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Sexual Misconduct

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Effective Date: July 2016

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Policy Owner: Institute Diversity, Equity, and Inclusion

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Reason for Policy:

The Georgia Institute of Technology is committed to maintaining a learning environment that is safe and fosters the dignity, respect, and worth of students, faculty, and staff. Each member of the community has the responsibility to practice and to expect the highest ethical principles and standards of conduct. Persons who do not adhere to these principles and standards by the commission of sexual harassment or sexual misconduct damage the community and its members.

This policy addresses the process and procedures for addressing complaints of sexual misconduct committed by students. The process and procedures for claims of sexual misconduct committed by employees are addressed in the Equal Opportunity, Nondiscrimination, and Anti-Harassment Policy issued by Human Resources and in the USG's Human Resources Administrative Practice (HRAP) Manual (Prohibit Discrimination and Harassment).

Policy Statement:

Discrimination on the basis of sex is prohibited by the Georgia Institute of Technology. This prohibition applies to students, faculty, staff, and all other members of the Institute community.

Complaints of sexual misconduct, including but not limited to nonconsensual sexual contact, sexual harassment, stalking, intimate partner violence, dating violence, and retaliation will be addressed as provided in Board of Regents Policy 6.7 (Sexual Misconduct Policy) and Policy 4.6.5 (Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings) of the Policy Manual of the Board of Regents of the University System of Georgia. The Student Code of Conduct (Non-Academic Misconduct) may also apply where the Board of Regents policies are silent.

Scope:

The Board of Regents Sexual Misconduct Policy (Policy 6.7) applies to all members of the Institute community. Policy 4.6.5 sets forth the process and procedures for claims of sexual misconduct committed by students.

Policy Terms:

Community	Students, faculty, and staff as well as contractors, vendors, visitors, and guests.
Complainant	An individual who is alleged to have experienced conduct that violates this Policy.
Confidential Employees	Institution employees who have been designated by the institution to talk with a Complainant or Respondent in confidence. Confidential Employees must only report that the incident occurred and provide date, time, location, and name of the Respondent (if known) without revealing any information that would personally identify the alleged victim. This minimal reporting must be submitted in compliance with Title IX and the Clery Act. Confidential Employees may be required to fully disclose details of an incident in order to ensure campus safety.

Consent	<p>Words or actions that show a knowing and voluntary willingness to engage in mutually agreed-upon sexual activity. Consent cannot be gained by force, intimidation or coercion; by ignoring or acting in spite of objections of another; or by taking advantage of the incapacitation of another where the respondent knows or reasonably should have known of such incapacitation. Minors under the age of 16 cannot legally consent under Georgia law.</p> <p>Consent is also absent when the activity in question exceeds the scope of consent previously given. Past consent does not imply present or future consent. Silence or an absence of resistance does not imply consent.</p> <p>Consent can be withdrawn at any time by a party by using clear words or actions.</p>
Dating Violence	<p>Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. The existence of such relationship shall be determined based on the totality of the circumstances including, without limitation to: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.</p> <p>Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of Domestic Violence.</p>
Domestic Violence	<p>Violence committed by a current or former spouse or intimate partner of the alleged victim; by a person with whom the alleged victim shares a child in common; by a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner, or by a person similarly situated to a spouse of the alleged victim.</p>
Incapacitation	<p>The physical and/or mental inability to make informed, rational judgments. It can result from mental disability, sleep or any state of unconsciousness, involuntary physical restraint, status as a minor under the age of 16, or from intentional or unintentional taking of alcohol and/or other drugs. Whether someone is incapacitated is to be judged from the perspective of an objectively reasonable person.</p>
Nonconsensual Sexual Contact	<p>Any physical contact with another person of a sexual nature without the person's consent. It includes but is not limited to the touching of a person's intimate parts (for example, genitalia, groin, breasts, or buttocks); touching a person with one's own intimate parts; or forcing a person to touch his or her own or another person's intimate parts. This provision also includes "Fondling" as defined by the Clery Act.</p>
Nonconsensual Sexual Penetration	<p>Any penetration of the vagina, anus, or mouth by a penis, object, tongue, finger, or other body part; or contact between the mouth of one person and the genitals or anus of another person. This provision also includes "Rape, Incest, and Statutory Rape" as defined by the Clery Act.</p>
Privileged Employees	<p>Individuals employed by the institution to whom a complainant or alleged victim may talk in confidence, as provided by law. Disclosure to these employees will not automatically trigger an investigation against the complainant's or alleged victim's wishes. Privileged Employees include those providing counseling, advocacy, health, mental health, or sexual-assault related services (e.g., sexual assault resource centers, campus health centers, pastoral counselors, and campus mental health centers) or as otherwise provided by applicable law. Exceptions to confidentiality exist where the conduct involves suspected abuse of a minor (in Georgia, under the age of 18) or otherwise provided by law, such as imminent threat of serious harm.</p>
Reasonable Person	<p>An individual who is objectively reasonable under similar circumstances and with similar identities to the person being evaluated by the institution.</p>
Reporter	<p>An individual who reports an allegation of conduct that may violate this Policy but who is not a party to the complaint.</p>
Respondent	<p>An individual who is alleged to have engaged in conduct that violates this Policy.</p>
Responsible Employees	<p>Those employees who must promptly and fully report complaints of or information regarding sexual misconduct to the Coordinator. Responsible Employees include any administrator, supervisor, faculty member, or other person in a position of authority who is not a Confidential Employee or Privileged Employee. Student employees who serve in a supervisory, advisory, or managerial role are in a position of authority for purposes of this Policy (e.g., teaching assistants, residential assistants, student managers, orientation leaders).</p>

