures are designed to restore or preserve equal access to TCSG Programs or Activities without unreasonably burdening the other Party, including measures designed to protect the safety of all Parties or the TCSG educational environment, or deter sexual harassment. Supportive measures may include extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

**Title IX Prohibited Conduct:** the collective term used in this Title IX Procedure to refer to the conduct described in the definitions for Title IX Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, and Stalking.

**Title IX Sexual Harassment:** conduct, on the basis of sex that satisfies one or more of the following: 1. unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it denies a person equal educational access. 2. an employee of the college conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

**TCSG Compliance Officer:** the individual designated by the Deputy Commissioner to coordinate TCSG compliance with Title IX of the Educational Amendments of 1972 and other state and federal laws governing unlawful discrimination and harassment and educational access by disabled individuals.

**TCSG Program or Activity:** locations, events, or circumstances over which TCSG and/or the College exercised substantial control over both the alleged Respondent and the context in which the Title IX Prohibited Conduct occurs, and also includes any building owned or controlled by a student organization that is officially recognized by TCSG and/or the College.

**Technical College System of Georgia:** all work units and technical colleges under the governance of the State Board of the Technical College System of Georgia.

**Title IX Coordinator:** an individual designated by the president of the college to ensure compliance with Title IX of the Educational Amendments of 1972, 20 U.S.C. §§ 1681 et seq., and related federal regulations. The Title IX Coordinator may also be assigned the responsibility for compliance with other state and federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the U.S. Department of Education.

**Violence:** the use of physical force to cause harm or injury.

**Visitor:** any third party (e.g. volunteer, vendor, contractor, member of the general public etc.) who conducts business or regularly interacts with a work unit or technical college.

**Witness:** a person asked to give information or a statement under this Title IX Procedure.

**Written Determination Regarding Responsibility:** the formal written notification issued by the Decision-Maker after a Hearing that includes: (i) identification of the allegations potentially constituting Title IX Prohibited Conduct; (ii) a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and Witnesses, site visits, methods used to gather other evidence, and Hearing held; (iii) findings of fact; (iv) conclusions about whether the alleged Title IX Prohibited Conduct occurred, applying the definitions set forth in this Title IX Procedure to the facts; (v) the rationale for the result as to each allegation; (vi) any disciplinary Sanctions imposed on the Respondent; (vii) whether Remedies or Supportive Measures will be provided to the Complainant; and (viii) information about how to file an appeal.

## V. ATTACHMENTS:

Attachment 6.1.1p.a1. Sources of Counseling, Advocacy and Support  
Attachment 6.1.1p.a2. TCSG Usage for Statement of Equal Opportunity

## VI. PROCEDURE: A.

### A. Administration and Implementation

1. Each college president shall designate one or more officials to serve as the Title IX Coordinator and post contact information for the coordinator and the TCSG's Statement of Equal Opportunity in electronic or written college publications and academic materials as described in the TCSG Usage for Statement of Equal Opportunity (e.g. bulletin boards, the college website, catalogs, student and employee handbooks, orientation materials, and flyers). The college president will ensure the designated officials have received appropriate training.



2. Instructors/administrators must take ongoing proactive steps to ensure educational opportunities (to include classrooms, clinics, labs, programs, etc.) and student activities (clubs, sports, etc.) are accessible and free from any type of sex discrimination or harassment.
3. The Compliance Officer will coordinate training programs and monitor the colleges to ensure the correct administration and implementation of this procedure, and will ensure that proactive or corrective measures have been taken to prevent sex discrimination and sexual misconduct. The training materials will be posted on the college's website or made available for members of the public to inspect.
4. Colleges are required to provide sexual harassment and sexual violence prevention training to students and employees and to provide programs for ongoing awareness training as required by VAWA and the Clery Act. As of the effective date of this procedure, colleges have been provided the Haven training modules for this purpose and are required to incorporate the training in new student and employee orientation activities.
5. Each technical college shall publish a list of local sources for counseling, support and advocacy in conjunction with the publishing of this procedure. (See attachment for sample format) Individuals who report sexual violence, sexual assault, stalking or dating/domestic violence will be provided with and/or referred to the list of resources.

#### B. Reporting and Management Action

1. All students are encouraged to report incidents of sex discrimination and sexual misconduct against themselves or others to the Title IX Coordinator at the technical college. The Title IX regulations define "sexual harassment" to include three types of misconduct on the basis of sex which jeopardize the equal access to education that Title IX is designed to protect. These types of misconduct include: any instance of quid pro quo harassment by a TCSG and/or College employee; any conduct on the basis of sex that in the view of a reasonable person is so severe and pervasive and objectively offensive that it effectively denies a person equal access to a TCSG and/or College education program or activity; and any instance of sexual assault, dating violence, domestic violence, or stalking (collectively "Title IX Prohibited Conduct," as defined in this Procedure). Students may find contact information for the Title IX Coordinator on the technical college website, and in the student handbook and college catalog. Complaints may also be emailed to [unlawfulharassment@tcsgeu.edu](mailto:unlawfulharassment@tcsgeu.edu).
2. To utilize this procedure, a Complainant must file a Formal Complaint which is defined herein as a document filed and signed by a Complainant or filed and signed by the Title IX Coordinator alleging Title IX Prohibited Conduct against a Respondent and requesting that TCSG investigate the allegations.
3. Any allegation of sex discrimination, sexual misconduct or retaliation against employees must be reported to the Human Resources Director and the Title IX Coordinator.



4. All allegations of sex discrimination and sexual misconduct on one of TCSG's college campuses or clinical locations must be reported to the Title IX Coordinator regardless of whether the allegations involve students or employees. All students, faculty, staff, and others participating in TCSG and/or College programs and activities in the United States are subject to this Title IX Procedure. If the allegations do not fall within the jurisdiction under this procedure, they may be referred and processed under the student code of conduct procedure.

