

# Appendix D: Harassment and Discrimination Policy

## Definition of Sexual Harassment

Sexual harassment is a form of sex discrimination which is illegal under Title VII of the Civil Rights Act of 1964 for employees and under Title IX of the Education Amendments of 1972 for students. Sexual harassment does not generally refer to a single sexual joke, offensive epithet or request for a date. Instead, it is conduct and/or behavior of a sexual nature which rises to the nature that it interferes with the work or education of its victims and their co-workers or fellow students. Sexual harassment may involve the behavior of a person of either sex against a person of either sex.

Sexual harassment can be verbal, visual, or physical. It can be overt, as in the suggestions that a person could get a higher grade or a raise by submission to sexual advances. The suggestion or advance need not be direct or explicit; it can be implied from the conduct, circumstances, and relationship of the individuals involved. Sexual harassment can also consist of persistent, unwanted attempts to change a professional or educational relationship to a personal one. Sexual harassment is distinguished from consenting or welcome sexual relationships by the introduction of the elements of coercion; threat; unwelcome sexual advances; unwelcome requests for sexual favors; other unwelcome sexually explicit or suggestively written, verbal, or visual material; or unwelcome physical conduct of a sexual nature.

There are two kinds of sexual harassment: Quid Pro Quo and Hostile Environment. Quid Pro Quo describes a situation in which a student or employee is confronted with sexual demands to keep his or her job or to obtain a promotion or raise, a higher grade, or an educational benefit and occurs when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational opportunities, or when submission to or rejection of such conduct is used as the basis for employment or academic decisions affecting that individual. Hostile Environment typically involves sexually offensive conduct that makes it difficult or unpleasant for an employee or a student. It occurs when such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, or creates an intimidating, hostile, or offensive work or educational environment.

Examples of verbal or physical conduct prohibited within the definition of sexual harassment include, but are not limited to:

1. Physical assault or unwanted touching;
2. Direct or implied threats that submission to or rejection of requests for sexual favors will affect a term, condition, or privilege of employment or a student's academic status;
3. Direct propositions of a sexual activity;
4. Subtle pressure for sexual activity;
5. Repeated conduct intended to cause discomfort or humiliation, or both, that includes one or more of the following: (i) comments of a sexual nature or (ii) sexually explicit statements, questions, jokes, or anecdotes;
6. Repeated conduct that would cause discomfort and/or humiliate a reasonable person at whom the conduct was directed, including one or more of the following: (i) touching, patting, pinching, hugging, or brushing against another's body; (ii) commentary of a sexual nature about an individual's body or clothing; or (iii) remarks about sexual activity or speculations about previous sexual experience(s);
7. Intimidating or demeaning comments to persons of a particular sex, whether sexual or not; and
8. Displaying objects or pictures which are sexual in nature and that would create a hostile or offensive employment or educational environment and serve no educational purpose related to the subject matter being addressed.

It is important to point out that the conduct should be judged from an objective standard in that the facts will be judged on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of a specific individual. All students and employees should report any harassment and/or discrimination that they may experience and/or observe. No student or employee should assume that an official of the College knows about his or her particular situation.

# Resolution of Harassment and Discrimination Complaints

## Procedure for Reporting Complaints

1. Any member of the College community who believes that he or she has been the victim of sexual harassment or illegal discrimination should immediately bring the matter to the attention of the Title IX Coordinator, or to any academic or administrative officer, dean, director, supervisor, or advisor, who will then forward the complaint to the Title IX Coordinator or the person designated by the President to coordinate the investigation of such complaints. Upon receipt of the complaint, the Title IX Coordinator shall meet and interview the complainant. During this initial meeting, in addition to gathering the additional information needed to initiate an investigation into the complaint, the Title IX Coordinator shall explain the procedure and shall present a copy of this Harassment and Discrimination Policy. The President shall be promptly notified of the complaint.
2. The complainant should present the complaint as promptly as possible after the alleged sexual harassment or discrimination occurs. The complainant should submit a written statement of the allegations.
3. It is the intention of this policy to resolve complaints of sexual harassment and illegal discrimination as promptly as possible after the complaint and/or report is made. All complaints and/or reports will be investigated and resolved within sixty (60) days of receipt; except in extraordinary cases that require more time for completion of the investigation. Both the complainant and alleged offender shall be given periodical updates as to the status of the investigation.
4. The investigation record shall consist of formal and informal statements from the alleged victim, the alleged offender, witnesses identified by the victim or offender, and others deemed by the investigator to have pertinent knowledge of the facts involved in the complaint. The investigation will afford the accused a full opportunity to respond to the allegations.
5. Complaints may be resolved through informal or formal procedures. Informal means are encouraged at the beginning point, but the choice of where to begin rests with the complainant. If the Title IX Coordinator, or the person designated by the President to handle the complaint, believes that the matter is sufficiently grave because of the nature of the alleged offense or because the complainant seeks to have a sanction imposed, then formal procedures shall be initiated.

