

Procedure: 6.1.1p. [V.A.1]

Unlawful Harassment and Discrimination of Students

Revised: January 12, 2016; July 16, 2014; April 25, 2013; March 9, 2007
Last Reviewed: October 14, 2016
Adopted: April 25, 2013



I. PURPOSE:

It is the purpose of this procedure to ensure that all students within the Technical College System of Georgia (TCSG) shall be provided an environment free of unlawful harassment (including sexual harassment and sexual violence), discrimination, and retaliation.

All students and employees are expressly prohibited from engaging in any form of unlawful harassing, discriminating, intimidating or retaliatory behavior or conduct (“prohibited conduct”) in all interactions with each other, whether or not the interaction occurs during class or on or off campus. Visitors to campuses also shall not engage in prohibited conduct and may be barred from campus for such prohibited conduct. Allegations of discrimination, harassment or retaliation, occurring at clinical sites to which students are assigned shall be investigated in accordance with this procedure.

Any student or employee who has engaged in prohibited conduct will be subject to disciplinary action up to and including expulsion or dismissal. Nothing in this procedure shall be interpreted to interfere with any person’s right to free speech as provided by the First Amendment to the Constitution of the United States of America.

All students are encouraged to report any prohibited conduct. Reports will be treated in an expeditious and confidential manner. TCSG will not tolerate retaliation for having filed a good faith harassment and/or discrimination complaint or for having provided any information in an investigation. Any individual who retaliates against a complainant or witness in an investigation will be subject to disciplinary action, up to and including expulsion or dismissal.

Employee complaints of unlawful harassment or discrimination shall be conducted pursuant to the process outlined in the procedure governing Unlawful Harassment, Discrimination and Retaliation in Employment.

II. APPLICABILITY:

All work units and technical colleges associated with the Technical College System of Georgia.

III. RELATED AUTHORITY:

State Board Policy 2.1.1. Statement of Equal Opportunity
Title IX of the Educational Amendments of 1972
20 U.S.C. §§ 1681 et seq.
Violence Against Women Reauthorization Act of 2013
Campus Sexual Violence Elimination Act (Campus SaVE)
O.C.G.A. § 19-7-5
Titles VI and VII of the Civil Rights Act of 1964

Age Discrimination Act of 1975
Rehabilitation Act of 1973, as amended
Americans with Disabilities Act of 1990
Americans with Disabilities Amendments Act (ADAAA) of 2008
Genetic Information Nondiscrimination Act (GINA) of 2008
Procedure: Student Grievances

IV. DEFINITIONS:

Unlawful Harassment (Other Than Sexual Harassment): unlawful verbal or physical conduct that disparages or shows hostility or aversion toward an individual because of that person's race, color, religion, gender, national origin, age, genetic information or disability and which:

1. Has the purpose or effect of creating an objectively and unreasonably intimidating, hostile or offensive educational environment, or
2. Has the purpose or effect of objectively and unreasonably interfering with an individual's educational performance.

Unlawful harassing conduct or behavior can include, but is not limited to, epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to race, color, religion, gender, national origin, genetic information, age or disability. Unlawful harassing conduct can include jokes or pranks that are hostile or demeaning with regard to race, color, religion, gender, national origin, age or disability. Unlawful harassing conduct may also include written or graphic material that disparages or shows hostility or aversion toward an individual or group because of race, color, religion, gender, national origin, age, or disability, and that is displayed on walls, bulletin boards, computers, or other locations, or otherwise circulated in college community in any format.

Conduct which threatens, coerces, harasses or intimidates another person or identifiable group of persons, in a manner that is considered unlawful under state and federal laws pertaining to stalking or dating/domestic violence while on college premises or at college sponsored activities may also be considered unlawful harassment under this procedure.

Sexual Harassment (a form of unlawful harassment): unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal, written, electronic or physical conduct of a sexual nature when:

1. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's education;
2. Submission to, or rejection of, such conduct by an individual is used as the basis for education decisions affecting such individual; or,
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic performance or creating an intimidating, hostile or offensive educational environment.

Sexually harassing conduct or behavior (regardless of the gender of the persons involved) can include but is not limited to:

Physical touching, sexual comments of a provocative or suggestive nature, suggestive looks or gestures, sexually explicit jokes, electronic media/communication, printed material or innuendos intended for and directed to another, requests for sexual favors, making acceptance of any unwelcome sexual conduct or advances a condition for grades, continued enrollment or receipt of any educational benefit or determination.