5. Students have the right to file (or not to file) a criminal complaint for sexual violence with the local law enforcement authorities before, during, or after filing a complaint with the college. The investigation under this procedure shall not be unreasonably delayed to await the outcome of any criminal investigation. Sexual violence reports made to the Title IX Coordinator will be investigated and adjudicated separately from any criminal complaints. A student may request that the Title IX Coordinator and/or the Investigator assist the student with notifying local law enforcement authorities. If a technical college's campus law enforcement receives a complaint alleging sexual harassment and/or sexual misconduct as defined in this procedure, the Title IX Coordinator for the college shall be immediately notified so that appropriate action may be taken by the Title IX Coordinator regarding the complaint.

6. If a student filing a complaint alleging sexual misconduct requests confidentiality, anonymity or asks that the complaint not be pursued, the college must inform the complainant that its ability to respond may be limited, that retaliation for filing a complaint is prohibited, and that steps to prevent harassment and retaliation will be taken. Consistent with the request, all reasonable steps to investigate and respond to the complaint should be made and other steps to limit the effects or recurrence of the alleged misconduct will be taken. a. Regardless of a student's request for confidentiality, anonymity of a complaint, or a request that a complaint not be pursued, if the complaint includes allegations of sexual assault, sexual violence, domestic violence, dating violence, or stalking, the Title IX Coordinator must report the incident to campus law enforcement for inclusion in the college's Annual Security Report ("ASR"). The complainant should be informed that their name will not be disclosed to campus law enforcement if they have requested confidentiality during the processing of the complaint.

7. Colleges may weigh a request for confidentiality, anonymity or a request they not pursue a complaint considering the following factors: the seriousness of the alleged conduct, the complainant's age, and the respondent's right to receive information about the allegations if the information is maintained as an "education record" under FERPA. The college must inform the complainant if the request cannot be granted and the reasons for the denial.

8. Reports concerning all prohibited conduct referenced in this procedure will be processed confidentially to the extent permitted by law; communications regarding complaints will be disseminated to others on a need-to-know basis to ensure that necessary steps are taken to protect the community as a whole and that appropriate corrective actions are considered and taken.

9. If an allegation of sex discrimination or sexual misconduct is made to an employee not designated to receive such reports, the employee receiving the complaint must report the allegation to the Title IX Coordinator. The College must take corrective actions to stop harassment to which it has notice, prevent recurrence of the harassment, and remedy the effects on the complainant promptly and effectively. The College will be deemed to have notice if a responsible employee knew, or in the exercise of reasonable care should have known, about the harassment. A responsible employee includes any employee who has the authority to take action to redress the harassment, who has a duty to report the harassment to the Title IX Coordinator, or who a student could reasonably believe has this authority or responsibility, including instructors and staff at the college.

10. Allegations of any sexual conduct involving individuals under the age of 18 must also be reported as an allegation of child abuse as outlined in O.C.G.A. § 19-7-5.

11. Supportive measures must be offered to the complainant by the college president or the Title IX Coordinator or his/her designee before the final outcome of an investigation and until final resolution of the allegations if failure to take the interim measures would constitute an immediate threat to the safety and well-being of the complainant, the respondent, or other members of the college, or to ensure equal access to the college's programs and activities. Supportive measures may include: adjustments to academic workload (including extending deadlines); adjustment to class or work schedules; no contact orders; and suspensions, transfers or reassignments in order to prevent further harassment, discrimination, sexual violence or retaliation, to facilitate the investigation, or to implement preventive or corrective actions under this procedure; informal resolutions or discretionary dismissals

12. Discretionary Dismissal.

a. TCSG and/or the College may dismiss the Formal Complaint if: i. the Respondent is no longer enrolled or employed by TCSG and/or the College; ii. specific circumstances prevent TCSG and/or the College from gathering sufficient evidence to reach a determination; or iii. the Complainant informs the Title IX Coordinator in writing that the Complainant desires to withdraw the Formal Complaint or allegations therein.

b. A Complainant may notify the Title IX Coordinator at any time that the Complainant does not wish to proceed with the Investigation and/or Hearing process. If such a request is received, the Title IX Coordinator will inform the Complainant that the TCSG and/or the College's ability to respond to the allegation may be limited if the allegations are withdrawn.

c. The Title IX Coordinator will consider the relevant factors in reaching a determination as to whether to terminate the Investigation and/or Hearing process. In the event that the Title IX Coordinator determines that the Investigation will continue, the Title IX Coordinator will notify the Complainant of that determination. The Title IX Coordinator will include in that notification a statement that the Complainant is not required to participate in the

Investigation and/or Hearing process but that the process will continue. In the event that the Title IX Coordinator determines that the Investigation will be terminated, both Parties will be notified.

### C. Investigations

1. All complaints of prohibited conduct under this procedure will be reported immediately to the Investigator who will be responsible for conducting the investigation in a fair, prompt, and impartial manner.
2. The Investigator shall disclose to the TCSG Compliance Officer any relationship with the parties that could call into question his/her ability to be objective prior to taking any action with respect to the investigation. The TCSG Compliance Officer will reassign alternate individuals if necessary.
3. The Investigator shall send written notice to both parties of the allegations upon receipt of a formal complaint.
4. Either the complaining party or the respondent may challenge the Investigator or designee to recommend corrective action on the grounds of personal bias by submitting a written statement to the TCSG Compliance Officer setting forth the basis for the challenge no later than 3 business days after the party reasonably should have known of the alleged bias. The TCSG Compliance Officer will determine whether to sustain or deny the challenge.
5. The investigation should be completed within 45 business days of the receipt of the complaint by the Investigator. The investigator will notify the parties and the Title IX Coordinator, in writing (typically by email), if extraordinary circumstances exist requiring additional time.
6. The parties will be notified within 5 business days of receipt of the complaint by the Investigator if the complaint does not specify facts sufficient to allege sex discrimination, harassment, sexual violence or retaliation, or if the allegations of sexual misconduct did not occur in the college's education program or activity against the complaining party while he or she was located in the United States, and that a formal investigation will not be conducted pursuant to this procedure, although a referral and investigation may be made by the Title IX Coordinator as to some or all of the matter for consideration under other applicable TCSG policy or procedure, if any. The complaining party may appeal the decision in writing to the president within 5 business days of receiving the notice. The president's decision will be final.
7. Individuals designated to investigate or recommend corrective actions in response to allegations of sexual misconduct will be trained annually to conduct investigations in a manner that protects the safety of complainants, promotes fairness of the process and accountability.

