

COLUMBUS STATE UNIVERSITY

Policy Name: Sexual Misconduct Policy

Policy Owner: Title IX Coordinator

Responsible University Office: Legal Affairs, Ethics & Compliance

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Policy Number:

Related Policies: BOR 4.6.5 Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings; BOR 6.7 Sexual Misconduct Policy

I. PURPOSE AND SCOPE OF POLICY

In accordance with federal and state law, including Title IX of the Education Amendments of 1972 (“Title IX”) and Title VII of the Civil Rights Act of 1964 (Title VII), Columbus State University (CSU), as a member of the University System of Georgia (USG), prohibits discrimination on the basis of sex in any of its education programs or activities or in employment. CSU is committed to ensuring the highest ethical conduct of the members of its community by promoting a safe learning and working environment. To that end, this Policy prohibits Sexual Misconduct, a form of sex discrimination, as defined herein.

This Policy was significantly revised to comply with recent federal regulations for the oversight of Title IX matters and additional revisions were made for consistency with the USG Sexual Misconduct Policy.

CSU is committed to reducing incidents of Sexual Misconduct, providing prevention tools, conducting ongoing awareness and prevention programming, and training the campus community in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) and the Violence Against Women Act (“VAWA”). Prevention programming and training will promote positive and healthy behaviors and educate

¹ Section IV(C)(1) of the Policy was revised designating the Vice President of Student Affairs as the university official to whom appeals from Title IX proceeding are decided and which are not subject to further appeal.

the campus community on consent, sexual assault, sexual harassment, alcohol and drug use, dating violence, domestic violence, stalking, bystander intervention, and reporting.

When Sexual Misconduct does occur, all members of the CSU community are strongly encouraged to report it promptly through the procedures outlined in this Policy. The purpose of this Policy is to ensure due process and compliance addressing sexual misconduct. This Policy is not intended to infringe or restrict rights guaranteed by the United States Constitution including free speech under the First Amendment, or the due process clauses of Fifth and Fourteenth Amendments.

II. DEFINITIONS

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: CSU employees who have been designated by CSU to speak 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: 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.

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. Consent can be withdrawn at any time by a party by using clear words or actions.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant. 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.

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.

Domestic Violence: Violence committed by a current or former spouse or intimate partner of the Complainant; by a person with whom the Complainant shares a child in common; by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant.

Evidence: That which tends to prove or disprove something. Evidence can be received in any form including oral, tangible, written, visual. Federal Rules of Evidence are not applicable in these proceedings.

Formal Complaint: A written document filed by the Complainant or signed by the Coordinator alleging Sexual Misconduct, as defined herein, against a Respondent and requesting that the institution open an investigation.

Incapacitation: 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.

Nonconsensual Sexual Contact: 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 (e.g., genitalia, groin, breasts, 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, which reads, "The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity."

Nonconsensual Sexual Penetration: 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, which state, "Rape - Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. Incest—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. Statutory Rape—Nonforcible sexual intercourse with a person who is under the statutory age of consent."

Privileged Employees: Individuals employed by CSU to whom a Complainant may speak with in confidence, as provided by law. Disclosure to these employees will not automatically trigger an investigation against the Complainant'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, 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.

Reasonable Person: An individual who is objectively reasonable under similar circumstances and with similar identities to the person being evaluated by the institution.

Reporter: An individual who reports an allegation of conduct that may violate this Policy but who is not a party to the complaint.

Respondent: An individual who is alleged to have engaged in conduct that violates this Policy.

Responsible Employees: Those employees who must promptly and fully report complaints of or information regarding Sexual Misconduct to the Title IX 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). Referred to as “Officials with Authority” in the May 2020 regulations.

Sexual Exploitation: 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. Examples of Sexual Exploitation may include, but are not limited to, the following:

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 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): 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.

Sexual Harassment (Other than Student on Student): Unwelcome verbal, nonverbal, or physical conduct, based on sex (including gender stereotypes), that may be any of the following:

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.

CSU 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 CSU education program or activity in violation of Title IX.

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.

Stalking: 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.

For the purposes of this definition:

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.

III. POLICY SECTION

A. Institutional Reports

CSU encourages the reporting of all Sexual Misconduct as soon as possible. While there is no statute of limitations on CSU's ability to respond to a report, the ability to respond diminishes with time as information and evidence may be more difficult to secure.

An institutional report occurs when the institution has notice of a complaint. That notice occurs in two instances:

1. When a Responsible Employee receives a complaint; or
2. When the Title IX Coordinator ("Coordinator") or their designee receives a complaint.

