

GEORGIA STATE UNIVERSITY STUDENT CODE OF CONDUCT AND ADMINISTRATIVE POLICIES

D. SEXUAL MISCONDUCT POLICY

1. Preamble

Georgia State University is committed to providing a safe learning environment that supports the dignity of all members of the University community. The University strongly encourages students to promptly report instances of sexual misconduct. All reported instances of sexual misconduct shall be investigated and responded to promptly, fairly and decisively.

2. Sexual Misconduct

Georgia State University will not tolerate sexual misconduct. "Sexual misconduct" is defined as contact without consent by an acquaintance or stranger (whether made directly or through clothing and whether contact is made with the non-consenting student or the non-consenting student is forced to have such sexual contact with another) and includes, but is not limited to: rape (sexual intercourse without consent), sodomy (oral or anal intercourse without consent), aggravated sodomy (sexual penetration with an object without consent), assault (intentional touching without consent of genitals, breast, groin, thighs, or buttocks), aggravated assault, child molestation, aggravated child molestation, non-consensual kissing, statutory rape, voyeurism (observing the sexual organs or acts of another for sexual satisfaction, usually from a hidden vantage point), and public indecency (in a public place, performing an act of sexual intercourse, lewd exposure of sex organs, lewd appearance in a state of partial or complete nudity, or a lewd caress or indecent fondling of the body of another person).

3. Reporting

Members of the University community who have experienced sexual misconduct by another member of the University community should contact the following offices to report the incident and for direction in filing a formal complaint: (1) For matters involving complaints of sexual misconduct committed by students, the incident should be reported to the Office of the Dean of Students. (2) For matters involving complaints of sexual misconduct committed by University faculty or staff, the incident should be reported to the Office of Affirmative Action.

4. Procedural Options for Sexual Misconduct Involving Students

A student may request a formal or informal resolution of an alleged incident of sexual misconduct. Formal resolution shall occur through the procedural process of the Student Code of Conduct. Informal resolution shall occur through mediation. At any point during an informal process, a student may elect to terminate the process, file a complaint and initiate a formal resolution through the Student Code of Conduct.

a. Formal Complaint

1) Student as the Complainant

Students who have experienced sexual misconduct may submit a complaint to the Office of the Dean of Students. An investigation of each reported incident shall occur. The Dean of Students may decide to interview the complainant and/or other witnesses or to request additional information from the complainant. Based upon the initial review, the Dean of Students may choose to initiate charges or not initiate charges. The Family Educational Rights and Privacy Act protects students' privacy rights of their records. Accordingly, in instances of the student as the complainant, if charges are initiated and the referred student selects a hearing as the method of adjudication, the Sexual Misconduct hearing is closed to the public.

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- 2) University as the Complainant
In any case where the interests of the University community would be served by continuation of an investigation and/or judicial proceedings, Georgia State University reserves the right to appoint a member of the University community to act as the complainant or co-complainant in University Judicial System proceedings if a student chooses not to file a complaint or, having filed a complaint, subsequently withdraws from the proceedings.

- b. Informal Complaint

- 1) Mediation
With the prior consent of the Georgia State University Dean of Students, students involved in an alleged violation of sexual misconduct may elect to have the matter informally resolved through mediation in the Georgia State University Office of the Ombudsperson.

6. Membership of the Sexual Misconduct Board

The Sexual Misconduct Board shall be comprised of five faculty members identified from the membership of the Senate Committees on Student Discipline and Student Life and Development, five students from the Student Judicial Board and three staff from Staff Council. Annual training will be provided to the Sexual Misconduct Board. The Sexual Misconduct Board hearing, as set forth in the Sexual Misconduct Procedures, will be conducted by a Hearing Panel comprised of two faculty, two students and one staff. The Dean of Students will identify the chair of the Hearing Panel.

Amended and approved February 22, 2007, Student Life and Development Committee
Amended and approved April 5, 2007, University Senate

Georgia State has established and published a campus Sexual Assault Victims' Bill of Rights pursuant to the Campus Sexual Assault Victims' Bill of Rights Act of 1991, which is implemented in conjunction with the Georgia State University Harassment Policy and Procedures. A complete copy of the Campus Sexual Assault Victims' Bill of Rights Act of 1991 is set forth below and may also be view on the Web at <http://www.gsu.edu/~wwwupo/safetynet.html>.

GEORGIA STATE UNIVERSITY SEXUAL ASSAULT VICTIMS BILL OF RIGHTS

In compliance with Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092(f), as amended by the Student Right-to-Know and Campus Security Act, Public Law 101-542, as amended by the Higher Education Technical Amendments of 1991, Pubic Law 102-26 (April 9, 1991) and 102-325 (July 23, 1992), and the Campus Sexual Assault Victims' Bill of Rights Act of 1991, victims of campus-related sexual assaults shall be accorded the following rights by all Georgia State University campus officers, administrators and employees.

- A. The right to have any and all sexual assaults against them treated with seriousness, the right to be treated with dignity, and the right for campus organizations that assist such victims to be accorded recognition.
- B. The right to have sexual assaults committed against them investigated and adjudicated by the duly constituted criminal and civil authorities of the governmental entity in which the crimes occurred and the right to the full and prompt cooperation and assistance of campus personnel in notifying the proper authorities. The foregoing shall be in addition to any campus disciplinary proceedings.

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- C. The right to be free from any kind of pressure from campus personnel to: (1) not report crimes committed against them to civil/criminal authorities or to campus law enforcement/disciplinary officials; or (2) report crimes as lesser offenses than the victims perceive them to be.
- D. The right to be free from any kind of suggestion that campus sexual assault victims not report, or under-report, crimes because: (1) victims are somehow “responsible” for the commission of crimes against them; (2) victims are contributorily negligent or assumed the risk of being assaulted; or (3) by reporting crimes, the victim would incur unwanted personal publicity.
- E. The same right to legal assistance, or ability to have others present, in any campus disciplinary proceeding that the institution affords the referred; and the right to be notified of the outcome of such proceeding.
- F. The right to full and prompt cooperation from campus personnel in obtaining, securing, and maintaining such information (including a medical examination) as may be necessary to the proof of criminal sexual assault in subsequent legal proceedings.
- G. The right to be made aware of and assisted in exercising any options as provided by State and Federal laws or regulations with regard to mandatory testing of sexual assault suspects for communicable diseases and with regard to notification to victims of the results of such testing.
- H. The right to counseling from any mental health services previously established by the institution, or by other victim-service entities, or by victims themselves.
- I. After campus sexual assaults have been reported, the victims of such crimes shall have the right to require that campus personnel take the necessary steps or actions reasonably feasible to prevent any unnecessary or unwanted contact or proximity with alleged assailants, including immediate relocation of the victim to safe and secure alternative housing, and transfer of classes if requested by the victims.
- J. In addition to the above rights, students, whether sexual assault victims or not, have a right to habitability in campus accommodations for which the college receives any compensation, direct or indirect. Habitability shall mean an environment free from sexual or physical intimidation, or any other continuing disruptive behavior that is of such a serious nature as would prevent a reasonable person from attaining their educational goals. Substantiated violations of the above listed habitability provisions shall be corrected by campus personnel by relocations, if reasonably possible, of the complainant to an acceptable, safe and secure alternative location as soon as practicable, unless the conditions of nonhabitability demonstrate the necessity of immediate action by campus personnel.

These rights are established and are implemented in conjunction with the Georgia State University Harassment Policy and Procedures, which include informal procedures for counseling and mediation and formal complaint procedures.