8. Investigations will be conducted by gathering relevant information and interviewing appropriate witnesses.

a. It is important that all parties preserve any documents or other evidence which may pertain to the investigation.

b. Any medically related evidence is best preserved by trained medical personnel.

c. Students are encouraged to seek medical services both for treatment and preservation of any medical evidence.

9. Both the complaining party and the respondent (the parties) will be given equal opportunity to identify witnesses and offer evidence in person or in writing. Best efforts will be made to interview all witnesses identified by the parties. If a witness identified by either party is not interviewed during the investigation, an explanation for the decision not to interview the witness should be documented in the investigatory report. Both parties will be given timely notice of meetings at which one or the other or both parties may be present. Both the complaining party and the respondent may be accompanied by an advisor of his or her choice during any meetings involved in the investigatory process in which the advisee is also eligible to be present. However, the advisor may not speak on behalf of the party.

10. Any evidence collected during the investigation should be maintained in accordance with the record retention requirements below. Personally-identifiable information, including, but not limited to home address, telephone number, student ID or social security number should not be maintained in investigative records.

11. A report of investigation will be provided to the college's Title IX Coordinator within five (5) business days of completion of the investigation. The Title IX Coordinator will provide both parties simultaneously with a copy of the report and any supporting evidence. The parties shall be given ten (10) calendar days from receipt of the report to respond to the report and the supporting evidence, which must be considered by the Investigator before finalizing the report. Any information prohibited from disclosure by law or policy will be redacted from any documents prior to distribution. With regard to complaints of sexual misconduct, disclosures made to comply with the Violence Against Women Reauthorization Act ("VAWA") do not constitute a violation of FERPA.

12. If the Investigator determines that all or some of the allegations made in the complaint are substantiated and that the conduct at issue constitutes a violation of this or other applicable procedure, the Title IX Coordinator shall forward the report to the appropriate officials at the college for further action in accordance with the provisions below and the college's Student Code of Conduct and Disciplinary Procedure or the Positive Discipline Procedure for employees.

## D. Hearings

### 1. Format of Hearing:

- a. Hearings may be conducted with all Parties physically present in the same geographic location or, at the discretion of the Decision-Maker, any or all Parties, Witnesses, and other participants may appear at the live Hearing virtually, with technology enabling participants simultaneously to see and hear each other.
- b. At the request of either Party, TCSG will provide for the Hearing to occur with the Parties located in separate rooms with technology enabling the decision-maker(s) and Parties to simultaneously see and hear the Party or the Witness answering questions.

### 2. Recording of Hearing:

- a. Hearings will be transcribed or recorded through audio or audiovisual means, and TCSG and/or the College will make the transcript or recording available to the Parties for inspection and review upon request.

### 3. Role of Advisor:

- a. If a Party does not have an Advisor present at the Hearing, TCSG and/or the College will provide, without fee or charge to that Party, an Advisor of TCSG and/or the College's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that Party.

### 4. Role of the Decision-Maker:

#### a. The Decision-Maker will:

- i. be a professional appointed by the TCSG Commissioner who is experienced and trained in adjudicating matters of civil rights, sexual harassment and/or sexual violence and trained on this Title IX Procedure;
- ii. preside over the Hearing and will issue the Written Determination Regarding Responsibility;
- iii. be identified to the Parties before the Hearing at least three calendar days prior to the Hearing.

#### b. Conflict of Interest:

- i. No person who has a conflict of interest may serve as the Decision-Maker.
- ii. A conflict of interest exists if the Decision-Maker has prior involvement in or knowledge of the allegations at issue in the case, has a personal relationship with one of the Parties or Witnesses, or has some other source of bias.

iii. Either Party may assert, in writing, that a Decision-Maker has a conflict of interest.

iv. A request to recuse a Decision-Maker based on a conflict must be submitted to the Hearing Coordinator within 1 business day's receipt of the name of the DecisionMaker.

v. A determination will be made by the Commissioner or his designee whether a Decision-Maker has a conflict of interest, and if so that Decision-Maker will be replaced by an alternate.

c. At the Hearing, the Decision-Maker will:

i. Permit Cross-examination. At the Hearing, the Decision-Maker will permit each Party's Advisor to ask the other Party and any Witnesses all relevant questions and follow-up questions, including those challenging credibility. Such cross-examination at the Hearing must be conducted directly, orally, and in real time by the Party's Advisor of choice and never by a Party personally. The Parties may, however, jointly agree in advance to waive oral cross-examination and instead submit written cross-examination to the Decision-Maker to conduct the examination. Even if the Parties so agree, the Parties are still required to have a Advisor present at the Hearing. The Decision-Maker has discretion to otherwise restrict the extent to which Advisor may participate in the proceedings.

ii. Determine Relevance of Questions. Only relevant cross-examination and other questions may be asked of a Party or Witness. Before a Complainant, Respondent, or Witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

iii. Provide Rape Shield Protections for Complainants. The Decision-Maker will prohibit any questions and evidence about the Complainant's sexual predisposition or prior sexual behavior as not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

iv. Exclude Statements, as Relevant, in Reaching a Determination Regarding Responsibility. If a Party or Witness does not submit to cross-examination at the live Hearing, the Decision-Maker must not rely on any statement of that Party or Witness in reaching a determination regarding responsibility. The Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on

a Party's or Witness's absence from the live Hearing or refusal to answer cross-examination or other questions.