Sexual exploitation	<p>Taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited.</p> <p>Examples of sexual exploitation may include, but are not limited to, the following:</p> <ol style="list-style-type: none"> 1. Invasion of sexual privacy; 2. Prostituting another individual; 3. Non-consensual photos, video, or audio of sexual activity; 4. Non-consensual distribution of photo, video, or audio of sexual activity, even if the sexual activity or capturing of the sexual activity was consensual; 5. Intentional observation of nonconsenting individuals who are partially undressed, naked, or engaged in sexual acts; 6. Knowingly transmitting an STD or HIV to another individual through sexual activity; 7. Intentionally and inappropriately exposing one's breasts, buttocks, groin, or genitals in non-consensual circumstances; and/or 8. Sexually-based bullying.
Sexual harassment (student on student)	<p>Unwelcome verbal, nonverbal, or physical conduct based on sex (including gender stereotypes), determined by a Reasonable Person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to participate in or to benefit from an institutional education program or activity in violation of Title IX.</p>
Sexual harassment (other than student on student)	<p>Unwelcome verbal, nonverbal, or physical conduct, based on sex (including gender stereotypes), that may be any of the following:</p> <ol style="list-style-type: none"> 1. Implicitly or explicitly a term or condition of employment or status in a course, program, or activity; 2. A basis for employment or educational decisions; or 3. Is sufficiently severe, persistent, or pervasive to interfere with one's work or educational performance creating an intimidating, hostile, or offensive work or learning environment, or interfering with or limiting one's ability to participate in or to benefit from an institutional program or activity. <p>The USG also prohibits unwelcome conduct determined by a Reasonable Person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to a USG education program or activity in violation of Title IX.</p>
Sexual misconduct	<p>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.</p>
Stalking	<p>Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.</p> <p>For the purposes of this definition:</p> <ol style="list-style-type: none"> 1. 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 person's property. 2. Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily, require medical or other professional treatment or counseling.

Procedures:

3.1 Reporting Options

Who can speak with a confidential resource	<p>A student victim may speak confidentially with individuals designated as Confidential Employees (see "Definitions" section), including the Institute's VOICE Advocates.</p> <p>In this case, general information is collected for campus safety statistics without revealing information that would identify the victim.</p>
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<p>How to pursue a Sexual Misconduct investigation</p>	<p>A victim may report a violation verbally, or in writing to the Title IX Coordinator or Deputy Coordinators. A victim may also report a violation to any other Responsible Employee of the Institute, as defined in this Policy.</p> <p>Certain types of sexual misconduct, as defined by Title IX and its implementing regulations, require the filing of a Formal Complaint in order to trigger an investigation. Board of Regents Policy 6.7.4 discusses the handling of Title IX complaints.</p> <p>Upon the report of an alleged violation, the Responsible Employee will inform the victim of:</p> <ul style="list-style-type: none"> • the Responsible Employee’s obligation to report the alleged violation to the Title IX Coordinator; and • the victim’s option to discuss available resources and supportive measures, including counseling, emotional or other support and investigation, with the Title IX Coordinator or a confidential VOICE Advocate; and • the victim’s right to file a complaint with the Institute and to report a crime to Georgia Tech and/or local police. <p>To prepare for the official conduct process, students are encouraged to meet with a VOICE Advocate prior to making the official complaint with the Title IX Coordinator.</p> <p>Victims are encouraged to report as soon as possible. However, the Institute will review all complaints of sexual misconduct</p>
<p>How to seek a criminal investigation</p>	<p>A victim may file a report with Georgia Tech Police Department or local police for a criminal investigation, which may be sought in addition to a Georgia Tech investigation.</p> <p>Reports to Georgia Tech Police Department of misconduct by students will be shared with the Title IX Coordinator and the Office of Student Integrity for follow-up.</p> <p>The Office of the Dean of Students (including the Women's Resource Center) can provide to a student victim a VOICE Advocate in the Office of Health Initiatives who can assist students with reporting to Georgia Tech Police Department or local police. Advocates are confidential and available 24 hours per day.</p>

