

**Governors State University
Title IX and Anti-Sex
Discrimination, Harassment and
Retaliation Policy**

I. Purpose of Policy:

Governors State University (GSU) is committed to maintaining a community in which students, faculty, and staff can work and learn together in an atmosphere free of all forms of unlawful sex discrimination, harassment, and/or retaliation. Such misconduct violates the dignity of the individual and the integrity of GSU as an institution of higher learning, and thus, will not be tolerated. GSU does not discriminate against any employee, student, or applicant for employment or admission on the basis of sex in any education program or activity it operates, including admissions and employment, and it is required by Title IX of the Education Amendments of 1972 (“Title IX”) not to discriminate in such a manner. GSU is committed to taking all appropriate steps to eliminate sex-based discrimination, harassment, and/or retaliation, prevent its recurrence and address its effects.

II. Scope of Policy

This policy prohibits all forms of discrimination against students and employees based on their actual or perceived sex, gender, gender identity, gender expression, and/or sexual orientation, including all Prohibited Conduct as defined below in Section III of this policy. It applies to all members of GSU’s community, including students, faculty, staff, administrators, board members, consultants, vendors, visitors, and others engaged in business with GSU. It applies to conduct on or off campus property that substantially interferes with the mission of GSU including but not limited to, interference with the safety and well-being of self or others and/or interference with the academic pursuits or employment environment of its students, faculty, or staff. This policy does not replace federal and state mandated laws and regulations and where there is a conflict, the provisions of applicable law and regulations will govern.

III. Prohibited Conduct

No person shall, on the basis of sex, gender, gender identity, gender expression, and/or sexual orientation, be excluded from participation in, be denied of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, employment program or activity operated by GSU, or in recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure, compensation, or in any other terms, conditions, or privileges of employment and education. Other types of discrimination that are prohibited include, but are not limited to: sexual harassment, sexual assault, sexual violence, sexual battery, domestic violence, dating violence, stalking, aiding and facilitating any violation of this policy, and/or retaliation.

1) Sexual Harassment, defined as:

Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- a. Quid Pro Quo:
 - i. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, living environment, or participation in a GSU activity;
 - ii. Submission to or rejection of such conduct by an individual is used as the basis for or a factor in such decisions affecting employment, education, living environment, or participation in a University activity
- b. Hostile Environment:
 - i. Such conduct has the purpose or effect of substantially interfering with an individual's employment or educational performance or creating an intimidating, hostile, offensive environment for that individual's working, educational and/or living environment; or such conduct was so severe or pervasive that it altered the condition of employment or effectively denies a person equal access to the recipient's education program or activity.

2) Sexual assault, defined as:

- a) Sex Offenses, Forcible:
 - i) Any sexual act directed against another person,
 - ii) without the consent of the Complainant,
 - iii) including instances in which the Complainant is incapable of giving consent.
- b) Forcible Rape:
 - i) Penetration,
 - ii) no matter how slight,
 - iii) of the vagina or anus with any body part or object, or
 - iv) oral penetration by a sex organ of another person,
 - v) without the consent of the Complainant.
- c) Forcible Sodomy:
 - i) Oral or anal sexual intercourse with another person,
 - ii) forcibly,
 - iii) and/or against that person's will (non-consensually), or
 - iv) not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- d) Sexual Assault with an Object:
 - i) The use of an object or instrument to penetrate,
 - ii) however slightly,
 - iii) the genital or anal opening of the body of another person,
 - iv) forcibly,
 - v) and/or against that person's will (non-consensually),

- vi) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- e) Forcible Fondling:
 - i) The touching of the private body parts of another person (buttocks, groin, breasts),
 - ii) for the purpose of sexual gratification,
 - iii) forcibly,
 - iv) and/or against that person's will (non-consensually),
 - v) or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- f) Sex Offenses, Non-forcible:
 - i) Incest:
 - i) Non-forcible sexual intercourse,
 - ii) between persons who are related to each other,
 - iii) within the degrees wherein marriage is prohibited by Illinois.
 - ii) Statutory Rape:
 - i) Non-forcible sexual intercourse,
 - ii) with a person who is under the statutory age of consent of 17 years of age.