5. Hearing Process:

- a. The Investigator will be available to answer any questions from the Decision-Maker about the Investigation.
- b. The Decision-Maker may meet with the Parties and Witnesses for the purpose of making findings of fact.
- c. The Parties and Witnesses may not speak to matters beyond the scope of the Hearing File (for example, by raising potential misconduct allegations that go beyond the scope of the charged conduct).
- d. Parties and Witnesses must not disclose or reference information to the Decision-Maker that was excluded from the Hearing File.
- e. The Decision-Maker may ask questions of the Parties and/or Witnesses.
- f. Parties are permitted to listen to Witnesses as they are speaking to the Decision-Maker. The Decision-Maker is not obligated to speak to all Witnesses.
- g. Written Determination Regarding Responsibility:
  - i. The Decision-Maker shall issue a Written Determination Regarding Responsibility within 10 business days of the hearing, applying the Preponderance of the Evidence standard (as required by Georgia law), which shall include:
    - identification of the allegations potentially constituting Title IX Prohibited Conduct;
    - a description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews with Parties and Witnesses, site visits, methods used to gather other evidence, and Hearings held;
    - findings of fact;
    - conclusions about whether the alleged Title IX Prohibited Conduct occurred, applying the definitions set forth in this Title IX Procedure to the facts;
    - the rationale for the result as to each allegation;
    - any disciplinary Sanctions imposed on the Respondent;
    - whether Remedies or Supportive Measures will be provided to the Complainant; and
    - information about how to file an appeal.



ii. Sanctions:

- The Decision-Maker may ask the Parties to submit Sanctions statements at the conclusion of the Hearing.
- The Decision-Maker may also consult with TCSG and/or College personnel, including the Human Resources Director or Vice President of Student Affairs, regarding any Sanctions and Remedies appropriate to the specific Respondent and Complainant under the circumstances of the case.
- The Sanction determination will be provided to the Title IX Coordinator who will be responsible for implementing the Supportive Measures and/or Remedies, including the continuation of any Supportive Measures and/or any additional or on-going accommodations for both Parties.

iii. The Title IX Coordinator will cause the Written Determination Regarding Responsibility to be sent to the Parties.

iv. The Title IX Coordinator will provide copies of the Written Determination Regarding Responsibility and Sanctions and/or Remedies (if any) for the purpose of maintaining records as follows:

- For students, to the Office of Student Affairs
- For staff, to Human Resources
- For faculty, to the Office of Academic Affairs

v. The Decision-Maker must explain decisions on responsibility and Sanctions (if applicable) and Remedies with enough specificity for the Parties to be able to file meaningful appeals.

vi. The consideration of whether Remedies and Sanctions go into immediate effect or are temporarily delayed pending appeal or some combination thereof, will be determined on a case-by-case basis by the Title IX Coordinator.

vii. The Written Determination Regarding Responsibility becomes final: if an appeal is not filed, the date on which an appeal would no longer be considered timely; or if an appeal is filed, on the date that TCSG and/or the College provides the Parties with the written determination of the result of the appeal.

## E. Corrective Actions

1. Colleges will take all reasonable steps to prevent unlawful retaliation against complainants and any other individuals participating in investigations under this procedure.

2. If prohibited conduct is determined to have occurred following the investigation, steps shall be taken to prevent a recurrence and to correct the discriminatory effects on the complaining party and others as appropriate. a. Steps may include, but are not limited to mandating training or evaluation, disciplinary sanctions, policy implementation, issuing no-contact orders, or reassignment of students or employees. b. Disciplinary sanctions for students are defined in TCSG



Procedure governing Student Discipline and may include: reprimand, restriction, disciplinary probation, disciplinary suspension, and disciplinary expulsion. c. Disciplinary sanctions for employees are defined in TCSG's Positive Discipline Procedure and may include: formal reminders, decision making leave, or dismissal.

3. 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 college response to similar conduct, and the college's interests in performing its education mission. a. Should recommended disciplinary sanctions involve academic suspension or expulsion, the matter must be referred to the Vice President for Student Affairs, as provided by the college's Student Code of Conduct and Disciplinary Procedure.

4. Even in the absence of sufficient evidence to substantiate a finding that sex discrimination, sexual misconduct or retaliation has occurred, colleges are expected to address any inappropriate conduct and take all reasonable steps to prevent any future sex discrimination, harassment, sexual violence or retaliation.

5. Individuals who are responsible for conducting investigations, under this procedure, may not also serve as reviewing officials or Decision-Makers in the appeal of sanctions arising from an investigation.

## F. Appeals

### 1. Appeal of a Written Determination Regarding Responsibility

#### a. Submission of Appeal

i. Both Parties have the right to an appeal from a Written Determination Regarding Responsibility on the bases set forth below.

ii. Appeals may be submitted by a Complainant or Respondent in writing to the Hearing Coordinator, who will forward the appeal to a designated Appeal Officer to decide the appeal.

iii. The Appeal Officer will be the Commissioner of TCSG or his designee.

iv. Each Party may submit a written appeal of up to 6,000 words in length, which will be shared with the other Party. v. The Parties must submit the appeal to the Commissioner within ten (10) calendar days from the receipt of the Written Determination Regarding Responsibility (if any).

#### b. Grounds for appeal are limited to the following:

i. Were there any procedural irregularities that substantially affected the outcome of the matter to the detriment of the appealing Party?

