

206 University Policies and Procedures

206.03 Harassment Policy and Procedures

Part I: Overview

I. Introduction

Georgia State University promotes the advancement of knowledge through the opportunity for participation in a thriving artistic, economic, scientific, and social learning laboratory. It serves its students, staff, faculty, other institutions, and society in general through a creative climate of free inquiry and free expression.

Georgia State University is committed to maintaining a work and learning environment in which the respect, dignity, and worth of all are acknowledged. To foster this environment, faculty, students, and staff are expected to practice the highest ethical principles and standards of conduct. (This policy and these procedures apply to university students, agents, and employees, including but not limited to faculty, staff, administrators, and student employees. For the purposes of this policy and procedures, the terms "faculty" or "faculty member" mean all those who teach at the university, and include graduate students with teaching responsibilities and other instructional personnel.) Statements and policies regarding standards of conduct for faculty, students, and staff are listed in Appendix A.

Discriminatory harassment and sexual harassment are highly destructive to the university environment. To establish a clear university policy and to protect and aid all parties, policies and grievance procedures for harassment offenses are described below in detail.

II. Protections for Participants

Retaliation against a person who expresses a complaint in good faith is a violation of state and federal laws and may lead to disciplinary action against offenders.

Complainants and the accused have rights guaranteed by the federal Constitution, state and federal laws, and by the university system policies and procedures.

Efforts will be made by the university to maintain confidentiality of the proceedings and participants as far as legally possible. However, records from procedures relevant to a particular complaint may be obtained under state or federal laws and legal proceedings. Information on record keeping is described in each procedural sub-section of the complaint procedures.

III. Educational Programs

Educational efforts are essential to the establishment of a campus community that respects the dignity and worth of the individual. Such educational programs require special attention on a culturally diverse, urban campus like that of Georgia State University. There are at least four goals to be achieved through education: (1) informing individuals of conduct that is prohibited; (2) ensuring that all university community personnel are aware of their rights; (3) informing administrators about the proper way to address complaints of violations of these policies; and (4) helping educate the university community about the problems these policies address.

The affirmative action officer is charged with distributing information about these policies to all current

members of the university community. Faculty and staff will be reminded annually about the policies. Information about the policies will be included in student orientation materials. In addition, copies of the policies will be included and made available in the "Faculty Handbook" and at appropriate campus centers and offices. The assistant vice president for human resources is charged with distributing such information to all new employees.

The affirmative action officer in cooperation with the university ombudsperson, Counseling Center personnel, and a university attorney will develop a series of training sessions for persons who are likely to receive complaints that policies have been violated, including, but not being limited to, such persons as academic advisors, supervisors, and university and college administrators. Academic departments are encouraged to provide training sessions for graduate assistants and other instructional personnel.

IV. Review

The university ombudsperson, affirmative action officer, and university attorney as needed will meet bi-annually for evaluation of procedures.

This document and the work of the university ombudsperson will be reviewed by the Faculty Affairs and Student Life and Development Committees of the University Senate one year after they are put into effect and thereafter as needed.

V. Definitions

A. A **complaint** is an allegation of a misinterpretation, incorrect application, or violation of a policy, practice, or procedure not pursued by the complainant in a forum outside the university. The use of grievance procedures is not available if a formal complaint is filed with a governmental agency or a court action has been initiated based upon substantially similar facts, in which case any investigation then in progress by the university will be terminated relative to the grievance process.

B. A **complainant** is a university community member who seeks resolution of a complaint through the informal or formal procedures as outlined herein.

C. A **respondent** is a person against whom a complaint is filed.

Part II: Discriminatory Harassment

Discriminatory Harassment Policy

I. Introduction

A university must allow the free inquiry into all ideas and the free expression of opinions by those within it as part of the basic process of education. Yet, in the presence of harassing behavior, a person's learning or working ability may be impaired. This discriminatory harassment policy acknowledges protection for free speech, which is guaranteed by the First Amendment of the United States Constitution, while at the same time requiring that the dignity and worth of the individual be nurtured and protected.

II. Non-Discrimination Policy Statement

The university will not tolerate discrimination on the basis of race, gender, sexual orientation, age,

disability, national origin, or religion. Every student and employee in the university community has the responsibility not to engage in any unlawful discrimination.