A victim may also choose not to file any report. In that case, a victim can still receive support services. Contact a confidential VOICE Advocate in the Office of Health Initiatives for assistance.

2 Hearing Procedures

<p>Hearing Panel</p>	<p>The panel of any hearing for an accused student conducted pursuant to this policy shall consist of three members. Panelists shall be assigned to the panel by the Office of Student Integrity in alphabetical order from a list of appropriately trained and available Institute employees. The names and titles of persons available to serve as hearing panelists can be accessed here.</p>
<p>Request for Recusal</p>	<p>If a party to any student hearing conducted pursuant to this policy wishes to challenge the impartiality of any proposed panelist, the party may do so by making a written request for recusal to the Director of Student Integrity prior to the scheduled date of the hearing. All such requests for recusal shall specifically identify the alleged bias and include evidence in support of the request. The Director of Student Integrity shall rule on the request for recusal in writing within a reasonable time. If the Director grants the request for recusal, the recused panelist shall be excused and the next (in alphabetical order) available panelist shall be assigned to the hearing panel.</p> <p>A party who wishes to challenge the impartiality of any official or employee in the student sexual misconduct process may also submit a written request for recusal to the Title IX Coordinator, identifying the alleged bias and supporting evidence. A decision will then be made to sustain or deny the challenge and, if sustained, a replacement will be appointed, if appropriate. Challenges to the Title IX Coordinator’s impartiality may be made to the Executive Director of Equity and Compliance in Institute Diversity, Equity and Inclusion (IDEI).</p>

Recordkeeping and Release of Information:

Student Information

<p>Maintenance of Disciplinary Files</p>	<p>A case referral results in the creation of a disciplinary file in the name of the Respondent. Disciplinary records of students found responsible for any charges against them will be retained for at least seven (7) years. Disciplinary records containing records of suspension and expulsion will be permanently retained. This file shall be destroyed if the student is found not responsible for the charges</p>
<p>Release of Information</p>	<p>Student disciplinary records shall be governed by the Family Educational Rights of Privacy Act 20 U.S.C. § 1232g.</p> <ul style="list-style-type: none"> • Certain information regarding students who are suspended or expelled may be released to third parties. • Any misconduct that resulted in suspension where a potential threat to the campus community exists (including but not limited to illegal drug distribution, endangering or harming any person, or jeopardizing the safety of any person) may be released to third parties for five years after sanction completion. In instances of suspension where no threat to the community is identified, the suspension may be reported until the sanction is complete. • Any misconduct that did not result in suspension or expulsion is not released to third parties. <p>The Institute requires a specific written request from the student to release the entire disciplinary record to third parties.</p>

Resources and Supportive Measures for Victims and Accused Students

Campus resources and supportive measures are available to both victims and accused students, where applicable.

In certain instances of sexual misconduct, for example rape, it is important for the victim to receive medical attention within the first 120 hours. This timeframe allows more options for medical assistance and a greater likelihood of collecting evidence if the victim chooses to report the incident. Medical care is still encouraged after 120 hours if the victim has not sought care.

The Georgia Tech Stamps Health Services (including the Primary Care Clinic and Women's Clinic) is available during regular hours for medical assistance and follow-up care. Local police crisis centers are available for medical and counseling assistance 24 hours a day.

The Center for Assessment, Referral and Education (CARE), Health Initiatives, Counseling Center, Health Services (including Women's Health), and the Women's Resource Center are also available resources. Accused student may also access applicable resources, as well as the services of Student Rights Advocates. VOICE Advocates are available to the student victims 24 hours per day including weekends and holidays. Additional campus resources for students includes the Office of the Dean of Students. Campus resources for faculty are also available.

aff are available through the Institute's Employee Assistance Program and through other programs in the Office of Human Resources. Numerous off-campus services are also available.