- ii. Was there any substantive new evidence that was not available at the time of the decision or Hearing and that could not have been available based on reasonable and diligent inquiry that would substantially affect the outcome of the decision?
- iii. Did the Title IX Coordinator, Investigator(s), or Decision-Maker have a conflict of interest or bias for or against Complainants or Respondents that affected the outcome of the matter?
- iv. For matters that proceeded to Sanctioning and imposition of Remedies, are the Sanction and/or Remedies ones that could have been issued by reasonable persons given the findings of the case?

NOTE: In composing appeals, Parties should format their arguments following these four grounds as the organizational structure.

c. Receipt of Appeal

- i. Upon receipt of a Party's appeal, the Hearing Coordinator will share it with the other Party.
- ii. Each Party may submit a response to the other Party's appeal (no more than 3,000 words).
- iii. Each Party must submit this response to the Commissioner within 10 calendar days after the other Party's appeal has been shared.
- iv. The appealing Party will have access to the other Party's response to the appeal, but no further responses will be permitted.

d. Response to Appeal

- i. The Title IX Coordinator is permitted, but not required, to file a response to a Party's appeal to respond to concerns relating to procedural irregularities or bias in the Investigation and Hearing process.
- ii. The Title IX Coordinator may submit one response for each Party that files an appeal (that raises a procedural irregularity).
- iii. Each response by the Title IX Coordinator should be no more than 1,500 words.
- iv. The Parties will have access to the Title IX Coordinator's response(s) to the appeal, but no further responses will be permitted.

e. Appeal Decision

- i. The Appeal Officer will provide the Notice of Outcome of Appeal no later than ten (10) business days after receipt of all appeal documents.
- ii. As needed, the Appeal Officer will consult with the Title IX Coordinator regarding the management of ongoing Remedies.
- iii. The Appeal Officer may reject the appeal in whole or in part, issue a new decision regarding responsibility, issue new or revised Sanctions and Remedies, or refer the matter to a new Decision-maker.

**VII. RECORD RETENTION:**

Documents relating to formal complaints including investigations, the investigatory report, witness statements, evidence, dispositions and the complaint itself shall be held for 7 years after the graduation of the student or the date of the student's last attendance. Any of the documents containing confidential information shall be held in a secure location under the custody and control of the Investigator, Vice President of Student Affairs or the President's designee.

Documents pertaining to employees that are maintained by the Office of Human Resources shall be maintained in a secure location and in accordance with the Georgia Archives records retention schedule, but in no case fewer than 7 years.

# Georgia Statewide Sexual Harassment Prevention Policy

Issued By: Department of Administrative Services  
Office of the State Inspector General

## I. Introduction

While there are multiple types of workplace harassment, as Executive Order 01.14.19.02 recognizes, incidents of sexual harassment present unique challenges which warrant special emphasis and the implementation of a particularized approach to the prevention, detection and elimination of sexual harassment from the State workplace.

## II. Purpose

The State of Georgia promotes respect and dignity and does not tolerate sexual harassment in the workplace. The State is committed to providing a workplace and environment free from sexual harassment for its employees and for all persons who interact with state government. All State of Georgia employees are expected and required to interact with all persons including other employees, contractors, and customers in a professional manner that contributes to a respectful work environment free from sexual harassment. This Policy is intended to set standards for Executive Branch agencies and employees in furtherance of this commitment and to protect individuals from sexual harassment and retaliation.

## III. Authority

Executive Order 01.14.19.02 directs the Georgia Department of Administrative Services Human Resources Administration Division (HRA), in consultation with the Executive Counsel to the Governor, to promulgate a uniform sexual harassment prevention policy that shall apply to all Executive Branch agencies. In addition, pursuant to O.C.G.A § 45-20-4, the Georgia Department of Administrative Services is responsible for ensuring compliance with all applicable federal and state statutes and regulations concerning personnel administration and related matters. This includes, but is not limited to, the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, U.S. Const. amend. XIV., the Equal Protection Clause of the Georgia Constitution, Ga. Const. Art. 1, Sec. I, Para. II., Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq., and the Fair Employment Practices Act of 1978, O.C.G.A §§ 45-19-20, et seq., which prohibit employment discrimination and harassment on the basis of sex.

## IV. Applicability

The provisions of this Policy apply to all Executive Branch agencies. This Policy does not apply to the Board of Regents of the University System of Georgia, the Legislative Branch, or the Judicial Branch.

## V. Definitions

For purposes of this Policy, the following definitions apply:

- (a) “Agency” or “Agencies” means any Executive Branch agency, authority, board, bureau, commission, council, department, office, unit, entity, or instrumentality of any kind, and others as may be designated by the Governor, or to the extent that such designation does not conflict with state law.
- (b) “Employee” is a person who is hired to provide services to the State on a regular basis in exchange for compensation and who does not provide these services as part of an independent business. “Covered Employee” is a person who is hired to provide services to an Agency on a regular basis in exchange for compensation and who does not provide these services as part of an independent business.
- (c) “Investigator” is a person designated by his or her Agency head to conduct investigations related to sexual harassment complaints or reports.
- (d) “Retaliation” is an act or omission intended to, or having the reasonably foreseeable effect of, punishing or otherwise negatively impacting an individual for submitting (or assisting with submitting) a complaint of or reporting sexual harassment, for participating in a sexual harassment investigation or proceeding, or for otherwise opposing sexual harassment.
- (e) “Sexual harassment” is physical, verbal, or non-verbal/visual conduct that is either (i) directed toward an individual or (ii) reasonably offensive to an individual because of his or her sex. Therefore, for purpose of this Policy, “Sexual harassment” includes physical, verbal, or non-verbal/visual conduct constituting:
1. Unwanted sexual attention, sexual advances, requests for sexual favors, sexually explicit comments, and other conduct of an expressed or obviously implied sexual nature, by an individual who knows, or reasonably should know, that such conduct is unwanted and offensive; and
  2. Conduct that is hostile, threatening, derogatory, demeaning, or abusive or intended to insult, embarrass, belittle, or humiliate an individual because of his or her sex – regardless of whether the underlying reason for the conduct is apparent. This Policy purposefully prohibits all sexual harassment and is not limited to conduct that would rise to the level of unlawful conduct under state or federal antiharassment laws.