The right of free speech, although fundamental to our democratic system of government and essential to the exchange of ideas in a university, is not absolute. The Supreme Court of the United States has held that certain categories of speech are not entitled to First Amendment protection. These categories include obscenity, fighting words, and, to a limited extent, defamation. There is no place on a university campus for speech or other expression that personally vilifies another individual. Such personal vilification is even more distasteful when it involves insults that are based on race, gender, sexual orientation, age, handicap, national origin, or religion.

III. Prohibited Discriminatory Harassment

Harassing behavior can seriously interfere with the work or study performance of the person(s) to whom it is addressed. It is indefensible when it makes the work, study, or service environment hostile, intimidating, or demeaning. In determining whether an act constitutes harassment, the university must carefully review the totality of the circumstances that pertain to any given incident. In addition, protection of individual rights, freedom of speech, and academic freedom must be assured.

Among the factors that will be considered are: repetition or pattern of objectionable behavior; intent of the behavior (ex: words or actions with the intent to injure are prohibited, but words or actions as part of an exchange of ideas, ideology, or philosophy will be protected); location of behavior (different concerns exist between areas used as public forums, classrooms, or other settings); and the degree to which the behavior is commonly considered to be demeaning to members of the group in question who are of average sensibilities.

Discriminatory harassment is prohibited at Georgia State University. Discriminatory harassment is defined as speech or conduct that:

1. is addressed directly to the individual or individuals whom it insults or stigmatizes and,
2. the speaker knows or reasonably should know would constitute "fighting words." "Fighting words" are words, pictures, or other symbols that, by virtue of their form, are commonly understood to convey direct and visceral hatred or contempt for other human beings and would naturally tend to provoke acts of violence or imminent harm.

Discriminatory Harassment Grievance Procedures

IV. Overview

Complainants who believe that they are victims of discriminatory harassment are encouraged to use the university's internal procedures described in this document to resolve complaints. They may also file discriminatory harassment complaints with appropriate state or federal agencies under Title VII of the Civil Rights Act of 1964.

The complainant may elect any of several procedures. The complainant may seek an informal resolution by 1) conferring with the university ombudsperson or 2) consulting with administrators who oversee the respondent. The complainant may also initiate formal procedures as outlined in university documents listed below or through the Affirmative Action Office. The Counseling Center is available for personal counseling.

Complainants are encouraged to explore informal procedures before filing a formal complaint. At the informal stage, efforts can be made to educate both parties about discriminatory harassment including what it does and does not involve. The review can be constructively educational for all parties. For minor violations, an apology and promise not to repeat the offense may be sufficient restitution. However, where a serious violation of the policy is found, or resolution at the informal level is not satisfactory to the complainant or respondent, then the formal procedure may be initiated.

V. Counseling

The university offers students, faculty and staff the choice of seeking confidential personal counseling if they desire. Faculty and staff will see a counselor in the Employee Assistance Program. Such counseling lies outside the university's mechanisms for resolving complaints of discriminatory harassment, and is intended solely for the personal benefit of the individual.

Discriminatory Harassment Informal Procedures

VI. University Ombudsperson

The university ombudsperson helps all members of the university community, students, faculty, and staff, on a confidential and informal basis. The ombudsperson can provide information about complaint procedures and rights of appeal and, if requested, may assist in seeking informal resolution between the complainant and the respondent.

Any action by the ombudsperson, beyond simply consulting with the complainant, must include contacting the alleged harasser about the nature of the complaint and allowing the alleged harasser to reply. If the ombudsperson takes action beyond talking to the complainant, the ombudsperson may inform the department chair or immediate supervisor of the respondent about the problem and report to the chair or supervisor about resolutions that have been reached.

Since the mediation procedure is informal and educational in nature, the mediator will only record the number of persons seen, administrative unit(s) they come from, dates, and outcomes in general terms using no names or other identifying information.

VII. Administrators

Persons who oversee the person against whom the complaint is lodged, such as department chairs, directors, academic deans, dean of students, supervisors, assistant vice president of human resources, and like persons, may be consulted for assistance. In the case of students who have a complaint against a faculty member and of faculty who have a complaint, department chairs, directors, and deans may direct the complainant to appropriate college appeals procedures which contain informal components.

It is the responsibility of each unit to use its complaint process and other resources in a way that minimizes the burden imposed on the person who has complained and that resolves matters in such a way that discriminatory conduct is discouraged.

VIII. Procedures for Monitoring Campus Climate

If a complainant consults someone other than the university ombudsperson, the complainant may also choose to send a statement to the ombudsperson or affirmative action officer about the problem. This statement should name the administrative unit involved and the general nature of the problem without

identifying the complaint, the alleged harasser, or details of the behavior, particularly details that would identify the parties involved.