In addition, a counselor and a member of the Office of the Dean of Students staff are on call 24 hours a day. After hours, staff members are available through the Georgia Tech Police Department (404-894-2500); their assistance may be requested without making a police report. Counseling resources are available for all persons involved in an incident of sexual misconduct.

The aftermath of sexual violence can be devastating to the individuals involved as well as the community. Given the impact on members of the Georgia Tech community, the Institute takes sex harassment seriously and actively works to end it on campus through prevention, advocacy, and educational programs for all incoming students and new employees, as well as ongoing prevention and awareness campaigns for current students and employees. One such coordinated effort is called VOICE, a campus-wide prevention program housed in Health Initiatives, a unit of the Georgia Tech Department of Health and Wellbeing.

The most up-to-date campus and community resource information for victims is available at VOICE, www.healthinitiatives.gatech.edu/voice or by contacting a VOICE Advocate at [4-385-4464](tel:4043854464) or [404-385-4451](tel:4043854451).

VOICE Advocates	404-385-4464 404-385-4451	http://healthinitiatives.gatech.edu/contact-voice
VOICE 24-Hour Info Line	404-894-9000	www.healthinitiatives.gatech.edu/voice
Student Rights Advocates (for accused students)		https://titleix.gatech.edu/resources-respondents-accused
Center for Assessment, Referral and Education (CARE)	404-894-3498	www.care.gatech.edu
Campus Health Services	404-894-9980	www.health.gatech.edu
Georgia Tech Counseling Center	404-894-2575	www.counseling.gatech.edu
Office of the Dean of Students	404-894-6367	www.deanofstudents.gatech.edu
Office of Disability Services Title IX Coordinator	404-894-2563 (Voice); 404-894-1664 (TDD) 404-385-5583	https://disabilityservices.gatech.edu/ titleix.gatech.edu
Georgia Tech Police	404-894-2500	www.police.gatech.edu
Women's Health	404-894-1434	http://health.gatech.edu/services/womens
Women's Resource Center	404-894-0230	www.womenscenter.gatech.edu
GBTQIA Resource Center	404-385-2679	lgbtqia.gatech.edu

Students may additionally file a complaint of discrimination with the Office of Civil Rights (OCR):

Office for Civil Rights
U.S. Department of Education
Region IV
1 Forsyth Street, SW
Atlanta, GA 30303
Tel: [\(404\) 974-9450](tel:4049749450)
Fax: [\(404\) 974-9459](tel:4049749459)

Enforcement:

To report suspected instances of ethical violations, please visit Georgia Tech's Ethics Hotline, a secure and confidential reporting system, at: https://secure.ethicspoint.com/domain/en/report_custom.asp?clientid=7508

Related Information:

- [Policy 6.7 Board of Regents Sexual Misconduct Policy](#)
- [Policy 4.6.5 Board of Regents Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings](#)
- [Board of Regents Non-Discrimination and Anti-Harassment](#)
- [Equal Opportunity, Nondiscrimination, and Anti-Harassment Policy](#)
- [USG HRAP Manual \(Prohibit Discrimination & Harassment\)](#)
- [Cyber Security Policies](#)
- [Title II of Public Law 101-542 Crime Awareness and Campus Security Act](#)
- [Georgia Tech Employee Assistance Program](#)
- [Good Samaritan/Medical Amnesty Provision](#)
- [Office of Student Integrity](#)
- [Student/Student Organization Alcohol Policy](#)
- [Student Code of Conduct \(Non-Academic Misconduct\)](#)
- [Student Organizations Code of Conduct](#)
- [Ethics Hotline](#)

Policy History:

Revision Date	Author	Description
August 14, 2020	Equity and Compliance	Updated Policy to comply with USG Policy 6.7
October 10, 2019	Equity and Compliance	Updated Policy to comply with USG Policy 6.7
September 26, 2018	Compliance Programs	Updated Policy
August 14, 2017	Compliance Programs	Updated Policy
July 1, 2016	Compliance Programs	New Policy

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Resources

Georgia Institute of Technology
North Avenue, Atlanta, GA 30332
[404.894.2000](tel:404.894.2000)

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- [Emergency Information](#)
- [Enable Accessibility](#)

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