(f) “Supervisor” or “Manager” is a Covered Employee who has the authority to oversee, hire, fire, demote, or to effectively recommend hiring, firing, or demotion, or to make or effectively recommend other material changes to the working conditions of at least one employee.

## VI. Prohibited Conduct

(a) All Covered Employees are strictly prohibited from engaging in sexual harassment as defined herein. This prohibition applies to conduct occurring in or otherwise affecting the workplace. As such, it includes conduct occurring both on and off the work premises and during or outside of work hours. While sexual harassment encompasses a wide range of conduct, some examples of conduct specifically prohibited by this Policy include, but are not limited to:

1. Denying (directly or indirectly) an employment benefit or employment-related opportunity to an employee for refusing to comply with a sexually-oriented request;
2. Threatening (directly or indirectly) to deny an employment benefit or an employment-related opportunity to an employee for refusing to comply with a sexually-oriented request;
3. Providing or promising (directly or indirectly) to provide an employment benefit or employment-related opportunity to an employee in exchange for complying with a sexually-oriented request;
4. Engaging in sexually-explicit or suggestive physical contact, including touching another employee in a way that is unwelcome or restricting an employee’s movement;
5. Displaying or transmitting pornographic or sexually-oriented materials (such as photographs, posters, cartoons, drawings, or other images) or storing or accessing such materials on State-owned equipment for personal use or consumption;
6. Engaging in indecent exposure;
7. Making obscene gestures (i.e., hand or bodily gestures);
8. Making romantic advances and persisting despite rejection of the advances;
9. Using sexually-oriented language or making sexually-related propositions, jokes, or remarks, including graphic verbal commentary about an individual’s body or clothing; and,

10. Sending sexually suggestive or obscene messages by mail, in person, by telephone, or by electronic communication.

(b) Agencies and Covered Employees are further prohibited from engaging in retaliation against an employee for submitting (or assisting with submitting) a complaint of or reporting sexual harassment, for participating in a sexual harassment investigation or proceeding, or for otherwise opposing sexual harassment.

(c) A Covered Employee found to have engaged in sexual harassment and/or retaliation in violation of this Policy will be subject to corrective and/or disciplinary action, up to and including termination of employment.

(d) A third party found to have engaged in sexual harassment and/or retaliation may be subject to appropriate corrective action. Such action may include, but is not limited to, termination of contract, removal from Agency premises, restricted access to Agency premises and/or personnel, or notification to the third party's employer.

(e) Agencies shall immediately refer any reported criminal conduct to the appropriate law enforcement agency. Such referral shall not prohibit an Agency from pursuing its own investigation of the complaint or report. If criminal activity is suspected the Agency shall confer with the Office of the State Inspector General (OIG) regarding how to proceed with the Agency investigation.

## VII. Training

(a) Agencies shall require all Covered Employees, including part-time, temporary, seasonal employees, and independent contractors who are regularly on Agency premises and/or regularly interact with Agency personnel to complete employee sexual harassment prevention training on an annual basis. An independent contractor may waive state-mandated training upon acknowledgement of this Policy and documentation that he/she has completed sexual harassment prevention training offered by his/her employer within the last year.

(b) Agencies shall provide sexual harassment prevention training to all new or transferred Covered Employees within thirty (30) calendar days of hire.

(c) Agencies shall require sexual harassment prevention training for supervisors and managers on an annual basis. New supervisors and managers must complete this training within thirty (30) calendar days of employment or promotion to a supervisory or managerial position.

(d) Agencies shall utilize the standardized training provided by HRA to fulfill the obligations under this Policy for employee and manager training.

(e) Agencies shall track and maintain records pursuant to the statewide record retention schedule documenting attendance of employee and manager training. Such records are subject to audit by the OIG.

(f) Agencies shall require designated investigators (see Section IX. Investigations) to complete statewide investigator training provided by the OIG to ensure consistency in sexual harassment investigations across the State. Agencies shall require designated investigators to complete the statewide training within thirty (30) calendar days of the effective date of this Policy. Designated investigators appointed subsequent to the effective date of this Policy shall complete such training as soon as practicable.

#### VIII. Complaint Procedure

(a) Covered Employees who believe they have been subjected to sexual harassment or retaliation in violation of this Policy are strongly encouraged to promptly submit a complaint regarding the incident(s) to one of the following officials:

1. The Covered Employee's supervisor or manager;
2. The Covered Employee's division director;
3. The Agency's Human Resources Director; or,
4. Other Agency designee.

(b) Covered Employees who have witnessed or otherwise have reason to believe that another employee is being or has been subjected to sexual harassment or retaliation shall promptly report the same to one of the Agency officials listed above.

(c) To the extent that any of the above officials are the alleged harasser or retaliator, or if a Covered Employee has a reasonable fear of retaliation by one of the above officials, a Covered Employee may submit a complaint or report of sexual harassment or retaliation directly to the OIG.

(d) While written complaints and reports of sexual harassment or retaliation are preferred, Agencies shall accept all complaints and reports, whether written, verbal, or anonymous, and will ensure that each complaint or report is promptly and appropriately investigated and resolved.

(e) Agencies shall review all complaints and reports of sexual harassment and retaliation they receive and shall notify the OIG of the same within two (2) business days of receipt.



## IX. Investigations

(a) Each Agency shall designate at least two of its employees, not of the same gender, to conduct investigations under this Policy. Agencies must ensure that employees directly supervised by designated investigators have the ability to submit complaints or reports of sexual harassment to an individual other than their direct supervisor or manager.