If there are repeated incidents in an administrative unit, the ombudsperson may consult with the affirmative action officer and the administrative head of the unit about the problem, using no information that would identify complainants.

Discriminatory Harassment Formal Procedures

The formal grievance procedure will follow the established university grievance procedures for faculty, students, and staff. Discriminatory Harassment complaints must be filed within ninety (90) days of the most recent alleged offense. If the respondent is a faculty member or an administrator, faculty and student complainants should use procedures outlined in faculty or student appeals procedures of their college. If the complainant or the respondent is a staff member, the complainant may begin formal procedures by consulting with the affirmative action officer (for complaints against faculty) or by initiating procedures outlined in the "Classified Employee Handbook." If a student is the respondent, the complainant should use procedures outlined in the "Undergraduate Co-curricular Affairs Handbook."

Part III: Sexual Harassment Policy and Procedures

Sexual Harassment Policy

I. Introduction

In its effort to foster a community in which there can be a free and open development of ideas, Georgia State University is committed to maintaining a work and learning environment free of sexual harassment. Faculty, students, and staff will flourish in an atmosphere in which the respect, dignity, and worth of all are acknowledged.

If the highest ethical principles and standards of professional conduct are to be maintained, all members of the university community should understand that there is no place for sexual harassment. The exploitation, coercion, intimidation, and reprisal connected with sexual harassment create an environment that subverts the university's mission. Moreover, primary responsibility for maintaining high standards of conduct resides with faculty and supervisors, since they exercise significant authority and power over others.

II. Sexual Harassment Policy Statement

Sexual harassment of any member of the university community is prohibited and will subject the offender to possible disciplinary action after compliance with due process requirements. Sexual harassment is also prohibited by the University System of Georgia and by state and federal law.

III. Definition of Sexual Harassment

The Equal Opportunity Commission definition adopted by Georgia State University states that unwelcome sexual advance, request for sexual favors and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- A. submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or academic standing; or

- B. submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting an individual; or
- C. such conduct unreasonably interferes with an individual's work or academic performance or creates an intimidating, hostile or offensive working or academic environment.

IV. Examples of Sexual Harassment

Sexual harassment involves varieties of behavior that may range in seriousness from persistent sexually oriented remarks, often in the guise of humor, to unwanted physical contact, to criminal assault. Examples of behaviors that have been the subject of sexual harassment court cases may be found in Appendix B.

V. Persons Who May be Involved in Sexual Harassment

Sexual harassment most frequently occurs when a person in authority harasses someone with less power, e.g., faculty member and student, administrator and faculty member, supervisor and staff member. However, it is possible for a person with less power to harass a person in authority. Sexual harassment may also take place between persons of the same status, e.g., faculty-faculty, student-student, staff-staff. It may take place between persons of the opposite sex, or between persons of the same sex.

Sexual Harassment Grievance Procedure

Summary of Options

Persons who complain that they are victims (referred hereafter as "complainant") of sexual harassment are encouraged to use the university's internal procedures described in this document to resolve complaints. They may also file harassment complaints with appropriated state or federal agencies under Title VII and Title IX.

The complainant may elect any of three university procedures. The complainant may consult informally with a counselor in the university Counseling Center or with the university ombudsperson, or the complainant may submit a formal complaint with the affirmative action officer. In general the counselor is used when the complainant desires individual assistance in dealing with what appears to be a sexual harassment problem. Actions of the ombudsperson focus on communication, education, and possible resolution. Formal complaint procedures focus on investigation and discipline. A complainant may use any of the procedures initially, and may move among them as the situation dictates. All complainants are encouraged to explore informal procedures before filing a formal complaint.

Sexual Harassment Informal Procedures

I. Counseling

Any members of the university community who believe themselves to be victims of sexual harassment may consult with a counselor at the university Counseling Center at any time during the complaint procedure. The counselor can work with the complainant to clarify possible experiences of sexual harassment. The counselor can also discuss alternative courses of action, including ways that complainants might address the situation themselves.

Complainants will not be required to reveal the alleged harasser's identity. Records of a complainant's visits will be general in nature and will not mention the type of harassment per se if harassment is

involved nor will the contain the respondent's name.

If the complainant, in consultation with the counselor, is not able to resolve the situation, the counselor will remind the complainant about mediation and formal procedures.

II. Mediation

The mediation procedure is available to complainants who want action taken in their behalf, but do not wish to use formal route at this time. The complainant does not file a written complaint at this stage.

