



Governors State
U N I V E R S I T Y

**GSU'S TITLE IX AND ANTI-SEX DISCRIMINATION, HARASSMENT,
AND RETALIATION POLICY**

**REPORTING AND GRIEVANCE PROCEDURES FOR GSU'S TITLE
IX AND ANTI-SEX DISCRIMINATION, HARASSMENT, AND
RETALIATION POLICY**

Approved as Interim Policy & Procedures by Dr. Cheryl Green, GSU President
Effective date: August 14, 2020

TABLE OF CONTENTS

GSU'S TITLE IX AND ANTI-SEX DISCRIMINATION, HARASSMENT, AND RETALIATION POLICY	1
I. PURPOSE OF POLICY	1
II. SCOPE OF POLICY	1
III. PROHIBITED CONDUCT.....	1
A. Sexual Harassment.....	2
B. Sexual Assault	2
C. Dating Violence	4
D. Domestic Violence.....	4
E. Stalking.....	5
F. Sexual Exploitation.....	5
G. Aiding or Facilitating.....	6
H. Retaliation	6
IV. CONSENT	7
V. TITLE IX COORDINATOR	7
VI. COMPLAINTS OF DISCRIMINATION, HARASSMENT, AND/OR RETALIATION AND GSU'S RESPONSE.....	7
VII. GRIEVANCE PROCEDURES	8
VIII. SUPPORTIVE MEASURES.....	8
REPORTING AND GRIEVANCE PROCEDURES FOR GSU'S TITLE IX POLICY AGAINST SEX DISCRIMINATION, HARASSMENT AND RETALIATION	10
IX. REPORTING OPTIONS & REQUIREMENTS.....	10
A. Title IX Coordinator	10
B. Reporting Requirements for University Employees	11
C. Reporting to Law Enforcement/Criminal Complaint.....	12
D. Bystanders	13
E. Anonymous Reporting.....	13
F. Reporting Considerations.....	13
X. IMMEDIATE RESPONSE PROCEDURES TO COMPLAINTS INVOLVING PROHIBITED CONDUCT.....	15
XI. TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCEDURES.....	16
A. Overview	16
B. Definitions.....	16
C. Initial Assessment	19
D. Complainant's Request for No Formal Complaint.....	20
E. Right to an Advisor	21
F. Informal Resolution.....	22

XII.	INVESTIGATIONS.....	23
	A. Notice of Investigation and Allegations	23
	B. Investigation Timeline.....	24
	C. Delays in the Investigation Process and Interactions with Law Enforcement.....	24
	D. Investigation Process.....	24
XIII.	HEARINGS.....	26
	A. Notice of Hearing.....	26
	B. Hearing Procedures.....	27
XIV.	SANCTIONS	30
	A. Students	30
	B. Employees.....	31
XV.	APPEALS.....	31
XVI.	RECORDKEEPING	33
XVII.	WHERE TO GET HELP	34
	A. Emergency Assistance and Medical Care.....	34
	B. Confidential Campus Resources.....	35
	C. Off-Campus Confidential Resources	37
XVIII.	ADDITIONAL RESOURCES AND SUPPORT SERVICES	37
	A. Non-Confidential Resources On-Campus:	38
	B. Off-Campus Resources:	39
XIX.	EDUCATION AND PREVENTION.....	41
XX.	ATTRIBUTION.....	41

GSU's Title IX and Anti-Sex Discrimination, Harassment, and Retaliation Policy¹

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, applicant for employment, student, or applicant for 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

¹ Sections of the GSU'S Title IX and Anti-Sex Discrimination, Harassment, and Retaliation ("Interim Policy 78") have been included in this procedure manual for convenience. Interim Policy 78 can be located on the GSU policies website: <https://www.govst.edu/policies/>.

education. Other types of discrimination that are prohibited include, but are not limited to: sexual harassment, sexual violence, sexual battery, sexual assault, domestic violence, dating violence, stalking, aiding and facilitating any violation of this policy, and retaliation, as defined in Section III below for the purposes of this policy.

A. Sexual Harassment, defined as:

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

- 1) Quid Pro Quo:
 - a) 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;
 - b) 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
- 2) Hostile Environment:
 - a) 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.

B. Sexual Assault, defined as:

- 1) Sex Offenses, Forcible:
 - a) Any sexual act directed against another person,
 - b) without the consent of the Complainant,
 - c) including instances in which the Complainant is incapable of giving consent.
- 2) Forcible Rape:
 - a) Penetration,
 - b) no matter how slight,
 - c) of the vagina or anus with any body part or object, or
 - d) oral penetration by a sex organ of another person,
 - e) without the consent of the Complainant.

- 3) Forcible Sodomy:
 - a) Oral or anal sexual intercourse with another person,
 - b) forcibly,
 - c) and/or against that person's will (non-consensually), or
 - d) 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.

- 4) Sexual Assault with an Object:
 - a) The use of an object or instrument to penetrate,
 - b) however slightly,
 - c) the genital or anal opening of the body of another person,
 - d) forcibly,
 - e) and/or against that person's will (non-consensually),
 - f) 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.

- 5) Forcible Fondling:
 - a) The touching of the private body parts of another person (buttocks, groin, breasts),
 - b) for the purpose of sexual gratification,
 - c) forcibly,
 - d) and/or against that person's will (non-consensually),
 - e) 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.

- 6) Sex Offenses, Non-forcible:
 - a) 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.

- b) Statutory Rape:
 - i) Non-forcible sexual intercourse,
 - ii) with a person who is under the statutory age of consent of 17 years of age.

C. Dating Violence, defined as:

- 1) violence,
- 2) on the basis of sex,
- 3) committed by a person,
- 4) who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - a) 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.
 - b) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - c) Dating violence does not include acts covered under the definition of domestic violence.

D. Domestic Violence, defined as:

- 1) violence,
- 2) on the basis of sex,
- 3) committed by a current or former spouse or intimate partner of the Complainant,
- 4) by a person with whom the Complainant shares a child in common, or
- 5) by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
- 6) by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Illinois or
- 7) 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.