Any individual may make a report, but the institution does not have notice of the report until information is known to a Responsible Employee or the Coordinator. The report may be made directly to the Coordinator in multiple formats to include: writing, email, phone, letter, fax, interview, or other method that provides the basis of the complaint of Sexual Misconduct.

The Title IX Coordinator is Sarah Secoy; she can be reached at secoy_sarah@columbusstate.edu, 706.507.8757 (phone); her office is located in the Schuster Student Success Center Room 102. The University mailing address is 4225 University Avenue, Columbus, GA 31907.

Amber Dees serves as a Deputy Title IX Coordinator; she can be reached at dees_amber@columbusstate.edu, 706.507.8634 (phone); her office is in Richards Hall Room 313.

There is no specific information required to constitute a report; however, the report should contain as much information as can be provided. Reporting options are included on the Title IX website. Sexual Misconduct can be reported anonymously as provided on the Title IX website. Individuals should understand, however, that it will be more difficult for the institution to respond and to take action upon anonymous reports.

Complainants, or anyone with knowledge of Sexual Misconduct, may file a report with a Responsible Employee or the Coordinator. That Responsible Employee must provide a complete reporting of all information known to them to the Coordinator. Responsible Employees informed about Sexual Misconduct allegations should not attempt to resolve the situation, but must notify and report all relevant information to the Coordinator as soon as practicable.

Upon receipt of an institutional report, the Coordinator will contact the Complainant. That contact will discuss the availability of supportive measures, the invitation to discuss their wishes with respect to implementation of supportive measures, and explain the process of filing a complaint. An institutional report does not automatically prompt an investigation.

The Coordinator shall notify the System Director of any allegation(s) of Sexual Misconduct that could, standing alone as reported, lead to the suspension, expulsion, termination, and/or administrative leave with or without pay of the Respondent(s). The System Director will work with the institution to determine whether any support services or interim measure(s) are necessary and to assign an investigator(s) who will work under the direction of the System Director or designee, if directed by System Director. If an allegation is not initially identified as one that would lead to the suspension, expulsion, termination, and/or administrative leave with or without pay of the Respondent(s), but facts arise during the course of the investigation that could lead to the Respondent's suspension, expulsion, termination, and/or administrative leave with or without pay, the Title IX Coordinator shall notify the System Director or designee. The System Director shall have the discretion to oversee the handling of the complaint.

1. Confidential Reports

Confidential Employees or Privileged Employees may receive reports of Sexual Misconduct without the requirement to report that information to the Coordinator, except as dictated by law or professional standards. Upon request by the Complainant, Confidential Employees and Privilege Employees may make a report to the Coordinator within the degree of specificity dictated by the Complainant. Nothing in this Policy shall prevent reporting otherwise obligated by law (i.e., the Clery Act) from reporting information or statistical data as required.

2. Law Enforcement Reports

Because Sexual Misconduct may constitute criminal activity, a Complainant also has the option, should the Complainant so choose, to file a report with university police or local police for the Complainant's own protection and that of the surrounding community. The institution may assist the Complainant in reporting the situation to law enforcement officials. Filing a criminal report does not automatically constitute an institutional report.

3. Complaint Consolidation

Complaints may be consolidated when multiple complaints are brought against more than one Respondent, by more than one Complainant against one or more Respondents, cross-complaints between parties are filed, or where the allegations arise out of the same facts or circumstances.

Parties shall have the opportunity to request or to object to the consolidation; however, the institution shall have the authority to make the final determination. For the purpose of this Policy, consolidation may occur during the investigation and/or the adjudication phases of the Sexual Misconduct process.

4. Complaint Dismissal

CSU is permitted, but not required, to dismiss complaints on the following grounds:

1. The alleged conduct, even if proved, would not constitute Sexual Misconduct;
2. The Complainant notifies the Coordinator in writing that they would like to withdraw the complaint;
3. The Respondent is no longer enrolled or employed at CSU; or
4. There are circumstances that prevent CSU from gathering evidence sufficient to reach a determination regarding the complaint.

The parties shall receive simultaneous written notice of the dismissal and the reason(s) for the dismissal. The parties shall have a right to appeal the decision to dismiss the complaint.

5. Retaliation

Anyone who has made a report or complaint, provided information, assisted, participated, or refused to participate in any manner in the Sexual Misconduct Process, shall not be subjected to

retaliation. Anyone who believes that they have been subjected to retaliation should immediately contact the Coordinator or their designee. Any person found to have engaged in retaliation in violation of this Policy shall be subject to disciplinary action.