To use the mediation procedure, the complainant should consult with the university ombudsperson, (See Appendix C) who may be contacted immediately or after the complainant has talked with a counselor. If complainants have first talked with department chairs, supervisors, or other university personnel, such personnel must explain the existence and function of the ombudsperson to the complainant. If use of the ombudsperson is unacceptable to a complainant, the complainant may consult with the affirmative action officer who will follow the same procedures outlines below for the ombudsperson.

The ombudsperson will discuss the matter with the complainant and assist the complainant in determining options for addressing the situation.

Any action by the ombudsperson, beyond simply consulting with the complainant, must include contacting the respondent about the nature of the complaint and allowing the respondent to reply. If the ombudsperson takes action beyond talking to the complainant, the ombudsperson may inform the department chair or immediate supervisor about resolutions that have been reached. If the respondent is a student, the ombudsperson may inform the dean of students.

The ombudsperson will make every effort to resolve complaints within 15 days. If no acceptable resolution can be found, the complainant may file a formal complaint, described below. Since the mediation procedure is informal and educational in nature, there will be no university records at this stage.

Sexual Harassment Formal Procedures

The formal procedure may be initiated in two ways: 1) The complainant may file a signed complaint with the affirmative action officer whether or not informal procedures have been used, or 2) The affirmative action officer may initiate a formal investigation in cases such as the following: if a number of complaints have been received but none of the complaints is willing to be the sole initiator of a formal complaint. Such university initiated investigations will be based on written statements by the complainants. In all cases, the complaints should be as complete as possible, citing any alleged incident (s), date(s), and identifying potential witnesses and considering due process rights of all parties.

Formal complaints must be submitted within one year of the most recent alleged sexual harassment act.

Disciplinary action will be determined as outlined in the Faculty Handbook, Classified Employee Handbook, and student Undergraduate Co-curricular Affairs Handbook. Such disciplinary action may include, but is not limited to warning, reprimand, demotion, suspension, or dismissal.

A copy of the formal complaint will be provided to the person accused and to the appropriate administrator: the accused's first line supervisor (for staff), department chair (for faculty), and the dean of students (for students). If the supervisor, department chair, or other administrator is the person against

whom the complaint is brought, the next line supervisor or the appropriate dean or vice-president will be the appropriate administrator cooperating in the investigation and its resolution.

Within ten (10) business days of receipt of the complaint, the alleged harasser or his or her attorney will provide a signed response to the affirmative action officer. A copy of the response will be provided to the complainant and the appropriate administrator. If the alleged harasser fails to respond, it will be presumed that the allegations set forth in the complaint are correct.

If a student accuses another student, the matter will be investigated and determined by the dean of students in accordance with policies described in the Undergraduate Co-curricular Affairs Handbook. Students may appeal under procedures described in the Undergraduate Co-curricular Affairs Handbook.

In all other cases, the affirmative action officer (AAO) will investigate the matter. Within fifteen days of receipt of the signed response, the AAO will consult with the complainant, the appropriate administrator, the person against whom the complaint is made and/or other appropriate persons in an effort to resolve the matter or determine whether further investigation is warranted. Every effort will be made to report the finding within sixty (60) days of receipt of the written complaint.

If for any reason an extension in the above procedures is necessary, the complainant will be informed in writing of the reasons for the extension, the status of the investigation, and the probable date of completion.

If in the course of the investigation, the AAO determines that further action is needed, that office will initiate discussions with the appropriate administrator to attempt to resolve the complaint. A formal investigation can be terminated at any time should a satisfactory resolution be reached before a written finding is made.

Upon completion of the investigation, the AAO will notify the complainant, the alleged harasser, and the appropriate administrator, in writing, of the findings and recommendations.

Should the findings of the AAO indicate the need for disciplinary action against a faculty member, the matter will be taken to the appropriate dean of the college or director of the division. The dean or director, in consultation with the appropriate chair or supervisor, will make the final decision, short of dismissal. The dean or director will refer the matter to the elected executive committee or faculty affairs committee of the college for evaluation before the final decision is made. The committee will review the matter and make a recommendation to the dean or director, but will not conduct a formal hearing on the matter. The faculty member may appeal the decision of the dean or director according to the bylaws or official instructions of the college or administrative unit and in accordance with the policies and regulations of Georgia State University (Statutes of Georgia State University, article XI, section 25 "Other Appeals and Complaints"). The accuser may appeal the decision through the provost and vice president for academic affairs, and then, to the president.