E. Stalking, defined as:

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

For the purposes of this definition—

- i) Course of conduct means two or more acts, including, but not limited to,
- ii) acts in which the Respondent² 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.
- iii) Reasonable person means a person means a person in the Complainant's circumstances with the Complainant's knowledge of the respondent and the respondent's prior acts.
- iv) Emotional distress means significant mental suffering, anxiety or alarm.

F. Sexual Exploitation, defined as:

- 1) taking advantage of the sexuality of another person,
- 2) without consent,
- 3) 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.

² For the purposes of this policy, *Respondent* means an individual who has been reported to be the perpetrator of any of the Prohibited Conduct that could constitute a policy violation.

Examples of sexual exploitation include:

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

G. Aiding or Facilitating, defined as:

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

H. Retaliation, defined as:

- 1) 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.
- 2) GSU or other person 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.
- 3) 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.
- 4) The exercise of rights protected under the First Amendment does not constitute retaliation.
- 5) 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 Procedures in Section IX below.

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

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. For more information on GSU's grievance procedures, please refer to Sections IX-XIII below.

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.

Reporting and Grievance Procedures for GSU's Title IX Policy Against Sex Discrimination, Harassment and Retaliation

IX. REPORTING OPTIONS & REQUIREMENTS

The University provides a variety of welcoming and accessible options so that all instances of, Prohibited Conduct, as defined in Interim Policy 78 published on the GSU policy website: <https://www.govst.edu/policies/> and referenced in Section III will be reported. The University has a strong interest in supporting victims and survivors and encourages all such individuals or third-party witnesses to report any incident to the University and, if it involves potential criminal conduct, to law enforcement. As more fully discussed in Section II below, upon receipt of a report, the University will provide the individual with a notification of their rights and options regarding filing a complaint, identifying campus officials who can provide assistance, and possible supportive measures.

A. Title IX Coordinator

Although a report may come in through many sources, the University is committed to ensuring that all reports involving allegations of sex discrimination and harassment are referred to the Title IX Coordinator, who will ensure consistent application of the Policy and Procedures to all individuals and allow the University to respond promptly and equitably to eliminate the harassment, prevent its recurrence, and address its effects.

All University community members are encouraged to report all incidents of discrimination, harassment or retaliation based on an individual's actual or perceived sex, gender, gender identity, gender expression, and/or sexual orientation directly to the Title IX Coordinator. 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 Interim Policy 78 and Section III above. Reports of certain crimes committed on campus will be reported to the GSU Police Department as required by the Clery Act.

GSU's Title IX Coordinator:

Sandra Marak
Title IX Coordinator
1 University Parkway, C1360
University Park, IL 60684
708.534.4100
titleixofficer@govst.edu

A complaint to the Title IX Coordinator may be made in person, by mail, by telephone, or by electronic mail, using the contact information listed above, or by any other means that results

in the Title IX Coordinator receiving the 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 addition, electronic Reports, to which a response will be provided within 12 hours of receipt during business hours (Monday – Friday, 8:30 a.m. – 5 p.m.) can be submitted online at <http://www.govst.edu/titleix>.

B. Reporting Requirements for University Employees

(i) Incidents Involving Prohibited Conduct

Any university employee who is required to report Prohibited Conduct, as defined in Policy 78 and referred to in Section III above, is referred to as a “Responsible Employee.” Please note that all University employees, unless specifically exempted, are deemed Responsible Employees and are required to immediately report any information about prohibited conduct to the University’s Title IX Coordinator. As a Responsible Employee, you must not withhold any information from the University’s Title IX Coordinator.

All university employees are considered Responsible Employees except:

1. Professional counselors and healthcare providers in the Health and Student Counseling Center who provide university related mental health counseling and health services
2. Campus confidential advisors designated to provide confidential support and assistance to victims (as noted above)

If at the time of the report, there is a serious and continuing threat to anyone, you should immediately contact the GSU Department of Public Safety or other law enforcement agency.

As a Responsible Employee, if you believe someone may disclose information about Prohibited Conduct, you should inform them of your obligation to report the information and share information about confidential resources. Before and while discussing details of any incident of sexual misconduct with the individual, you should:

1. **Affirm** you are there to help, but you must report the incident, including names, if known, to your university’s Title IX Coordinator. This does not necessarily mean a Formal Complaint, as defined below in Section III(B)(4), or an investigation will be initiated.
2. **Assist** in reaching confidential advocacy, counseling and other support services, resources for medical attention and/or to file a police report with the university or local law enforcement, if desired. See Section XVII below: Where to Get Help for resources.

3. **Inform** a complaint can be filed directly with the university's Title IX Coordinator. Confidentiality will be protected to the extent possible.
4. **Be supportive** and listen. **Remind** the individual you will be reporting the incident to the University Title IX Coordinator and they will be contacted about the incident. The Title IX Coordinator will provide additional assistance, resources and accommodations, as necessary and appropriate.
5. **Promptly report** to the Title IX Coordinator the names of the alleged perpetrator and complainant, witnesses, relevant facts and any safety concerns

(ii) Incidents Involving Minors

All University employees, students, volunteers, and third-party contractors are obligated to report suspected child abuse and neglect to the Illinois Department of Children & Family Services (DCFS). The DCFS 24-hour Child Abuse Hotline is: 800-25-ABUSE (800-252-2873 or TTY 1-800-358-5117). This includes all incidents of sexual misconduct involving minors, which should be reported to the Title IX Coordinator as well. If you believe a child is in immediate danger of harm, call 911 first.

C. Reporting to Law Enforcement/Criminal Complaint

An individual who has experienced Prohibited Conduct has the right to choose whether to file a police report. If you are not sure whether an instance of misconduct is a crime, contact the police for guidance. Timely reporting to the police is an important factor in successful investigation and prosecution of crimes and may lead to the arrest of an offender or aid in the investigation of other incidents.

Contacting law enforcement is the best option to ensure preservation of evidence, which may only exist for a limited period of time, and begin a timely investigative and remedial response. The University will assist a Complainant, at the Complainant's request, in contacting local law enforcement and will cooperate with law enforcement agencies if a Complainant decides to pursue the criminal process.