(b) Agencies shall report to the OIG the names and contact information for the designated investigators and a HR contact via the OIG's online portal within seven (7) business days of the effective date of this Policy. Should a vacancy in an investigator or HR contact role occur, a replacement shall be designated and reported to the OIG within seven (7) business days of the vacancy via the OIG online portal.

(c) Agencies shall cooperate with any determination by the OIG that a complaint or report cannot be handled internally at the Agency from which it originated. Agencies shall cooperate fully with the impartial investigator assigned by the OIG to handle the complaint or report.

(d) The assigned investigator shall complete the investigation and issue a report of findings as promptly as possible but at least within forty-five (45) calendar days of assignment. An Agency Head may consider an extension of time due to extenuating circumstances.

## X. Resolution

(a) Agencies shall make a final determination, and if necessary, implement appropriate corrective or disciplinary action and remedial measures depending upon the nature of the policy violation, as soon as possible but in no event more than twenty-one (21) calendar days of receipt of the investigative report.

(b) Agencies shall consult with and provide updates to the OIG as requested and promptly produce any information related to a sexual harassment or retaliation complaint or report or the investigation upon the OIG's request.

(c) Agencies shall, to the extent consistent with thorough investigation and with procedures outlined in this Policy, maintain confidentiality of information reported to the Agency. Complaints and reports of sexual harassment or retaliation, investigative reports, final determinations, and other related documents will be subject to disclosure under the Open Records Act upon completion of the investigation.

XI. Acknowledgement and Recordkeeping

(a) Agencies shall make this Policy available to all Covered Employees and retain documentation of each Covered Employee's acknowledgment of receipt of the Policy in his or her personnel file.

(b) All complaints and reports, investigative documents, policy acknowledgements, and records of training attendance shall be retained pursuant to the statewide record retention schedule and as otherwise required by law pursuant to specific requests for preservation.

Effective Date This Policy becomes effective March 1, 2019 and may be revised as necessary.

Revision History Version Date 1.0 March 1, 2019

# SAMPLE LETTERS

**NOTICE OF INVESTIGATION TO RESPONDENT**

[date]

[Student/Staff Full Name]  
[Student/Staff ID]

Dear [Student/Staff Full Name],

The [Local Title IX Coordinator/Team] has received information regarding your possible involvement in an incident that may have violated a [Local College/TCSG] policy on or about [Incident Date]. We take all accusations of this manner very seriously. As such, the complaint has been forwarded to the Technical College System of Georgia's Legal Services Department for investigation.

You will be contacted by the State-Wide Title IX Investigator to begin this process.

In the interim, we need to meet to discuss any immediate actions or remedies that may need to be executed. After a review of your current class schedule, a meeting has been scheduled:

**You will be meeting with:** *[Title IX Coordinator]*

**Date and Time of Meeting:** *[Date & Time]*

**Location of Meeting:** *[Specific Location]*

If you are unable to attend this meeting, please contact me immediately. Failure to appear or to contact me to reschedule could result in intervening measures being taken.

My role in this process is to serve as an assistant in the investigation and as a resource for all parties involved.

Sincerely,

[Digital Signature]

[Staff Name]  
Title IX Coordinator  
[Institution Name]

**NOTICE OF INVESTIGATION TO COMPLAINANT**

[date]

[Student/Staff Full Name]  
[Student/Staff ID]

Dear [Student/Staff Full Name],

The [Local Title IX Coordinator/Team] has received your complaint in regards to an incident that may have violated a [Local College/TCSG] policy on or about [Incident Date]. We take all accusations of this manner very seriously. As such, the complaint has been forwarded to the Technical College System of Georgia's Legal Services Department for investigation.

You will be contacted by the State-Wide Title IX Investigator to begin this process.

In the interim, we need to meet to discuss any immediate actions or remedies that may need to be executed. After a review of your current class schedule, a meeting has been scheduled:

**You will be meeting with:** *[Title IX Coordinator]*

**Date and Time of Meeting:** *[Date & Time]*

**Location of Meeting:** *[Specific Location]*

If you are unable to attend this meeting, please contact me immediately. My role in this process is to serve as an assistant in the investigation and as a resource for all parties involved.

Sincerely,

[Digital Signature]

[Staff Name]  
Title IX Coordinator  
[Institution Name]

**NO CONTACT ORDER**

[date]

[Student Full Name]  
[Student ID]

Dear [Student Full Name],

This letter serves as an official notice that you are to refrain from contacting [Complainant/Respondent Full Name] from this point forward and until otherwise notified. Contact can be defined as, but is not limited to, any or all of the following carried out by yourself or an intermediary/third party (with the exception of an attorney):

Written: Via mail, letter, text message, etc.

Verbal: Via telephone, voicemail, in person etc.

Electronic: Via email, social media, skype, etc.

Non-Verbal: Via other means including pictures, videos, music, etc.

**Any action deemed to be in violation of this no contact order will be taken seriously and considered retaliation. If violated, further action may be taken by the [Local College] Conduct Officer.** In addition, please be aware that [Complainant/Respondent Full Name] has also received a letter detailing our expectations of no contact between all parties and is expected to abide by these terms. If you are to be contacted by [Complainant/Respondent Full Name], please inform me immediately.

If you believe that you have a legitimate reason to contact [Complainant/Respondent Full Name], please contact me to discuss this. Furthermore, our team may be in contact with you regarding other measures that may need to be taken as a result of this no contact order. These actions may include class schedule adjustments, campus building restrictions, on campus work schedule adjustments (if applicable), etc.

If you have questions about this notice, please feel free to contact me at [Staff Email] or [Staff Phone].

Sincerely,

[Digital Signature]

[Staff Name]  
Title IX Coordinator  
[Institution Name]

**NOTICE OF HEARING TO COMPLAINANT**

[Date]

[Student Full Name]  
[Student ID]

Dear [Student Full Name],

This letter is to notify you of a conduct hearing that has been scheduled in response to the incident that occurred on [Incident Date].