Sexual Violence (a form of unlawful harassment): physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent, including but not limited to sexual assault, rape, sexual battery, and sexual coercion. All acts of sexual violence are considered unlawful sexual harassment, regardless of gender, for purposes of this procedure.

Unlawful Discrimination: the denial of benefits or admission to the college or to any of its programs or activities, either academic or nonacademic, curricular or extracurricular, because of race, color, religion, age, gender, national origin, genetic information or disability.

Unlawful Retaliation: unfavorable action taken, unfavorable condition created, or other action taken by a student or employee for the purpose of intimidation that is directed toward a student because the student initiated an allegation of unlawful harassment/retaliation or participated in an investigation of an allegation.

Technical College System of Georgia: all work units and technical colleges under the governance of the State Board of the Technical College System of Georgia.

Employees: any individual employed in a full or part time capacity in any TCSG work unit or technical college.

Visitor: any third party (e.g. volunteer, vendor, contractor, member of the general public etc.) who conducts business or regularly interacts with a work unit or technical college.

Clinical Site: any off-campus location to which students or faculty are assigned for completion of program requirements including labs, internships, or practicums.

President: the chief executive officer responsible for the management and operation of the technical college where the complainant and/or accused violator are enrolled or employed.

Human Resources Director: the highest ranking employee responsible for the human resources function at a technical college or TCSG work unit.

Local Investigator: the individual(s) at the technical college who is responsible for the investigation of an unlawful harassment, discrimination and/or, retaliation complaint. Local investigators may be assigned based upon the subject matter of the complaint or their function within the organization.

Compliance Officer: the individual designated by the Deputy Commissioner to coordinate TCSG compliance with Title IX of the Educational Amendments of 1972 and other state and federal laws governing unlawful discrimination and harassment and educational access by disabled individuals.

Title IX Coordinator: an individual designated by the president of the college to ensure compliance with Title IX of the Educational Amendments of 1972, 20 U.S.C. §§ 1681 et seq., and related federal regulations. The Title IX Coordinator may also be assigned the responsibility for compliance with other state and federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the U.S. Department of Education.

Section 504 Coordinator: an individual designated by the president of the college to ensure compliance with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 as Amended, and any other state and federal regulations governing disabilities; the responsibilities of the 504 Coordinator will include, but may not be limited to evaluating students requesting accommodations for a disability and ensuring equal access to facilities, services and programs.

V. ATTACHMENTS:

Attachment 6.1.1p.a1. Sources of Counseling, Advocacy and Support

Attachment 6.1.1p.a2. TCSG Usage for Statement of Equal Opportunity

VI. PROCEDURE:

A. Administration and Implementation

1. Each college president shall designate one or more officials to serve as the Title IX Coordinator and the Section 504 Coordinator and ensure the designated officials have received appropriate training.
2. Contact information for the Title IX and Section 504 Coordinators and the Statement of Equal Opportunity should be permanently displayed on official bulletin boards and included in electronic or written college publications and academic materials as described in the TCSG Usage for Statement of Equal Opportunity.
3. Instructors/administrators must take ongoing proactive steps to ensure educational opportunities (to include classrooms, clinics, labs, programs, etc.) and student activities (clubs, sports, etc.) are accessible and free from any type of unlawful discrimination or harassment.
4. The Compliance Officer will conduct training programs and monitor the colleges to ensure the correct administration and implementation of this procedure, and will ensure that proactive or corrective measures have been taken to prevent unlawful discrimination, harassment, or retaliation.
5. Each technical college shall publish a list of local sources for counseling, support and advocacy in conjunction with the publishing of this procedure. (See attachment for sample format); individuals who report sexual violence, stalking or dating/domestic violence will be provided with and/or referred to the list of resources.

B. Reporting and Management Action

1. All students are encouraged to report events of unlawful harassment, discrimination, sexual violence and/or retaliation ("prohibited conduct") against themselves or others.
2. Students have the right to file (or not to file) a criminal complaint for sexual violence with the local law enforcement authorities before, during, or after filing a complaint with the college. The technical college shall not unreasonably delay investigation under this procedure to await the outcome of any criminal investigation.
3. If a student filing a complaint requests anonymity or asks that the complaint not be pursued, the college must inform the student that its ability to respond may be limited, that retaliation for filing a complaint is prohibited and steps to prevent harassment and retaliation will be taken. The college should take all reasonable steps to investigate and respond to the complaint consistent with the request and pursue other steps to limit the effects of the alleged harassment and prevent recurrence.
4. Colleges may weigh a request for anonymity or a request they not pursue a complaint considering the following factors: the seriousness of the alleged conduct, the complainant's age, whether there have been other harassment complaints about the same individual, and the alleged harasser's rights to receive information about the allegations if the information is maintained as an "education record" under FERPA. The college must inform the student if the request cannot be granted.