The University's Policy, definitions, and burden of proof differ from Illinois criminal law. A Complainant may seek resolution through the University's complaint process, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's determination on whether to prosecute a Respondent nor the outcome of any criminal prosecution are determinative of whether a violation has occurred of Policy 78.

GSU Department of Public Safety

Emergency Telephone Number: 911 (if calling from campus phone) or 708.534.4900 (if calling direct)

Campus Location: C1375 1 University Parkway, University Park, IL 60484

University Park Police Department
698 Burnham Drive
University Park, IL 60484
Phone: 708.534.0913

D. Bystanders

A bystander is a person who is present at an incident of prohibited conduct but is not directly involved. All reporting options in these Procedures are available to bystanders. The University encourages bystanders to take reasonable and prudent steps to prevent or stop incidents of sexual misconduct. Taking action may include direct intervention when safe to do so, enlisting the help of friends, contacting the GSU Department of Public Safety or other local law enforcement, or seeking assistance from a person in authority. Community members who choose to exercise this positive, moral obligation will be supported by the University and protected from retaliation.

E. Anonymous Reporting

Any individual may make an anonymous report concerning an act of, Prohibited Conduct. A report can be made without disclosing one's own name, identifying the Respondent, or requesting any action. Depending on the level of information available about the incident or the individuals involved, anonymous reporting may impact the University's ability to respond or take further action. To speak to someone confidentially without filing a report, see Section XVII (B) below.

As with all other reports, all anonymous reports will go to the Title IX Coordinator for review and appropriate response and action. Where there is sufficient information, the University will ensure that anonymous reports are reviewed and included for compliance with the Clery Act, as well as, responded to in accordance with Title IX and Illinois law.

Anonymous reports may be submitted electronically at www.govst.edu/titleix.

F. Reporting Considerations

1. Timeliness of Report, Location of Incident

Complainants and third-party witnesses are encouraged to report, Prohibited Conduct, as defined in Interim Policy 78 and referred to in Section III above, as soon as possible in order to maximize the University's ability to respond promptly and effectively. However, there is no time limit on reporting violations of Interim Policy 78. If the Respondent is no longer a student or employee, the University may not be able to take action against the Respondent, but will still provide support for the Complainant and take steps to end the harassment, prevent its recurrence, and address its effects. In addition, whether the Complainant is participating in an education program or activity at the

time of the complaint may impact what process GSU utilizes to respond and resolve the complaint.

An incident does not have to occur on campus to be reported to the University. Off-campus conduct that substantially interferes with the mission of the University 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 is covered by the Interim Policy 78. However, whether the conduct occurred on campus may impact what process GSU utilizes to respond and resolve the complaint.

2. Amnesty for Personal Use of Alcohol or Other Drugs by Students

The University seeks to remove any barriers to reporting. The University will generally offer any student, whether the Complainant or a third party, who reports Prohibited Conduct, limited immunity from being charged for policy violations related to the personal use of alcohol or other drugs, provided that any such violations did not and do not place the health and safety of another person at risk. The University may choose, however, to pursue educational or therapeutic remedies for those individuals.

3. Confidentiality

The University will make reasonable and appropriate efforts to preserve a Complainant's and Respondent's privacy and to protect the confidentiality of information. Should a Complainant request confidentiality, the Title IX Coordinator will inform the Complainant that the University's ability to respond may therefore be limited – but that where feasible, the University will take reasonable steps to prevent sex discrimination and harassment and limit its effects. The Title IX Coordinator will further inform the Complainant that it is not possible to provide confidentiality in all cases and that the University's decision to share information with others is subject to Title IX requirements.

In summary, although the University's goal is to limit the number of individuals who may learn about an allegation of sexual misconduct or an investigation, the University cannot guarantee confidentiality in all matters. The only completely confidential resources on-campus are the Confidential Advisor and Health and Student Counseling Services listed below in Section XVII.

4. False Reporting

The University takes the validity of information very seriously as a charge of, sex discrimination and harassment may have severe consequences for the Respondent.

A Complainant who makes a report that is later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action, up to and including termination, and may also violate state criminal statutes and/or civil defamation laws. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation.

Similarly, a Respondent or witness who is later proven to have intentionally given false information during the course of an investigation or hearing may be subject to disciplinary action, up to and including termination.

X. IMMEDIATE RESPONSE PROCEDURES TO COMPLAINTS INVOLVING PROHIBITED CONDUCT

The University will respond to all reports of sex discrimination and harassment in a timely, effective, consistent, and impartial manner. Factors GSU will consider in determining which response procedure(s) to follow are outlined in Section XI below. However, some immediate response procedures include, but are not limited to, the following:

1. All Responsible Employees who are aware of prohibited conduct are required to report the information to the Title IX Coordinator unless the employee is otherwise designated as a confidential resource.
2. If applicable, the Title IX Coordinator will assist the Complainant in getting to a safe place. In doing so, the Title IX Coordinator will coordinate with the GSU Police as needed.
3. If applicable, the Title IX Coordinator will encourage the Complainant to seek prompt medical attention for treatment of injuries and preservation of evidence, discuss the reasons why prompt medical treatment is important, and arrange for transportation to the hospital if the Complainant agrees to such medical treatment.
4. If applicable, the Title IX Coordinator will inform the GSU Police of the report, if the report was not initially received by the Police Department.
5. If applicable, the Complainant will have the option to file a criminal report with the GSU Police Department or appropriate jurisdiction. Declining to speak with the GSU Police Department, or other appropriate jurisdiction, at the time of the

initial report does not preclude the Complainant from filing a criminal report at a later date.

Where appropriate, the support role of the Title IX Coordinator as described above may be performed by the Deputy Title IX Coordinator or other appropriate designee.