6. False Complaints

Individuals are prohibited from knowingly making false statements or knowingly submitting false information to a USG or CSU official. Any person found to have knowingly submitted false complaints, accusations, or statements, including during a hearing, in violation of this Policy shall be subject to appropriate disciplinary action (up to and including suspension, expulsion, termination, and/or administrative leave with or without pay) and adjudicated under the appropriate institutional process.

7. Amnesty

Individuals should be encouraged to come forward and to report Sexual Misconduct notwithstanding their choice to consume alcohol or to use drugs. Information reported by a student during an investigation concerning the consumption of drugs or alcohol will not be used against the particular student in a disciplinary proceeding or voluntarily reported to law enforcement; however, students may be provided with resources on drug and alcohol counseling and/or education, as appropriate. Nevertheless, these students may be required to meet with staff members in regards to the incident and may be required to participate in appropriate educational program(s) after consultation with the Create Care Team. The required participation in an educational program under this amnesty procedure will not be considered a sanction. Nothing in this provision shall prevent a staff member who is otherwise obligated by law (i.e., the Clery Act) to report information or statistical data as required.

B. Responding to Reports of Sexual Misconduct

1. Support Services

Once the Title IX Coordinator has received information regarding an allegation of Sexual Misconduct, the parties will be provided written information about support services. Support services are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without charge that are made available to the parties before or after the filing of a complaint or where no complaint has been, or will be, filed. Support services include counseling, advocacy, housing assistance, academic support, disability services, health and mental services, and other services, available at CSU and the surrounding area. Available support services are listed on the Title IX website.

2. Interim Measures

Interim measures may be implemented at any point after the institution becomes aware of an allegation of Sexual Misconduct and should be designed to protect any individual in the CSU or

USG communities. Such measures are designed to restore or to preserve equal access to the education program or activity without unreasonably burdening either party, including measures designed to protect the safety of all parties or the campus community or to deter Sexual Misconduct and Retaliation. Interim measures must be provided consistent with the provisions in applicable USG and CSU policies and procedures.

3. Emergency Removal

Emergency removal should only occur where necessary to maintain safety and should be limited to those situations where the Respondent poses a serious and immediate danger or threat to persons or property. In making such an assessment, the institution should consider the existence of a significant risk to the health or safety of the Complainant or the campus community; the nature, duration, and severity of the risk; the probability of potential injury; and whether less restrictive means can be used to significantly mitigate the risk.

4. Jurisdiction

CSU shall take necessary and appropriate action to protect the safety and well-being of its community. Sexual Misconduct allegedly committed is addressed by this Policy when the misconduct occurs on CSU property, at institution-sponsored or affiliated events, or off-campus, as defined by other USG or CSU policies.

5. Advisors

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 choice at the party's own expense. The advisor may accompany the 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 as outlined in BOR 6.7.4 (D). All communication during the Sexual Misconduct Process will be between the institution and the party, not the advisor. With the party's permission, the advisor may be copied on all communications.

6. Informal Resolutions

Allegations of Sexual Misconduct may be resolved informally. The Complainant, the Respondent, and the institution must agree to engage in the informal resolution process and to the terms of the informal resolution. The Complainant and the Respondent have the option to end informal resolution discussions and request a formal process at any time before the terms of an informal resolution are reached. However, matters resolved informally shall not be appealable.

7. Timeframe

Efforts will be made to complete the investigation and resolution within 120 University business days; days toll from the date the formal complaint is received and end with the exhaustion of the appellate process. Temporary delays and limited extensions may be granted by the institution for good cause throughout the investigation and resolution process. The parties will be informed in writing of any extension or delay and the applicable reason. The institution shall keep the parties informed of the status of the investigation and resolution.

C. Responding to Reports of Sexual Harassment Pursuant to Title IX

The Title IX regulations require special handling of complaints of sexual harassment, as defined in the regulations and provided below. The following section outlines the required specialized handling of these matters that may differ from handling of Sexual Misconduct, as defined herein. Unless expressly mentioned in this section, other provisions of this Policy shall apply to all alleged Sexual Misconduct. Other Title IX sex-discrimination allegations are handled pursuant to other applicable USG and/or CSU policies.

1. Definition of Sexual Harassment

Under Title IX sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

1. An employee conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct;
2. 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 institution's education program or activity; or
3. "Sexual assault" as defined by the Clery Act and "dating violence," "domestic violence," and "stalking," as defined by the VAWA Amendments and provided in III Definitions above.