When the dean or director recommends dismissal, the dean or director will act in accordance with the procedures and regulations outlined in the Statutes (Statutes of Georgia State University, article XI, section 24 "Institutional Regulations for Removal of Faculty Members"). Under such procedures at the university level the informal inquiry by an appropriate faculty committee is not to be a formal hearing. The faculty member may request a formal hearing later in the proceedings as outlined in the Statutes.

In cases involving classified employees, disciplinary action will be determined by the first line supervisor in accordance with the policies and procedures outlines in the "Classified Employee

Handbook." They may appeal a suspension, demotion, or dismissal in accordance with the classified employee grievance procedure (Appendix. "Classified Employee Handbook").

If the complainant disputes the findings or is dissatisfied with the recommendations, the complainant may appeal such findings or recommendations by filing a complaint with an outside agency within its established time limits.

Appendix A of the Harassment Policy

Statements Regarding Standards of Conduct for Faculty, Students and Staff

1. Policies of the Board of Regents, University System of Georgia:

- Section 800-J. Personnel Policy on Reasons for Dismissal;
- [Section 802.01 Policy on Equal Employment Opportunity;](#)
- [Section 803.11 Policy on Removal of Faculty Members;](#)
- [Section 803.12 Policy on Suspension for Violation of State or Federal Laws;](#)
- [Section 401.02 Student Affairs Policy on Non-Discrimination;](#)
- [Section 1903 Miscellaneous Policy on Disruptive Behavior;](#)

2. Georgia State University Statutes:

- [Article XI, Section 23 B, J & K;](#)
- [Article XI, Section 24 A;](#)

3. Georgia State University Faculty Handbook:

- Section II R 3;

4. Georgia State University Classified Employee Handbook:

- Disruptive Behavior;
- Examples of Unsatisfactory Work Performance;

5. Georgia State University Undergraduate Co-curricular Affairs Handbook:

- Statement on Rights and Obligations;
- Alcohol and Drug Policy;
- Hazing Policy;
- Peer Harassment Policy;
- Sexual Harassment Policy

6. Undergraduate and Graduate Catalogs:

- Policies on Sexual Harassment and Disruptive Behavior
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Appendix B of the Harassment Policy

Examples of Sexual Harassment

Sexual attention that is unwanted may constitute sexual harassment. The behavior may be blatant or subtle, explicit or implicit, verbal or non-verbal. Examples of the verbal or physical conduct that may be prohibited by Part 1, Section III include, but are not limited to:

1. unwelcomed sexual intercourse or other physical assault;
2. direct or implied threats that submission to sexual advances will be a condition of employment, work status, promotion, grades, or letters of recommendation;
3. direct sexual propositions;
4. a pattern of conduct that causes discomfort or humiliation, or both, through one or more of the following directed at a person: (a) unwelcome touching, patting, pinching, hugging, or brushing against a person's body, (b) inappropriate remarks of a sexual nature about a person's clothing or body; (c) inappropriate remarks about sexual activity or speculations about previous sexual experience; (d) impeding or blocking of movement; (e) suggestive sounds, whistles, or gestures; or (f) sexual insults; and
5. a pattern of conduct (not legitimately related to the subject matter of a course or function of the job) that causes discomfort or humiliation, or both through one or more of the following: (a) sexual innuendo; (b) sexually explicit statements, questions, jokes, or anecdotes; or (c) posting of nude pin-up pictures.

Note that an isolated comment usually does not meet the hostile environment definition of sexual harassment. Hostile-environment harassment usually requires repeated instances of offensive behavior.

Appendix C of the Harassment Policy

Harassment Ombudsperson

The university ombudsperson will be appointed by the provost and vice president for academic affairs. Normally the ombudsperson will be a tenured faculty member who has counseling skills. As candidates apply for the job initially and as replacements, the Faculty Affairs and Student Life and Development Committees of the University Senate will review their qualifications and make recommendations to the vice president.

The university ombudsperson will report directly to the provost and vice president for academic affairs in his or her role as ombudsperson. The ombudsperson will be given adequate release time to carry out the job of ombudsperson and to present sexual harassment education programs as needed.

The university ombudsperson will be provided support services from the university as needed. These might include training opportunities, a private telephone line, and an office space that allows privacy. It is also expected that the university president and other senior administrative officials will support the ombudsperson's role consistently and in a visible way and that they will facilitate access to university attorneys and the Affirmative Action Office.

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