XI. TITLE IX SEXUAL HARASSMENT GRIEVANCE PROCEDURES

A. Overview

Upon receipt of a complaint to the Title IX Coordinator of an alleged violation of Interim Policy 78 [link], a prompt Initial Assessment outlined in Paragraph C below, will be conducted to determine whether GSU's Title IX Sexual Harassment Grievance Procedures under this Section XI shall apply. The Title IX Sexual Harassment Grievance Procedures **only** apply to qualifying allegations of Sexual Harassment as defined in Paragraph B(7) below and determined by the Initial Assessment in Paragraph C below. All other allegations of discrimination, harassment, and/or retaliation based on an individual's actual or perceived sex, gender, gender identity, gender expression, and/or sexual orientation will be addressed through procedures located on the Title IX website: <https://www.govst.edu/TitleIX/>.

B. Definitions

1. **Advisor** means an individual of the parties' choice to be present with them for all meetings and interviews if they so choose. An Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process.
2. **Complainant** means an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment as defined by Title IX and below in Paragraph B(7).
3. **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.

Guidance for Consent:

- One is expected to obtain consent to each act of sexual activity prior to initiating such activity. Consent to one form of sexual activity does not constitute consent to engage in other forms of sexual activity.
- Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Consent may not be inferred from silence, passivity, lack of resistance, or lack of an active response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.
- When consent is requested verbally, absence of any explicit verbal response constitutes lack of consent. A verbal “no” constitutes lack of consent, even if it sounds insincere or indecisive.
- If at any time during the sexual activity, any confusion or ambiguity arises as to the willingness of the other individual to proceed, both parties should stop and clarify verbally the other’s willingness to continue before continuing such activity.
- Either party may withdraw consent at any time. Once withdrawal of consent has been expressed, sexual activity must cease
- Individuals with a previous or current sexual relationship do not automatically give either initial or continued consent to sexual activity. Even in the context of a relationship, there must be mutually understandable communication that clearly indicates a willingness to engage in sexual activity.
- Consent to engage in sexual activity with one person does not constitute consent to engage in sexual activity with another.
- Consent is not valid if it results from the use or threat of physical force, intimidation, or coercion, or any other factor that would eliminate an individual’s ability to exercise his or her own free will to choose whether or not to have sexual contact.
- A person's manner of dress does not constitute consent.

- An individual who is incapacitated from alcohol or other drug consumption (voluntarily or involuntarily) or is asleep, unconscious, unaware, incapacitated due to a mental disability, or otherwise physically helpless is unable to give consent. A person is considered incapacitated, or unable to give consent, if they are unable to understand the nature of the activity or give knowing consent due to the circumstances at the time in question.
- Where alcohol is involved, incapacitation is a state beyond drunkenness or intoxication. Some indicators of incapacitation may include, but are not limited to, lack of control over physical movements, being unaware of circumstances or surroundings, slurred speech, vomiting, or being unable to communicate for any reason.
- In the State of Illinois, persons under the age of 17 cannot legally consent to sexual activity.

4. **Formal Complaint** means a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment, as defined by Title IX and below in Paragraph B(7), against a Respondent, as defined by Title IX and below in Paragraph B(6), and requesting that the recipient investigate the allegation of Sexual Harassment. At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the recipient with which the Formal Complaint is filed. A Formal Complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information for the Title IX Coordinator, and by any additional method designated by the recipient. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the recipient) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. When the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party.

5. **“Education Program or Activity”** for the purposes of these Title IX Sexual Harassment Grievance Procedures in Section XI, includes locations, events, or circumstances over which GSU exercises substantial control over both the Respondent, and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by GSU.

6. **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment as defined by Title IX and below in Paragraph B(7).
7. **Sexual Harassment** under Title IX means conduct on the basis of sex that satisfies one or more of the following:
 - (a) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
 - (b) 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 recipient's education program or activity; or
 - (c) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30), and Interim Policy 78, Section III(E) referenced above.

C. Initial Assessment

1. The Title IX Sexual Harassment Grievance Procedures cover all allegations of Sexual Harassment in an "Education Program or Activity" as defined above in Section III(B). If the conduct does not fall within the definitions of Sexual Harassment and the phrase "Education Program or Activity" as defined above in Paragraph (B)(5), then the Title IX Sexual Harassment Grievance Procedures in this Section III do not apply and the complaint will be responded to in accordance to the procedures located on the Title IX website: <https://www.govst.edu/TitleIX/>.
2. In addition, if the alleged conduct did not occur in the United States or on campus, then the Title IX Sexual Harassment Grievance Procedures in this Section III do not apply.
3. Lastly, if a potential Complainant was not participating or attempting to participate in an "Education Program or Activity" as defined above in Paragraph B (5), at the time of the alleged Sexual Harassment, then the Title IX Sexual Harassment Grievance Procedures in this Section III do not apply.
4. If it is determined that alleged Sexual Harassment in an "Education Program or Activity," as defined above in Paragraph B (5) occurred on campus in the United States against an individual currently

participating or attempting to participate in an education program or activity, then the Title IX Coordinator or designee will assist the Complainant in filing a Formal Complaint, as defined above in Paragraph B(4), if desired.

5. If Complainant does not wish to make a Formal Complaint, as defined above in Paragraph B(4), the Title IX Coordinator will determine whether to initiate a Formal Complaint.
6. If a Formal Complaint, as defined above in Paragraph B (4), is received, the Title IX Coordinator will work with the Complainant to ensure they are aware of the right to have an Advisor and to decide whether to proceed with informal resolution or a formal grievance process.
7. Regardless of whether a Formal Complaint is filed, GSU will offer support measures according to Section VIII of Interim Policy 78 referenced above.

D. Complainant's Request for No Formal Complaint

If a Complainant does not wish to proceed with a Formal Complaint, the Title IX Coordinator will determine, based on the available information, whether a Formal Complaint and the Title IX Sexual Harassment Grievance Procedures should nonetheless go forward. In making this determination, the University will consider, among other factors, whether the Complainant has requested confidentiality; whether the Complainant wants to participate in an investigation; the severity and impact of the sexual misconduct; the respective ages of the parties; whether the Complainant is a minor under the age of 17; whether the Respondent has admitted to the sexual misconduct; whether the Respondent has a pattern of committing sexual misconduct; the existence of independent evidence; and the extent of prior remedial methods taken with the Respondent. Where the University is unable to act consistent with the request of the Complainant, the Title IX Coordinator will communicate with the Complainant about the University's chosen course of action.