2. Jurisdiction

Alleged misconduct is addressed by Title IX when the misconduct occurs against a person in the United States on CSU property, at CSU-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.

3. Formal Complaints

Receipt of a Formal Complaint will trigger an investigation and/or resolution with an informal resolution. In order to file a Formal Complaint, the Complainant must be participating in or attempting to participate in one of CSU's education programs or activities occurring within the United States at the time of the filing.

4. Informal Resolution

Formal Complaints may be resolved informally, except when an allegation is made by a student against an CSU employee. All of the following must be met in order to proceed with the informal resolution process:

1. The parties have received written notice of the allegations.
2. The parties have received written explanation of the informal process to include, but not limited to:
 - a. Written agreement of the parties to initiate the informal resolution process;
 - b. Written notice that the parties may withdraw from the process at any time prior to the agreement of the terms of the resolution; and
 - c. Written notice that the final resolution precludes any further institutional actions on the allegations.
3. The institution has agreed to engage in the informal resolution process.

5. Advisors

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 choice. The advisor may accompany the party to all meetings and may provide advice and counsel to their respective party throughout the Sexual Misconduct Process but may not actively participate in the process except to conduct cross-examination at the hearing. If a party chooses not to use an advisor during the investigation, the institution will provide an advisor for the purpose of conducting cross-examination on behalf of the relevant party. These advisors are not required to draft the questions, they are only required to ask the questions provided by the party they are assigned to.

All communication during the Sexual Misconduct Process will be between the institution and the party, not the advisor. The institution will copy the party's advisor prior to 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.

IV. PROCEDURES

A. Investigations

All Sexual Misconduct investigations involving a student Respondent shall follow the investigation process set forth in USG Section 4.6.5, Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings and CSU's adaption thereof.

All Sexual Misconduct investigations involving an employee Respondent shall be addressed utilizing Board and institutional employment policies and procedures.

B. Adjudication: Hearings, Possible Sanctions, and Appeals

All Sexual Misconduct hearings, sanctions, and appeals, except as provided below, involving a student Respondent, shall follow the hearing and resolution process set forth in this Policy and USG Section 4.6.5, Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings and CSU's adaption thereof.

All Sexual Misconduct adjudication involving an employee Respondent shall be addressed utilizing Board and institutional employment policies and procedures.

Rules of Decorum are provided as Addendum 1 to this Policy.

C. Appeals of Complaint Dismissal

Appeals of a Complaint Dismissal as provided above must be made in writing and must be submitted within five University business days of the date of the written notice of dismissal.

1. Student Respondents

If the Respondent is a student or former student, the appeal should be made to and addressed by the Vice President for Student Affairs (VPSA) or their designee. The appeal shall be a review of the record only, and no new meeting with either party is required. The VPSA may affirm the decision to dismiss or may remand the complaint to the Coordinator to consider additional information before moving forward with the dismissal, informal resolution, or investigation. The VPSA shall then issue a written decision simultaneously to the parties within a reasonable time period. The VPSA's decision shall be the final decision of the institution.

2. Employee Respondents

If the Respondent is an employee or former employee, the appeal should be made to and addressed by the Chief Human Resources Officer (CHRO) or their designee. The appeal shall be a review of the record only, and no new meeting with either party is required. The CHRO may affirm the decision to dismiss or may remand the complaint to the Coordinator to consider additional information before moving forward with the dismissal, informal resolution, or investigation. The CHRO shall then issue a written decision simultaneously to the parties within a reasonable time period. The CHRO's decision shall be the final decision of the institution.

3. Other Respondents

If the Respondent is not an employee, former employee, student, or former student, the appeal should be made to and addressed by the Vice President for Student Affairs (VPSA) or their designee. The appeal shall be a review of the record only, and no new meeting with either party

is required. The Provost may affirm the decision to dismiss or may remand the complaint to the Coordinator to consider additional information before moving forward with the dismissal, informal resolution, or investigation. The VPSA shall then issue a written decision simultaneously to the parties within a reasonable time period. The VPSA's decision shall be the final decision of the institution.

V. RELATED BOARD OF REGENTS' POLICIES

- [4.6.5 Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings](#)
- [6.7 Sexual Misconduct Policy](#)
- HRAP Prohibit Discrimination and Harassment

[Columbus State University](#)
[Division of Legal Affairs, Ethics and Compliance](#)