

# Prohibit Discrimination & Harassment

## CITATION REFERENCE

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| OFFICIAL TITLE     | POLICY ON PROHIBIT DISCRIMINATION & HARASSMENT |
| VOLUME             | HUMAN RESOURCES                                |
| RESPONSIBLE OFFICE | USG HUMAN RESOURCES OFFICE                     |
| ORIGINALLY ISSUED  | JULY 1, 1983                                   |
| REVISED            | SEPTEMBER 9, 2021                              |

## Policy Statement

In accordance with applicable federal and state law the University System of Georgia (USG) prohibits its faculty, staff and students from engaging in any form of prohibited discrimination or protected status harassment (including sexual harassment), and expects these individuals to refrain from committing acts of bias within the System's jurisdiction. The University System of Georgia complies with applicable State and Federal law which provides that it shall be an unlawful discriminatory practice for any emp-4 (ro) (r)4Tc wn

## Who Should Read This Policy

All employees within the University System of Georgia should be aware of this policy.

## Definitions

These definitions apply to these terms as they are used in this Policy:

- Board of Regents (BOR): The governing body of the University System of Georgia
- Complainant: An individual who is alleged to have experienced conduct that violates applicable policies
- Respondent: An individual who is alleged to have engaged in conduct that violates applicable policies
- Sexual Misconduct: Includes, but is not limited to, such unwanted behavior as dating violence, domestic violence, nonconsensual sexual contact, nonconsensual sexual penetration, sexual exploitation, sexual harassment, and stalking as defined in Board Policy
- Title IX Sexual Misconduct: Means conduct on the basis of sex that satisfies one or more of the following: conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct (quid pro quo harassment); unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or sexual assault, dating violence, domestic violence, or stalking as defined by IX. The alleged conduct must have occurred in the United States on or at institutionsponsored or affiliated events where the institution exercises substantial control over both the Respondent and the context, or in buildings owned or controlled by a student organization that is officially recognized by the institution.

## Process and Procedures

The USG is committed to ensuring the highest ethical conduct of the members of its community by promoting a safe learning and working environment. Employees accused of behavior in violation of this Policy shall be afforded procedural due process as established within this and other USG and institutional policies and procedures. Those who are found to have engaged in such behavior shall be subject to disciplinary action, including dismissal, as appropriate.

Allegations of discrimination and harassment prohibited by this Policy, except as prohibited under the Sexual Misconduct Policy, should be addressed using applicable institutional policies and procedures.

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Allegations of Sexual Misconduct, which includes Sexual Harassment, should be addressed using the standards set out in the Sexual Misconduct Policy BOR 6.7, the Process/Procedures section of this Policy, and any additional institutional policies and procedures.

Institutions are expected to ensure that all employees are informed of this Policy and any other institutional policies and procedures governing such matters.

This section establishes minimum procedural standards for investigating and resolving alleged complaints of discrimination or harassment by employees. Each institution must incorporate these minimal standards into its respective employee conduct policies. Institutions may create additional policies or procedures to supplement this Policy but may not establish the minimum standards established by this Policy. Additionally, institutions, at their discretion, may apply the Title IX Sexual Misconduct procedural standards to other allegations of prohibited discrimination or protected class harassment, including non-Title IX Sexual Misconduct allegations.

- Initial Evaluation of Reports Upon notice of the alleged misconduct, the institution will assess whether a formal investigation, informal resolution, or dismissal would be appropriate. In making this determination, the institution will assess whether the allegation(s), if true, would rise to the level of prohibited conduct, whether an

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including during a hearing, in violation of this Policy shall be subject to appropriate disciplinary action (up to and including suspension or termination) and adjudicated under the appropriate institutional process.

- **Support Services** Once the institution has received information regarding the alleged misconduct the parties will be provided written information about support services. Support services are not disciplinary, nor punitive individualized services offered as appropriate, as reasonably available, and without charge that are made available to the Complainant and Respondent.
- **Investigation and Resolution** Institutions should establish an investigation protocol and resolution process for employees.
- **Disciplinary Action** In determining the severity of sanctions or corrective actions following should be considered: the frequency, severity, and/or nature of offense; history of past conduct; an offender's willingness to accept responsibility; previous institutional response to similar conduct; strength of the evidence; and the wellbeing of the university community.
- **Appeals** Institutions should establish appeal procedures in accordance to BOR policy and HRAP Policy on Grievance.

#### Additional Process/Procedures for Allegations of Title IX Sexual Misconduct

This section establishes the additional procedures that are minimally required when investigating and resolving alleged Title IX Sexual Misconduct by employees. Each institution must incorporate these minimal standards into its respective employee conduct policies. Institutions may create additional policies or procedures to supplement this Policy, but may not lessen the minimum standards established by this Policy. Additionally, institutions, at their discretion, may apply these procedural standards to other allegations of prohibited discrimination or protected class harassment, including Title IX Sexual Misconduct allegations.

- **Access to Advisor** Both the Complainant and the Respondent, as parties to the matter, shall have the opportunity to use an advisor (who may or may not be an attorney) of the party's choosing. The advisor may accompany party to all meetings and may provide advice and counsel to their respective party throughout the sexual misconduct process, including providing questions, suggestions and guidance to the party, but may not actively participate in the process except to conduct cross-examination at the hearing as outlined in the Resolution/Hearing section below. If a party chooses not to use an advisor during the investigation, the institution will provide an advisor for the purpose of conducting cross

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the finalization of the investigation report when the institution provides the parties the right to inspect and review directly related information gathered during the investigation. With the party's permission, the advisor may be copied on all communications.

- **Investigation:** Throughout any investigation and resolution proceeding, a party shall receive written notice of the allegations made against them and shall be provided the opportunity to respond. In accordance with the USG Human Resources Administrative Practices (HRAP) on Cooperation in Internal Investigations, all employees, both parties and nonparties, are required to cooperate to the fullest extent possible in any internal investigation conducted by the Board of Regents or any institution thereof when directed to do so by the persons who have been given investigative authority.

Until a final determination of responsibility, the Respondent is presumed to have not violated any applicable policies associated with the allegations. Prior to finalizing the investigation report, timely and equal access to information directly related to the allegations that have been gathered during the investigation may be used at the hearing will be provided to the Complainant, the Respondent, and a party's advisor (where applicable).

Formal judicial rules of evidence do not apply to the investigation process. Additionally, the standard of review throughout the investigation and resolution processes is a preponderance of the evidence.

*Additionally, the investigation procedures must provide the following:*

- The parties shall be provided with written notice of the: report/allegations with sufficient details, pending investigation, possible charges, possible sanctions, available support services and interim measures, and other rights under applicable institutional policies. For the purposes of this provision sufficient details include the identities of the parties involved, if known, the conduct allegedly constituting sexual misconduct, and the date and location of the alleged incident, if known. This information will be supplied as dictated by evidence collected during the investigation. The notice should also include the identity of any investigator(s) involved. Notice should be provided via institution email to the party's email.
- Upon receipt of the written notice, the parties shall have at least three business

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questions were improperly excluded or whether the decision was tainted by a conflict of interest or bias by the Title IX Coordinator, investigator(s), or administrative decision maker(s), or (3) to allege that the finding was inconsistent with the weight of the information.

The appeal must be made in writing, m

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- [Board Policy 6.7 Sexual Misconduct Policy](#)
- [Board Policy 6.26 Application for Discretionary Review](#)
- [Boad Policy Section 8 Personnel](#)

**Related Documents and Resources (External)**

- [The U.S. Equal Employment Opportunity Commission \(EEOC\) Site](#)
- [Department of Labor website](#)
- [The United States Department of Education website](#)