Following this assessment, the University may: 1) institute measures that are consistent with the Complainant's stated preference while balancing the University's responsibility to protect the University community; 2) initiate an investigation by filing a Formal Complaint pursuant to Title IX; or 3) investigate the allegations pursuant to the procedures published on the Title IX website: <https://www.govst.edu/TitleIX/>.

The determination as to how to proceed will be communicated to the Complainant in writing by the Title IX Coordinator. A Respondent will be notified when the University seeks action that would impact a Respondent, such as protective supportive measures that impact the Respondent directly or the initiation of an investigation.

E. Right to an Advisor

If a Formal Complaint is filed by either the Title IX Coordinator or Complainant, the parties may each have an Advisor, as defined above in Paragraph B(1) of their choice present with them for all meetings and interviews throughout the Title IX Sexual Harassment Grievance Procedures, if they so choose.

1. Who Can Serve as an Advisor?

The Advisor may be a friend, mentor, family member, an attorney, or any other individual a party chooses. Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

2. Advisors in Hearings/GSU-Appointed Advisor

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, GSU will appoint a trained Advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct cross-examination, GSU will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself.

GSU cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, GSU is not obligated to provide an attorney.

3. Advisor Violations of GSU Policy

All Advisors are subject to the same GSU policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the Title IX Sexual Harassment Grievance Procedures. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by these procedures will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

4. Sharing Information with the Advisor

GSU expects that the parties may wish to have GSU share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish.

GSU also provides a consent form that authorizes GSU to share such information directly with their Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before GSU is able to share records with an Advisor.

5. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by GSU. GSU may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the GSU's privacy expectations.

6. Assistance in Securing an Advisor

For representation, Respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>).

Complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>),
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victim's Bar Association.]
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>]

F. Informal Resolution

If Complainant files a Formal Complaint, as defined above in Section III(B)(4), informal resolution may be an option.

It is not necessary to pursue Informal Resolution first in order to pursue the remainder of the Title IX Sexual Harassment Grievance Procedures, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Title IX Sexual Harassment Grievance Procedures.

Prior to implementing Informal Resolution, GSU will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by GSU.

GSU will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding.

The ultimate determination of whether Informal Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution are not appealable.

XII. INVESTIGATIONS

A. Notice of Investigation and Allegations

If Informal Resolution is not pursued, written notice of the investigation and allegation will be sent to the Respondent after the Formal Complaint is filed. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The written notice is also copied to the Complainant, who is to be given advance notice of when the written notice will be delivered to the Respondent.

The written notice to Respondent will include:

- a. A copy of the Title IX Sexual Harassment Grievance Procedures and Interim Policy 78;
- b. the allegations of Sexual Harassment as defined above in Section III(B)(7);
- c. the identities of the parties involved in the incident;
- d. the date and location of the alleged incident;
- e. a statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- f. a statement that the Parties may have an Advisor of their choice, who may be, but is not required to be, an attorney; and

- g. a statement that prior to the conclusion of the investigation, the parties may inspect, and review evidence gathered in order to respond.

Amendments and updates to the written notice may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

The written notice may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official GSU records, or emailed to the parties' GSU-used email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

B. Investigation Timeline

Investigations are completed expeditiously, normally within forty-five (45) calendar days, though some investigations may take a shorter amount of time or longer depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

GSU will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate with the parties to update them on the progress and timing of the investigation should there be any delay.

C. Delays in the Investigation Process and Interactions with Law Enforcement

GSU may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include but are not limited to a request from law enforcement to temporarily delay the investigation,³ the need for language assistance, the absence of parties and/or witnesses, and/or accommodations for disabilities or health conditions.

GSU will communicate in writing the anticipated duration of the delay and reason to the parties and provide the parties with status updates if necessary.

D. Investigation Process

1. General Principals of the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. The burden of

³ GSU will not suspend its investigation indefinitely to have law enforcement complete their investigation first.

gathering evidence sufficient to reach a determination regarding responsibility rests on GSU and not the parties.

All parties have an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. There will be no restrictions on the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence.

An investigator will provide written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

Both parties will have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a Formal Complaint, including the evidence upon which GSU does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

2. Steps in the Investigation Process

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant.
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties.
- Meet with the Complainant to finalize their interview/statement, if necessary.
- Prepare the initial notice of investigation and allegations to Respondent.
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose.
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary.
- Complete the investigation promptly and without unreasonable deviation from the intended timeline.
- Prior to the completion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard

copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which GSU does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence.

- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included. The Investigator(s) will make no conclusions, engage in no policy analysis, and render no recommendations as part of their report.
- Share the final investigation report with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing.

XIII. HEARINGS

Once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing and select an appropriate Decision-maker prior to imposing any sanctions or discipline against the Respondent.⁴ The Decision-maker cannot be the same person as the Title IX Coordinator or the Investigator.

A. Notice of Hearing

No less than ten (10) business days prior to the hearing, a notice of the hearing will be sent to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.

⁴ Emergency Removal: Nothing in these procedures precludes GSU from removing a Respondent on an emergency basis, provided that GSU undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal, and provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.

- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-maker(s).
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator if they do not have an Advisor, and GSU will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-maker(s) about the matter, unless they have been provided already.⁵
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least five (5) business days prior to the hearing.

B. Hearing Procedures

At the hearing, the Decision-maker(s) has the authority to hear and make determinations on all allegations of Sexual Harassment, as defined in Section III(B)(7) above, and may also hear and make determinations on any additional alleged policy violations that have occurred in concert with the discrimination, harassment, and/or retaliation.

1. Investigator Presents the Final Investigation Report

- The Investigator(s) will present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-maker(s) and the parties (through their Advisors).

