

**Human Resources Administrative Practice Manual
Prohibit Discrimination & Harassment**

Policy Statement

Definitions

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

Board of Regents: 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

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

violence, or stalking as defined by IX. The alleged conduct must have occurred in the United States on or at institution-sponsored 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.

Overview

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

General Process/Procedures

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 lessen 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.

- A. **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 investigation is appropriate in light of the circumstances, whether the parties prefer an informal resolution, and whether any safety concerns exist for the campus community. The need to issue a broader warning to the community in compliance with the Clery Act shall be assessed in compliance with federal law.
- B. **Confidentiality:** Where a Complainant requests that their identity be withheld or the allegation(s) not be investigated, the institution should consider whether or not such request(s) can be honored while still providing a safe and nondiscriminatory environment for the institution. The institution should inform the Complainant that the institution cannot guarantee confidentiality and that even granting confidentiality shall not prevent the institution from reporting information or statistical data as required by law, including the Clery Act.
- C. **Retaliation:** Anyone who has made a report or complaint, provided information, assisted, participated, or refused to participate in any manner in these proceedings, shall not be subjected to retaliation. Anyone who believes that they have been subjected to retaliation in retaliation in violation of this Policy shall be subject to disciplinary action.
- D. **False Reporting:** Individuals are prohibited from knowingly making false statements or knowingly submitting false information to a system or institution official. Any person found to have knowingly

appropriate, as reasonably available, and witho

Practices (HRAP) on Cooperation in Internal Investigations, all employees, both parties and non-parties, 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 has been gathered during the investigation may be used at the hearing will be provided to the Complainant (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:

1. 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 supplemented 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
2. Upon receipt of the written notice, the parties shall have at least three business days to respond in writing. In that response, the Respondent shall have the right to admit or deny the allegations, and to set forth a defense with facts, witnesses, and supporting materials. A Complainant shall have the right to respond to and supplement the notice. Throughout the investigation and resolution process the Complainant and the Respondent shall have the right to present witnesses and other inculpatory and exculpatory evidence.
3. If the Respondent admits responsibility, the process may proceed to the sanctioning phase or may be informally resolved, if appropriate.
4. An investigator shall conduct a thorough investigation and should retain written notes and/or obtain written or recorded statements from each interview. The interviewed, along with a brief, written explanation of why the witnesses were not interviewed.
- 5.

Notice of the date, time, and location of the hearing as well as the designated Hearing Officer shall be provided via email at least 10 calendar days prior to the hearing. Parties may attend the hearing with their advisor.

Hearings shall be conducted in-person or via video conferencing technology. At all times

officials, are expected to act in a manner that promotes dignity and decorum throughout the hearing. Participants are expected to be temperate, respectful to others, and follow procedural formalities outlined by this Policy and the institution. Institutions may establish their own rules of decorum and expectations of behavior during the hearing process. The institution reserves the right to remove any participant from the hearing environment.

Each institution shall maintain documentation of the investigation and resolution process, which may include written findings of fact, transcripts, audio recordings, and/or video recordings. Any documentation shall be maintained for seven years.

Additionally, the following standards will apply:

1. Where a party or a witness is unavailable, unable, or otherwise unwilling to participate in the hearing, including being subject to cross-examination, the Hearing Officer shall not rely on statements of that party or witness in reaching its determination regarding responsibility. The Hearing Officer shall not draw an adverse inference against the party or witness based solely on their absence from the hearing or refusal to subject to cross-examination.
2. The parties shall have the right to present witnesses and evidence at the hearing.
3. The parties shall have the right to confront any witness, including the other party, by having their advisor ask relevant questions directly to the witness. The Hearing Officer shall limit questions raised by the advisor when they are irrelevant to determining the veracity of the allegations against the Respondent(s). In any such event, the Hearing Officer shall err on the side of permitting all the raised questions and must document the reason for not permitting any particular questions to be raised.
4. sexual behavior, shall be deemed irrelevant, unless such questions and evidence are offered to prove that someone other than the Respondent committed the alleged conduct or consent between the parties during the alleged incident.
5. records made or maintained by a physician, psychiatrist, psychologist, or other party has provided voluntary written consent. This also applies to information protected by recognized legal privilege.
6. Formal civil rules of evidence do not apply to the resolution process and the standard of evidence shall be a preponderance of the evidence.