5. Reports concerning all prohibited conduct referenced in this procedure will be processed confidentially to the extent permitted by law; communications regarding complaints will be disseminated to others on a need-to-know basis to ensure that necessary steps are taken to protect the community as a whole and that appropriate disciplinary measures or corrective actions are considered and taken.

6. Allegations or suspicions of unlawful discrimination, harassment, sexual harassment, sexual violence or unlawful retaliation may be reported to the technical college's Title IX or Section 504 Coordinators, the president, or the Human Resources Director (should the complaint involve employees). Complaints may also be emailed to unlawfulharassment@tcsq.edu.

7. Complaints under this procedure can be expressed in writing, by telephone, or in person; individuals are, however, encouraged to express complaints in writing to ensure all concerns are addressed.

8. If an allegation of unlawful harassment, discrimination, sexual harassment, sexual violence or retaliation is made to an employee not designated to receive such reports, the employee receiving the complaint must report the allegation as provided in section 6 above.

9. Allegations of any sexual conduct involving individuals under the age of 18 must also be reported as an allegation of child abuse as outlined in O.C.G.A. § 19-7-5.

10. Students or employees may be suspended, transferred or reassigned employees or students in order to prevent possible further harassment, discrimination, sexual violence or retaliation; to facilitate the investigation or to implement preventive or corrective actions under this procedure.

11. Any allegation of unlawful harassment, discrimination, sexual harassment, sexual violence or retaliation against employees must be reported to the Human Resources Director who may elect to conduct the investigation in conjunction with other local investigators.

C. Investigations

1. All complaints of prohibited conduct under this procedure shall be investigated by local investigators thoroughly and should be completed within 45 business days of the receipt of the complaint. The parties will be notified if extraordinary circumstances exist requiring additional time.

2. A complaining party will be notified within 5 business days of receipt of the complaint if the complaint does not specify facts sufficient to allege unlawful discrimination, harassment, sexual violence or retaliation and that a formal investigation will not be conducted pursuant to this procedure. The complaining party may appeal the decision in writing to the president within 5 business days of receiving the notice. The president's decision will be final.

3. Individuals designated to investigate or recommend corrective actions in response to allegations will be trained to conduct investigations in a manner that protects the safety of victims and promotes accountability. Individuals assigned as the investigator for a particular incident shall disclose to the president any relationship with the parties that could call into question their ability to be objective prior to taking any action with respect to the investigation. The president will reassign alternate individuals if necessary.

4. Investigations will be conducted by gathering relevant information and interviewing appropriate witnesses. Both the complaining party and the respondent (the parties) will be given equal opportunity to identify witnesses and offer evidence in person or in writing. Best efforts will be made to interview all witnesses identified by the parties. Both the complaining party and the respondent may be

accompanied by an advisor of his or her choice. However, the advisor may not speak on behalf of the party.

5. The college will evaluate the information collected during the investigation and determine whether a preponderance of the evidence substantiates that unlawful discrimination, unlawful harassment sexual violence and/or unlawful retaliation has occurred.

6. Investigations and summary findings will be documented appropriately.

7. No later than 10 business days after completion of an investigation, both of the parties will be simultaneously provided the in writing.

8. Any information prohibited from disclosure by law or policy will be redacted from any documents prior to distribution.

D. Corrective Actions

1. Colleges will take all reasonable steps to prevent unlawful retaliation against complainants and any other individuals participating in investigations under this procedure.

2. If prohibited conduct is determined to have occurred following the investigation, the college, through the appropriate officials, shall implement steps to prevent a recurrence and to correct the discriminatory effects on the complaining party and others as appropriate. Steps may include, but are not limited to, mandating training or evaluation, disciplinary sanctions, policy implementation or reassignment of students or employees.

3. Should recommended disciplinary sanctions involve academic suspension or expulsion, the matter must be referred to either the Vice President for Student Affairs, as provided by the college's Student Code of Conduct and Disciplinary Procedure.