⁵ The final investigation report may be shared using electronic means that preclude downloading, forwarding, or otherwise sharing.

- Neither the parties nor the Decision-maker(s) should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and the Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Decision-maker will direct that it be disregarded.

2. Testimony and Questioning

- Once the Investigator(s) present their report and are questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant. The parties/witnesses will submit to questioning by the Decision-maker(s) and then by the parties through their Advisors (“cross-examination”).
- All questions are subject to a relevance determination by the Decision-maker. The Advisor, who will remain seated during questioning, will pose the proposed question orally, pause to allow the Decision-maker to consider it, and determine whether the question will be permitted, disallowed, or rephrased.
- The Decision-maker may explore arguments regarding relevance with the Advisors. The Decision-maker will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Decision-maker will explain any decision to exclude a question as not relevant, or to reframe it for relevance.
- The Decision-maker will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive.

3. Refusal to Submit to Cross-Examination and Inferences

- If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-maker(s) may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-maker(s) must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

- The Decision-maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.
- If charges of policy violations other than Sexual Harassment as defined in Section III(B)(7) are considered at the same hearing, the Decision-maker(s) may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

4. Recording Hearings

- Hearings are recorded by GSU for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

5. Responsibility Determination

- After the hearing is complete, the Decision-maker will issue a written determination regarding whether there are policy violations. To reach this determination, **the preponderance of evidence burden of proof must be applied.**
- The written determination will include:
 - (a) Identification of the allegations potentially constituting Title IX Sexual Harassment;
 - (b) A description of the procedural steps taken from the receipt of the Formal Complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
 - (c) Findings of fact supporting the determination;
 - (d) Conclusions regarding the application of GSU's policies to the facts; and
 - (e) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility and, if responsible, any disciplinary sanctions imposed on the Respondent, and whether

remedies designed to restore or preserve equal access to GSU's education program or activity will be provided by GSU to the complainant. Any decision on discipline and sanctions will be made in coordination with any necessary GSU Human Resources representative.

XIV. SANCTIONS

A. Students

In cases where the Respondent is a student and where the Decision-maker finds that by a preponderance of the evidence GSU Policy was violated, the Decision-maker will notify the Dean of Students that a violation has occurred and confer on the appropriate sanction through the student conduct process as described in the [Student Handbook](#). If the student is a graduate assistant or student worker, the appropriate supervisor and the Dean of Students will receive notification. Possible sanctions include, but are not limited to:

- Apology to the victim
- Written warning
- Prohibiting students from holding office or participating in activities such as sports events for a specified time
- Transferring the student to another class or job
- Disbanding or suspending a social organization or another student group involved in behavior
- Transferring students to different housing or prohibiting them from living in institutional housing facilities
- Requiring attendance at substance abuse training, if substance abuse was involved
- Requiring relevant community service
- Requiring perpetrators to attend workshops or complete an educational assignment on a relevant topic
- Loss of student worker position or graduate assistantship
- Probation, suspension, or dismissal from the university

B. Employees

In cases where the Respondent is an employee and where the Decision-maker finds that by a preponderance of the evidence GSU Policy was violated, the Decision-maker will confer with Human Resources for appropriate discipline. In all cases, the Respondent's supervisor will be forwarded the findings. Possible discipline includes, but are not limited to:

- Advice and counseling
- Required attendance at training
- Verbal warning
- Written warning
- Required attendance at substance abuse training, if substance abuse was involved
- Suspension,, termination
- Loss of access to certain University facilities (e.g., fitness center)

XV. APPEALS

Any party may file a request for appeal (“Request for Appeal”), but it must be submitted in writing to the Title IX Coordinator within seven (7) days of the delivery of the written determination by the Decision-maker as outlined in Section V(B)(5). An Appeal Decision-maker will be appointed by the Title IX Coordinator and will not be the same as the Decision-maker overseeing the hearing or the Investigator.

1. Grounds for Appeal

Appeals are limited to the following grounds:

- (a) Procedural irregularity that affected the outcome of the matter;
- (b) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- (c) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

- (d) The sanction(s) imposed are substantially disproportionate to the severity of the violation(s) for which the respondent was found responsible.

If the Request for Appeal does not meet the above grounds, the appeal will be dismissed, and the parties and their Advisors will be notified in writing of the denial and the rationale.

If the Request for Appeal meet the any of the above grounds, then the other parties will be notified and given five (5) business days to respond.

The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and render a decision in no more than five (5) business days thereafter, barring exigent circumstances.

A written outcome of the appeal will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. Notification will be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional records, or emailed to the parties' GSU-issued email or otherwise approved account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

2. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed during the appeal process.

3. Appeal Considerations

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for Appeal Decision-makers to substitute their judgment for that of the original Decision-maker(s) merely because they disagree with the finding.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-maker(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.

- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision is changed on remand (except in the case of a new hearing).
- In cases in which the appeal results in reinstatement to GSU or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

GSU hopes to complete the Title IX Sexual Harassment Grievance process, including any appeal, within 90-120 days. Depending on the circumstances, this timeframe may be shorter or longer. All parties will be notified of any delays.

XVI. RECORDKEEPING

GSU will maintain for a period of at least seven years records of:

1. Each Sexual Harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to GSU's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. GSU will make these training materials publicly available on GSU website; and
7. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of Sexual Harassment, including:
 - (a) The basis for all conclusions that the response was not deliberately indifferent;
 - (b) Any measures designed to restore or preserve equal access to GSU's education program or activity; and
 - (c) If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

XVII. WHERE TO GET HELP

The University is committed to treating all members of the community with dignity, care, and respect. Any individual affected by, sex discrimination and/or harassment, whether as a Complainant, a Respondent, or a third party, will have equal access to support consistent with their needs and available University resources.

The University recognizes that choosing whether to make a report or how to proceed can be a difficult decision. The University encourages any individual who has questions or concerns to seek the support of campus and community resources. Individuals are encouraged to use all available resources, regardless of when or where the incident occurred.