3) Dating Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - iii. Dating violence does not include acts covered under the definition of domestic violence.

4) Domestic Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant,
- d. by a person with whom the Complainant shares a child in common, or
- e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Illinois or

- g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Illinois.

5) Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at a specific person, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, or threatens a person, workplace, or school, engages in other conduct, or interferes with or damages a person's property or pet. A course of conduct may include contact via electronic communications.
- (ii) Reasonable person means a person in the Complainant's circumstances with the Complainant's knowledge of the respondent and the respondent's prior acts.
- (iii) Emotional distress means significant mental suffering, anxiety or alarm.

6) Sexual Exploitation, defined as:

- a. taking advantage of the sexuality of another person,
- b. without consent,
- c. or in a manner that extends the bounds of consensual sexual activity without the knowledge of the other individual for any purpose, including sexual gratification, financial gain, personal benefit, or any other non-legitimate purpose.

Examples of sexual exploitation include:

- i. non-consensual video or audio-taping of sexual activity;
- ii. going beyond the boundaries of consent (such as letting others hide in the closet to watch you having consensual sex)
- iii. engaging in voyeurism;
- iv. knowingly transmitting an STD or HIV to another person;
- v. exposing one's genitals in non-consensual circumstances; or
- vi. inducing another to expose their genitals.

7) Aiding or Facilitating, defined as:

- a. When an individual or group of individuals promote or encourage others to engage in Prohibited Conduct in violation of this policy.

8) Retaliation, defined as:

- a. It is prohibited for GSU or any member of GSU community from taking materially adverse action by intimidating, threatening, coercing, harassing, or discriminating

against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

- b. GSU or other persons may not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by law or policy or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing.
- c. Intimidation, threats, coercion, or discrimination, including charges against an individual for policy violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX constitutes retaliation.
- d. The exercise of rights protected under the First Amendment does not constitute retaliation.
- e. Charging an individual with a policy violation for making a materially false statement in bad faith in the course of a grievance proceeding under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

GSU reserves the right to impose any level of sanction or discipline, up to and including suspension, dismissal or termination, for any offense under this policy, including engaging in any Prohibited Conduct in Section III of this policy.

IV. CONSENT

As used under Prohibited Conduct in Section III, the following definition applies:

Consent is a freely and knowingly given agreement to the act of sexual conduct or sexual penetration in question. Consent is demonstrated through mutually understandable words and/or actions that clearly indicate a willingness to engage freely in sexual activity. Lack of verbal or physical resistance or submission resulting from the use of force or threat of force by the accused shall not constitute consent. A person's manner of dress does not constitute consent. A person's consent to past sexual activity does not constitute consent to future sexual activity. A person's consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another. A person can withdraw consent at any time, and a person cannot consent to sexual activity if that person is unable to understand the nature of the activity or give knowing consent due to circumstances, including without limitation the following: (a) the person is incapacitated due to the use or influence of alcohol or drugs; (b) the person is asleep or

unconscious; the person is under age; or the person is incapacitated due to a mental disability.

V. Title IX Coordinator

Sandra Marak
Title IX Coordinator
1 University Parkway
C-1360
University Park, IL 60484
Telephone: (708) 534-4100
Email: titleixofficer@govst.edu

The Title IX Coordinator has the primary responsibility for coordinating GSU’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy. The Title IX Coordinator acts with authority free from bias and conflicts of interest in overseeing all resolutions under this policy.

VI. Complaints of Discrimination, Harassment, and/or Retaliation and GSU’s Response

To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, GSU has developed internal procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of sex, gender, gender identity, gender expression, and/or sexual orientation, and for allegations of retaliation.