The respondent, [Respondent Full Name], will be present at this hearing. The hearing panel will determine the appropriate sanctions, if necessary. The findings regarding responsibility, as well as any decision regarding sanctions, will be conveyed to you and the respondent in writing.

You are entitled to an advisor of your choice, who may accompany you to this hearing. Please know that your advisor may not participate in the hearing panel process and may only communicate with you. If you choose to be accompanied by an advisor, please inform me at least 2 days before the hearing date below.

The conduct hearing has been scheduled for:

**Date and Time:** [Date & Time]

**Location:** [Specific location and room number]

You are not required to attend this hearing. If you choose not to attend, please know the hearing will still take place.

If you wish to attend and are unable to, please notify me as soon as possible. If you wish to attend the hearing, but not be in the same location as the respondent, [Respondent Full Name], please inform me immediately. We can make arrangements so that you do not have to be present in the same room as the respondent during the hearing.

I would like to extend resources to you and strongly encourage you to take advantage of them. Please see attached resources document(s).

If you have any questions regarding the proceedings of the conduct hearing, please contact me directly.

Sincerely,

[Digital Signature]

[Staff Name]  
Title IX Coordinator  
[Institution Name]

**NOTICE OF HEARING TO RESPONDENT**

[Date]

[Student Full Name]  
[Student ID]

Dear [Student Full Name],

This letter is to notify you of a conduct hearing that has been scheduled in response to the incident that occurred on [Incident Date].

The same invitation will be made to the complainant, [Complainant Full Name]. The hearing panel will determine the appropriate sanctions, if necessary. The findings regarding responsibility, as well as any decision regarding sanctions, will be conveyed to you and the complainant in writing.

You are entitled to an advisor of your choice, who may accompany you to this hearing. Please know that your advisor may not participate in the hearing panel process and may only communicate with you. If you choose to be accompanied by an advisor, please inform me at least 2 days before the hearing date below.

The Title IX Hearing has been scheduled for:

**Date and Time:** [Date & Time]

**Location:** [Specific location and room number]

If you wish to attend and are unable to, please notify me as soon as possible. If you wish to attend the hearing, but not be in the same location as the complainant, [Complainant Full Name], please inform me immediately. We can make arrangements so that you do not have to be present in the same room as the complainant during the hearing.

I would like to extend resources to you and strongly encourage you to take advantage of them. Please see attached resources document(s).

If you have any questions regarding the proceedings of the conduct hearing, please contact me directly.

Sincerely,

[Digital Signature]

[Staff Name]  
Title IX Coordinator  
[Institution Name]



**NOTICE OF SANCTIONS TO RESPONDENT**

[Date]

[Student Full Name]  
[Student ID]

Dear [Student Full Name],

I am writing to provide you with official notification concerning the outcome of the Title IX Report and Sanctions Hearing - [Title IX Report Number] from [Title IX Hearing Date].

The [panel/conduct officer] has made the following decision:

[Explain The Resolutions]

[Explain The Sanctions]

You can appeal this decision for two (2) reasons only:

- There is new evidence or information material to the case which was not available during the time of the investigation, or
- Sanction imposed is disproportionate to the gravity of the misconduct or history of misconduct.

To appeal, please email [appropriate email] with your justification for an appeal.

Sincerely,

[Digital Signature]

[Staff Name]  
Title IX Coordinator  
[Institution Name]

**PERSONA NON-GRATA: CAMPUS BAN**

[Date]

[Student Full Name]

[Student ID]

Dear [Student Full Name],

It has been brought to my attention that you may have been involved in an incident either on our campus or involving a campus community member. The nature of this incident is such that, after evaluation, it has been determined that your presence on a [X College] campus may hinder and/or obstruct the necessary functions of our campus and our community members.

**Effective immediately and until further notice, you are hereby banned from all campus properties.** If you are found to be on any campus property, we may call local law enforcement to have you arrested for criminal trespassing. If you believe you have a legitimate reason to be on campus property, you must first contact me to request pre-approval and an exemption from this ban as it relates to a particular instance. Please note that [X College] is under no obligation to allow you access to our property or facilities.

If you believe that this ban is in error, you may contact me at [Staff Email] [Staff Phone] to set up an appointment to discuss this issue.

Sincerely,

[Digital Signature]

[Staff Name]

Title IX Coordinator

[Institution Name]

**FINAL DETERMINATION (Post Appeal – No Change)**

[Date]

[Student Full Name]  
[Student ID]

Dear [Student Full Name],

Our office received an appeal on [Appeal Date]

Previously, for Title IX report [Report Number] it was found that [Respondent Full Name] was found [responsible for/not responsible for]: [Complaint Explanation].

Because of this, previously the following resolutions were given:  
[Explain Original Resolutions].

After careful consideration of the appeal. The determination and sanctions have been sustained. Therefore, there has been no change in the outcome of this case.

This is the final determination of Title IX report [Report Number] and there is no longer an opportunity to appeal this decision.

Sincerely,

[Digital Signature]

[Staff Name]  
Title IX Coordinator  
[Institution Name]

**FINAL DETERMINATION (Post Appeal – Changes)**

[Date]

[Student Full Name]  
[Student ID]

Dear [Student Full Name],

Our office received an appeal on [Appeal Date]

Previously, for Title IX report [Report Number] it was found that [Respondent Full Name] was found responsible for/not responsible for: [Complaint Explanation].

Because of this, previously the following resolutions were given:  
[Explain Original Resolutions].

After careful consideration of the appeal it has been found that [Respondent Full Name] has now been found: [New Determination].

Now there are these resolutions:  
[Explain New Resolutions].

This is the final determination of Title IX report [Report Number] and there is no longer an opportunity to appeal this decision.

Sincerely,

[Digital Signature]

[Staff Name]  
Title IX Coordinator  
[Institution Name]

# Notes

# Notes

# Notes