A. Emergency Assistance and Medical Care

The University encourages all individuals to seek assistance from a medical provider and/or law enforcement as soon as possible following an incident that poses a threat to their safety or physical well-being. This is the best option to provide physical safety, emotional support, and medical care to the Complainant. It is also the best option to ensure preservation of evidence, which may only exist for a limited period, and to begin a timely investigative and remedial response. The University will escort any University member to a safe place, provide transportation to the hospital, assist in coordination with outside law enforcement agencies if applicable, assist in coordination with a victim's advocate, and provide information about the University's resources and complaint process.

Reporting to Law Enforcement

Assistance is available from the University and local law enforcement 24 hours/day, year-round, by calling the GSU Department of Public Safety or the local jurisdiction if off-campus. While on campus, any individual can request that a member of the Police Department respond and take a report. Every effort is made to protect the Complainant's identity.

Medical Care, Preservation of Physical Evidence and Forensic Exams

An individual can also contact a local medical provider (24 hours/day) such as St. James Hospital. The local medical providers can provide emergency and/or follow-up medical services and provide an opportunity to discuss any health care concerns related to the incident in a confidential medical setting. Advocate South Suburban Hospital has Sexual Assault Nurse Examiners on staff and is equipped to conduct forensic sexual assault examinations (i.e. "rape kit") free of charge. Evidence of a sexual assault may be gathered during these exams; therefore, it is recommended to avoid showering until the exam is conducted to preserve evidence. Additional guidance on preserving physical evidence can be found via RAINN (Rape, Abuse & Incest National Network): <https://rainn.org/get-information/sexual-assault-recovery/rape-kit>.

GSU Department of Public Safety

Emergency Number: 911 (if calling from campus phone)

Phone: 708.534.4900 (if calling from a cell phone)

Campus Location: C1375

St. James Hospital and Health Center

20201 Crawford Ave.

Olympia Fields, IL 60461

Phone: 708.747.4000

Advocate South Suburban Hospital

17800 South Kedzie Ave.

Hazel Crest, IL 60429

Phone: 708.799.8000

B. Confidential Campus Resources

The only University resources that afford complete confidentiality (assuming no other conditions require mandatory reporting, *i.e.*, known or suspected child abuse or neglect) are:

1. **Confidential Advisor** provides emergency and ongoing support to student survivors of sexual violence and relationship violence. The advisor will provide confidential services and have privileged and confidential communications with survivors. The advisor will inform the survivor of possible next steps regarding reporting options and possible outcomes, will notify the survivor of resources and services on-campus and in the community, will inform the survivor of their rights and the University's responsibilities to enforce orders of protection and no contact orders; and if requested by the survivor, the advocate will liaise with campus officials to secure interim protective measures and accommodations, and will liaise with campus officials, law enforcement and community resources to assist the survivor with making contact and/or reporting an assault. The GSU Confidential Advisor is:

YWCA Rape Crisis Counselor

320 West 202nd St.,

Chicago Heights, Illinois 60411

Phone 708.754.0486

2. **Student Counseling Center** provides individual counseling, support and resources to students who have experienced sex discrimination, including sexual harassment, sexual assault, or relationship violence. Students in need of information, emotional support, and/or counseling for issues of sex discrimination, including sexual harassment, sexual assault, or relationship violence may seek confidential help at the Counseling Center. Speaking with a licensed counselor may be helpful

in deciding how to proceed. Because of the privileged nature of these conversations, the Counseling Center will not share information about a patient/client (including whether that individual has received services) with the Title IX Coordinator or any other employee of the University without that person's express written permission. The Counseling Center may submit however, non-identifying information about the incident for purposes of making a statistical report under the Clery Act.

Location: GSU Campus, Room A1120

Hours: Monday – Thursday, 9 a.m. – 7 p.m. and Friday 9 a.m. – 5 p.m.
(Hours may differ in summer and during break periods)

Phone: 708.235.7334

Email: studentcounseling@govst.edu

Website: <http://www.govst.edu/counselingcenter/>

Additional community-based counseling and advocacy resources can be found below.

3. **Advocate Health Services on Campus** can provide *students and eligible employees* with non-emergent or follow-up medical services, including testing for pregnancy and/or STIs (sexually transmitted infections), and provide an opportunity to discuss any health care concerns related to the incident in a confidential medical setting. Advocate Health Service is committed to protecting the privacy and confidentiality of all patient/client health information. All patient interactions with Advocate Health Service are considered strictly confidential.

Location: Campus, Room A1120

Hours: Mondays - Thursdays, 12 p.m. - 6 p.m. and Fridays 9 a. m. - 1 p.m.
(Hours may differ in summer and during break periods)

Phone: 708.235.2114

Website: <http://www.govst.edu/advocate-health-center/>

4. Employees have access to the **Employee Assistance Program (EAP)**, which is a free and confidential resource. More information is available on the Central Management Services [Employee Assistance Program](#) website.

C. Off-Campus Confidential Resources

1. YWCA South Suburban Center/Rape Crisis Hotline

The YWCA provides assistance to victims of sexual assault, educates about the effects of violence in the community, and promotes general health and wellness through Sexual Violence Support Services.

320 West 202nd St.,
Chicago Heights, Illinois 60411
Phone 708.754.0486

The YWCA Rape Crisis Hotlines operates 24 hours a day, 7 days a week to provide survivors of sexual assault/abuse and their significant others immediate support, crisis intervention and referrals for the city of Chicago and surrounding suburbs.

- Call 888-293-2080 in Chicago Metropolitan Area
- Call 630-971-3927 in DuPage County
- Call 708-748-5672 in the South Suburbs Anderson Hospital
- <https://ywcachicago.org/our-work/sexual-violence-support-services/rape-crisis-hotline/>

2. National Sexual Assault Hotline (24 hours a day, 7 days a week)

The hotline operates 24 hours a day, 7 days a week to provide survivors of sexual assault/violence with immediate support, crisis intervention, and referrals for support services.