4. Individuals who are responsible for conducting investigations or proposing sanctions under this procedure should not also serve as reviewing officials or hearing officers in the appeal of sanctions arising from an investigation.

Even in the absence of sufficient evidence to substantiate a finding that unlawful discrimination, unlawful harassment, sexual violence or retaliation has occurred, colleges are expected to address any inappropriate conduct and take all reasonable steps to prevent any future unlawful discrimination, harassment, sexual violence or retaliation.

E. Reviews and Dispositions

1. Any of the parties to a complaint under this procedure may request a review of the investigative findings within 5 business days of receiving notice of the investigative results by submitting a written request to the president.

2. The president shall review all investigations conducted under this procedure and ensure that the appropriate corrective actions have been implemented.

3. Within 10 business days of receiving a request for a review of the investigative findings, the president of the college will notify the parties in writing of his/her final determination, including any change in the result of the findings. The notice will inform the parties they have a right to appeal the determination to the Technical College System of Georgia's Office of Legal Services by submitting a written request within 3 business days by regular mail or email to one of the following:

Technical College System of Georgia
Office of Legal Services
1800 Century Place, N.E.
Suite 400
Atlanta, Georgia 30345

OR

Unlawfulharassment@tcsq.edu

4. The Office of Legal Services will convene a panel of at least 3 individuals not employed by the requestor's college to review the investigative findings. The panel's decision is final and will conclude the processing of the complaint. Both parties will be notified in writing simultaneously of the results of the review and any changes in the results of the investigative findings under appeal.

VII. RECORD RETENTION:

Documents relating to formal complaints including investigations, dispositions and the complaint itself shall be held for 5 years after the graduation of the student or the date of the student's last attendance. Any of the documents containing confidential information shall be held in a secure location under the custody and control of the Vice President of Student Affairs or the President's designee. Documents pertaining to employees that are maintained by the Office of Human Resources shall be maintained in a secure location and in accordance with the Georgia Secretary of State's records retention schedule, but in no case fewer than 5 years.

Attachment: 6.1.1p.a1.

SOURCES OF COUNSELING, ADVOCACY AND SUPPORT

The information below provides contact information for off-campus resources following incidents of sexual violence, dating/domestic violence or stalking: [COLLEGES SHOULD PROVIDE MULTIPLE RESOURCES THAT ARE REPRESENTATIVE OF EVERY COUNTY IN THEIR SERVICE AREA]

1. Rape Crisis Center [COLLEGES SHOULD PROVIDE INFORMATION FOR THE CLOSEST CENTER IN THEIR SERVICE AREAS]

<http://gnesa.org/page/rape-crisis-centers-georgia>

2. National Sexual Assault Hotline at 1-800-656-HOPE
3. <http://gcadv.org/general-resources/domestic-violence-centers/> [COLLEGES SHOULD PROVIDE INFORMATION FOR THE CLOSEST DOMESTIC VIOLENCE CENTER]
4. Protective Orders [BELOW IS A LINK TO SHERIFFS' OFFICES IN GEORGIA; YOU SHOULD LIST ONLY THOSE SHERIFFS IN YOUR SERVICE AREA; ALSO LIST ANY OTHER CITY/COUNTY LAW ENFORCEMENT AGENCIES]

http://www.womenslaw.org/gethelp_state_type.php?type_id=1277&state_code=GA

5. Legal Services [COLLEGES SHOULD PROVIDE INFORMATION FOR THE CLOSEST RESOURCE LOCATED IN THEIR SERVICE AREAS]
http://www.womenslaw.org/gethelp_state_type.php?type_id=1273&state_code=GA
6. National Teen Dating Abuse Helpline: 1-866-331-9474
7. National Domestic Violence Hotline: 1-800-799-SAFE (7233) | 1-800-787-3224 [TTY]
8. [LIST OF LOCAL PSYCHOLOGISTS OR COUNSELORS WITH NAME/ADDRESS AND PHONE #]
9. [LIST OF LOCAL HOSPITALS WITH NAME/ADDRESS AND PHONE NUMBER]
10. [FOR COLLEGES WHO HAVE CONTRACTED WITH CAMERON AND ASSOCIATES FOR STUDENT COUNSELING SERVICES, PROVIDE NAME AND PHONE NUMBER FOR SCHEDULING FREE SESSION]

Usage for Statement of Equal Opportunity

Revised August 2016

The Technical College System of Georgia and its associated colleges are subject to the rules and regulations of the U.S. Department of Education's Office of Civil Rights. These rules require wide distribution of the Equal Opportunity Policy. As such, it is imperative that all publications, marketing material and advertising used to promote the technical college system or any individual college comply with the following guidelines for using disclaimer statements.