Any person may report any Prohibited Conduct as defined in Section III (whether or not the person reporting is the person alleged to be the victim of the Prohibited Conduct that could constitute a violation of this policy and/or Title IX) in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person’s verbal or written report. Such a report may be made at any time (including during non-business hours) by using the telephone number or electronic mail address, or by mail to the office address for the Title IX Coordinator listed above in Section V.

All GSU employees, unless specifically exempted, are required to report actual or suspected sex, gender, gender identity, gender expression, and/or sexual orientation discrimination, harassment, and/or retaliation to GSU’s Title IX Coordinator. For more information on mandated reporting and exemptions from such requirement, please refer to GSU’s Reporting and Grievance Procedures published on the Title IX website: <https://www.govst.edu/TitleIX/>.

In addition, inquiries about the application of Title IX and its regulations to GSU may be referred to GSU’s Title IX Coordinator or externally to the Department of Education Office of Civil Rights, or both. Contact information for external inquiries is as follows:

Office of Civil Rights
U.S. Department of Education

John C. Kluczynski Federal Building
230 S. Dearborn Street, 37th Floor
Chicago, IL 60604
Telephone: (312) 730-1560
Facsimile: (312) 730-1576
[Email: OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

VII. Grievance Procedures

GSU has adopted and published grievance procedures that provide for the prompt, equitable and impartial resolution of student and employee complaints alleging sex, gender, gender identity, gender expression, and/or sexual orientation discrimination, harassment and/or retaliation. GSU's Reporting and Grievance Procedures for this policy are incorporated into this policy and are published on the Title IX website: <https://www.govst.edu/TitleIX/>.

VIII. Supportive Measures

GSU will promptly offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sex, gender, gender identity, gender expression, and/or sexual orientation discrimination, harassment and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as determined by GSU to be appropriate and reasonably available, and without fee or charge to the parties to restore or preserve access to GSU's education program or activity, including measures designed to protect the safety of all parties or GSU's educational environment, and/or deter harassment, discrimination, and/or retaliation. Supportive measures may include counseling services available at GSU, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

GSU will maintain the privacy of the supportive measures, provided that privacy does not impair GSU's ability to provide the supportive measures. GSU will act to ensure as minimal an academic impact on the parties as possible. GSU will implement measures in a way that does not unreasonably burden the other party, and after considering the complainant's wishes with respect to supportive measures and explaining to the Complainant the process for filing a formal complaint.

For information about the Reporting and Grievance Procedures incorporated in this policy, please visit the Title IX Website (www.govst.edu/titleIX)

This interim policy and procedure will become effective immediately and will remain in effect until a final policy is approved through the Governors State University Institutional Policy

Committee. Should any court strike any portion of the 2020 Title IX Regulations (34 C.F.R. Part 106), or should an administration order them suspended or withdrawn, Governors State University reserves the right to withdraw these interim policies and procedures and immediately reinstate previous policies and/or procedures or revise them accordingly.

Rescinds: 2018 Interim Policy 78

Cross References: Reporting and Grievance Procedures for GSU's Title IX and Anti-Sex Discrimination, Harassment, and Retaliation Policy, Anti-Discrimination and Anti-Harassment Policy and Compliance Procedures (Policy 52), Student Code of Conduct (Policy 4) and the Student Handbook, and applicable collective bargaining agreements.

Legal References: 20 U.S.C. §1681 et seq.; 34 C.F.R. Part 106; 42 U.S.C. §2000e et seq.; 775 ILCS 5/2-101 et seq.; Chicago Municipal. Code § 2-160-020 (1990); 20 U.S.C. 1092(f)(6)(A)(v); 34 U.S.C. 12291(a) (10); 34 U.S.C. 12291(a)(8), 740 ILCS 21/10; FBI National Incident-Based Reporting System.

This Interim Policy and Procedure is Approved:

Date: August 13, 2020



Dr. Cheryl Green, President
August 13, 2020