- Call 800.656.HOPE (4613)
- Online chat is also available via <https://rainn.org/>

XVIII. ADDITIONAL RESOURCES AND SUPPORT SERVICES

Whether or not a Complainant chooses to make an official report of prohibited conduct, they are urged to seek appropriate help. There are numerous resources available. Specific resources, either on-or off- campus, for medical treatment, evidence collection, obtaining information, support and counseling, and officially reporting a prohibited conduct. Each resource can assist a person to access the full range of services available. Discussing allegations of Prohibited Conduct with a Confidential Resource will not result in a report to the Title IX Coordinator.

A. Non-Confidential Resources On-Campus:

Title IX Coordinator:

Sandra Marak
Title IX Coordinator
1 University Parkway, C1360
University Park, IL 60684 708.534.4100
titleixofficer@govst.edu

GSU Department of Public Safety:

Police Services
1 University Parkway, C1375
University Park, IL 60684
708.534.4900

Office of the Dean of Students:

Corey Williams
Deputy Title IX Coordinator of Students
Associate VP for Student Affairs & Dean of Students
1 University Parkway, C1314
University Park, IL 60684
708.235.6810
Cwilliams43@govst.edu

University Housing Professional Staff:

**Auxiliary Services & University
Housing**

1 University Parkway, C1330
University Park, IL 60484

Phone: 708.235.7110
Email: housing@govst.edu

Prairie Place Residence Hall

1 Prairie Place, 107
University Park, IL 60484

Phone: 708.235.7115
Email: housing@govst.edu

Office of Human Resources (when an employee is involved):

Sandra Marak
Title IX Coordinator
1 University Parkway, C1360
University Park, IL 60684
708.534.4100
titleixofficer@govst.edu

University Ethics Officer:

W. Paul Bylaska

Vice President for Administration and Finance

1 University Parkway, G359

University Park, IL 60684

708.235.7421

wbylaska@govst.edu

B. Off-Campus Resources:

Sexual Assault

- Call for Help Sexual Assault Victims Care Unit: 618-397-0975; <http://callforhelpinc.org/what-we-do/sexual-assault-victims-care-unit.html>
- St. James Hospital:
- Illinois Coalition Against Sexual Assault: 217-753-4117 or www.icasa.org
- National Sexual Assault Hotline: 800-656-HOPE(4673); <https://www.rainn.org/about-national-sexual-assault-telephone-hotline>

Relationship Violence

- National Domestic Violence Help Line: 877-TO END DV (877-863-6338); http://www.cityofchicago.org/dam/city/depts/fss/supp_info/DV/MODVsafteycardEnglish.pdf
- AARDVARC – An Abuse, Rape and Domestic Violence Aid and Resource Collection at www.aardvarc.org
- The Illinois Coalition Against Domestic Violence: 217-789- 2830; http://www.ilcadv.org/about_icadv/contact.asp
- Madison County State’s Attorney Domestic Violence Special Prosecution Unit: 618-692- 6290; http://www.co.madison.il.us/departments/state_s_attorney/domestic_abuse.php
- Illinois Department of Children and Family Services: 800-25-ABUSE (800-252- 2873); <https://www.illinois.gov/dcfs/Pages/default.aspx>

Other

- Illinois Department of Central Management Services Employee Assistance Program; 866-659-3848; <https://www2.illinois.gov/cms/Employees/benefits/Pages/EmployeeAssistanceProgram.aspx>
- Will County State's Attorney: <http://www.willcountysao.com/>
- Cook County State's Attorney: <https://www.cookcountystatesattorney.org/>
- Land of Lincoln Legal Assistance Foundation: 618-394-7300 or 877-342-7891; <http://lollaf.org/>
- Illinois Attorney General's Office: 1-800-228-3368; www.ag.state.il.us/victims/
- Illinois Crime Victims Bill of Rights 725 ILCS 120-1: <http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1970&ChapterID=54>
- Illinois Crime Victims Compensation Program: 800-228-3368; <http://www.ag.state.il.us/victims/cvc.html>

Additional Resources

- Center on Halsted (serving LGBTQA community): 773-472-6469 <http://www.centeronhalsted.org/resource-directory/>
- Chicago Bar Association (legal services): 312-554-2000 [http://www.chicagobar.org/AM/Template.cfm?Section=Need a Lawyer](http://www.chicagobar.org/AM/Template.cfm?Section=Need_a_Lawyer)
- Chicago Rape Crisis Hotline (24 hours, referrals, information, and counseling): 888-293-2080 <https://ywcachicago.org/our-work/sexual-violence-support-services/rape-crisis-hotline/>
- Chicago Women's Health Center (gynecological care and counseling): 773-935-6126 <http://www.chicagowomenshealthcenter.org/>
- Illinois Coalition Against Sexual Assault/Rape Victims Advocates (counseling, education and advocacy): 773-275-8340 <http://icasa.org>
- Illinois Legal Aid Online: (legal information) <https://www.illinoislegalaid.org/>

- LGBT Antiviolence Project (24 hours, referrals, information, and counseling): 773-871-2273 Division on Domestic Violence in the Chicago Department of Family and Support Services: (24 hours, referrals, information): 877-863-6338
http://www.cityofchicago.org/city/en/depts/fss/provdrs/dom_violence.html
- National Suicide Prevention Lifeline: 1-800-273-TALK (8255), en Española 1-888-628-9454 <http://www.suicidepreventionlifeline.org/>
- Rape Victim Advocates (counseling): 312-443-9603
<http://www.rapevictimadvocates.org/>

XIX. EDUCATION AND PREVENTION

In accordance with the University’s philosophy and mission, as well as Federal and State guidelines, programming and training about the Policy and the expectations of our community regarding prohibited conduct, reporting options and procedures related to incidents of, prohibited conduct and prevention are required for all students, faculty, and staff.

XX. ATTRIBUTION

Sex discrimination, including sexual harassment, sexual assault, or relationship violence, stalking, and other violence are governed by State and Federal laws and statutes. Legal references include: 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; 110 ILCS 155; FBI National Incident-Based Reporting System.

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.

This Interim Policy and Procedure is Approved:

Date: August 13, 2020



Dr. Cheryl Green, President
August 13, 2020