For all statements use a font and font size that are easily readable.

A. For all college catalogs, student and employee handbooks the following statement must be included.

The Technical College System of Georgia and its constituent Technical Colleges do not discriminate on the basis of race, color, creed, national or ethnic origin, sex, religion, disability, age, political affiliation or belief, genetic information, disabled veteran, veteran of the Vietnam Era, spouse of military member or citizenship status (except in those special circumstances permitted or mandated by law). This nondiscrimination policy encompasses the operation of all technical college-administered programs, programs financed by the federal government including any Workforce Innovation and Opportunity Act (WIOA) Title I financed programs, educational programs and activities, including admissions, scholarships and loans, student life, and athletics. It also encompasses the recruitment and employment of personnel and contracting for goods and services.

The Technical College System and Technical Colleges shall promote the realization of equal opportunity through a positive continuing program of specific practices designed to ensure the full realization of equal opportunity. The following person has been designated to handle inquiries regarding the nondiscrimination policies:

This statement must be followed by contact information for each school's *Title IX* and *Section 504* coordinator(s). Contact information includes name,¹ title, office address and phone number. It is strongly recommended that the coordinator's emails also be included in the publication.

B. For all other printed material such as newsletters, magazines, website and electronic publications, written materials distributed to students, notices posted on campus, and local newspapers, and other materials (particularly those related to student recruitment and employment) this abbreviated statement may be used:

As set forth in its student catalog, (name of college) does not discriminate on the basis of race, color, creed, national or ethnic origin, sex, religion, disability, age, political affiliation or belief, genetic information, veteran status, or citizenship status (except in those special circumstances permitted or mandated by law).

¹ The name may be omitted in publications that are not printed often such as the college catalog. However, items that are easily changed such as the website and on-line handbooks should always include the name of the coordinators.

The following person(s) has been designated to handle inquiries regarding the non-discrimination policies:

This statement must be followed by contact information for each school's *Title IX* and *Section 504* coordinator(s). Contact information includes name or title, office address and phone number. It is strongly recommended that the coordinator's email addresses be included in the contact information.

C. If there is not enough space in the publication resulting in a very small font, please use this abbreviated statement which will keep us in compliance with OCR regulations:

The (name of college) does not discriminate on the basis of race, color, national origin, sex, age or disability.

This statement must be followed by contact information for each school's *Title IX* coordinator and the *Section 504* coordinator. Contact information includes name, title, office address and phone number. It is strongly recommended that the coordinator's email addresses be included in the contact information

In certain very limited circumstances, a print advertisement might state only "Equal Opportunity Institution." However, this should only be used in situations where space is extremely limited/expensive such as a newspaper classified advertisement.

D. Small Format Advertising (outdoor, radio and TV): If the size or length of the advertising medium does not allow room for either of the above statements without accruing substantial additional cost, the following statement can be used. However, this shortened statement should be used sparingly:

Equal Opportunity Institution

E. Annual Notification

Every fall prior to the beginning of Fall Semester, each college must run a notice in the local newspaper(s) stating that the college does not discriminate on the basis of race, color, national origin, sex, disability or age; provide a brief summary of the college's educational offerings; describe admission criteria and include the name, address and phone number of the Title IX and Section 504 coordinator(s).

The following a sample Annual Notification:

[Technical College] is an equal opportunity employer and offers the following career and technical education programs for all regardless of race, color, religion, sex, marital status, age, disability, or national origin.

[List of programs, can be list of general categories such as nursing, information technology, etc. Also may include every program]

Persons seeking further information concerning the career and technical education offerings and specific pre-requisite criteria for admission to these programs should contact:

[Technical College admissions office contact information]

[Technical College] offers additional services to students with limited English language skills or with disabilities so that they may benefit from these programs. For additional information regarding these services, your rights, grievance procedures, or the College's non-discrimination policies please contact:

This statement must be followed by contact information for each school's *Title IX* and *Section 504* coordinator(s). Contact information includes name, title, office address and phone number. It is strongly recommended that the coordinator's email addresses be included.

Please contact your college's *Title IX* coordinator, *Section 504* coordinator, Kim Ellis (kellis@tcsg.edu) or Romy Smith (rsmith@tcsg.edu) if you have questions or need clarification.