## Informal Procedures

1. The Title IX Coordinator may notify the alleged offender of the complaint and take whatever steps deemed appropriate to affect an informal resolution that is acceptable to both parties.
2. The parties may choose to participate in mediation. If the complaint is resolved informally, no record of the complaint will be entered in the alleged offender's personnel file or student record. However, the Title IX Coordinator will keep a record of the complaint and the resolution. All such records will remain confidential.
3. If the results of the investigation and informal resolution of the complaint are accepted by the alleged victim and he or she desires no further action against the alleged offender, then no further action be taken. The alleged offender will receive a statement explaining the resolution of the investigation as conducted under this policy and procedure.
4. Some reports of sexual harassment and discrimination may not be appropriate for informal resolution and may require a formal investigation at the discretion of the Title IX Coordinator, or the person designated by the President to coordinate the investigation of the complaint. Substantial weight will be given to the wishes of the complainant when determining whether to investigate a complaint. However, GSCC may investigate a complaint without the complainant's and/or alleged victim's consent when circumstances so warrant.

## Formal Action

If the complaint cannot be resolved on an informal basis, the formal complaint procedure will be implemented. The issues involved in the complaint should not be changed once the charge has been made. However, administrative procedures may be revised to accommodate issues arising during the investigation which were not known to the complainant or the institution when the initial complaint was filed.

1. If the formal complaint is against an employee of the College, the Title IX Coordinator or the President's designee will investigate the complaint and determine the disposition pursuant to applicable law and grievance/discipline procedures.

2. If the formal complaint is against a student, not acting in an instructional or other employment capacity, the Dean of Enrollment and Retention shall refer complaint to the Title IX Coordinator for disposition pursuant to applicable law and grievance/discipline procedures.
3. If the formal complaint is against a person not considered an employee or student of the College, it shall be directed to the Title IX Coordinator for disposition pursuant to applicable law and grievance/discipline procedures.
4. If conflicts of interest exist with the Title IX Coordinator handling the formal complaint, the complaint may be filed with the President.
5. In the event of complaints against employees, the Title IX Coordinator or the President's designee will notify the accused in writing of the complainant's decision to take formal action. Formal action will consist of the procedures as set forth:
6. The complaint must be filed with the Title IX Coordinator within 30 calendar days or as soon as practical following the date of the alleged violation(s). The alleged violation(s) must be clearly and specifically stated. The complainant is advised to keep a copy of the complaint.
7. The Title IX Coordinator will investigate, hold a formal hearing, and make a written report of findings to complainant/alleged offender within 60 calendar days following date of receipt of the complaint unless more time is required to investigate and report findings.
8. The complainant/alleged offender has 15 calendar days following receipt of the findings, to file an objection to the findings. The objection must be filed with the President and state clearly and specifically the objections to the findings and/or decision. If an objection is not filed by the end of the 15th calendar day following receipt of the findings, the right to further appeal will be forfeited.
9. The President will have 30 calendar days following date of receipt of complainant's/alleged offender's notice of appeal to investigate and submit a report of findings to the complainant/alleged offender.
10. Complainant/alleged offender must, within 15 calendar days following receipt of President's report, file with the President a written notice of appeal of the report. Complainant/alleged offender must state clearly and specifically the objections to the findings and/or decisions of the President. Copies must be provided to the Title IX Coordinator and the Chancellor. If complainant/alleged offender fails to file notice of appeal by the end of the 15th calendar day following receipt of the President's report, the right to further appeal will be forfeited. If the last day for filing the notice of appeal falls on either a Saturday, Sunday or a legal holiday, complainant/alleged offender will have until the close of business the first day following the 15th calendar day to appeal.
11. If the complainant/alleged offender is not satisfied with the President's report, the student may appeal to the Alabama Community College System by utilizing the System's official Student Complaint Form which is available online at the ACCS website: <https://www.accs.edu/student-complaints/>. Complete instructions for filing of the complaint are located on this website.

### **Confidentiality and Assurance Against Retaliation**

Every effort possible shall be made to ensure confidentiality of information received as part of an investigation. Complaints will be handled on a "need to know" basis with a view toward protecting the interest of all parties involved. The College will do everything consistent with enforcement of this policy and with the law to protect the privacy of all parties involved and to ensure that all involved are treated fairly.

This policy seeks to encourage students, faculty, and other employees to express freely, responsibly, and in an orderly way, opinions and feelings about any problem or complaint of harassment and discrimination. An employee or student bringing a complaint or assisting in investigating a complaint will not be adversely affected in terms of conditions of employment or enrollment. Any act of reprisal, including internal interference, coercion, and restraint, by a Gadsden State employee or by one acting on behalf of the College, violates this policy and will result in appropriate disciplinary action.

### **Disciplinary Sanction**

A conclusion that harassment or discrimination has occurred shall subject the offender to appropriate disciplinary action and may result in, but is not limited to, his/her suspension, discharge, dismissal, or a "no-trespass" warrant. It is the intent of this policy to provide for a prompt and thorough investigation of any complaints. The time limits set forth within these guidelines are subject to change as needed to ensure a satisfactory conclusion to the investigation.