Governors State University
Title IX and Sexual Misconduct 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 discrimination and harassment, including sexual and gender based misconduct. Such misconduct violates the dignity of the individual and the integrity of the University as an institution of higher learning, and thus, will not be tolerated at GSU. The University is committed to taking all appropriate steps to eliminate sexual misconduct, prevent its recurrence and address its effects. The University encourages all members of our community to participate in the process of creating a safe, welcoming and respectful environment on campus. Individuals who are found responsible, under this Policy, will face disciplinary sanctions up to and including expulsion and/or termination of employment.

II. Scope of Policy
This Policy prohibits all of forms sexual misconduct. It applies to all members of the University community, including students, faculty, staff, administrators, board members, consultants, vendors, visitors, and others engaged in business with the University. It applies to conduct on or off campus property 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.

III. Prohibited Conduct
The University prohibits all forms of sexual misconduct: sexual harassment, sexual violence, domestic violence, intimate partner violence, and stalking: defined below and hereafter referred to as “prohibited conduct.”

Sexual Misconduct is a broad term that describes unwelcome or unwanted sex or gender based conduct and/or behavior of a sexual nature that is prohibited by the University and may also be prohibited by federal and state law. Sexual misconduct includes but is not limited to sexual assault, sexual violence, sexual exploitation, stalking, intimate partner violence or domestic violence and sexual harassment. It is a violation of this policy to commit these acts or to attempt to commit them.

Sexual Harassment is a form of sex discrimination when the conduct is based on an individual’s actual or perceived sex, gender, sexual orientation, gender identity, or gender expression. It includes any unwelcome advances, requests for sexual favors, or any verbal or physical conduct of a sexual nature when:
• 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 University activity;
• 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; or
• Such conduct has the purpose or effect of unreasonably interfering with an individual's employment or educational performance or creating an intimidating, hostile, offensive, or abusive environment for that individual’s employment, education, living environment, or participation in a University activity.

**Sexual Assault** is any type of sexual contact or sexual intercourse with another that occurs without that person’s knowing and voluntary consent.

• **Non-Consensual Sexual Contact (i.e. fondling)** includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.
• **Non-Consensual Sexual Intercourse (i.e. rape)** includes vaginal or anal penetration, however slight, with a body part (e.g., penis, tongue, finger, hand, etc.) or object, or oral penetration involving mouth to genital contact

**Sexual Exploitation** is taking advantage of the sexuality of another person without consent 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:

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

**Stalking** is when any person purposely and repeatedly (two or more times) engages in an unwanted course of conduct that would cause a reasonable person to fear for his, her, or others’ safety, or to suffer substantial emotional distress. Course of conduct includes, but is not limited to, acts in which a person directly, indirectly, or through third parties, by any action, device, method, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferences with another person’s property. Stalking can be either physical stalking or cyber stalking. Stalking may present a safety concern or be an indicator of a potential safety concern.
Intimate Partner Violence

- **Dating Violence** refers to a type of intimate partner violence by a person who has been in a romantic or intimate relationship with the Complainant. Whether a relationship exists will depend on the length, type, and frequency of interaction.

- **Domestic Violence** refers to a type of intimate partner violence committed by a current or former spouse or relationship partner, current or former cohabitant, a person with whom a Complainant shares a child in common, a person similarly situated to a spouse under domestic or family violence law, or anyone else protected under domestic or family violence law.

Intimate Partner Violence involves one or more of the following elements:

- Bodily injury (Purposely or knowingly causing reasonable apprehension of bodily injury; Emotional abuse creating apprehension of bodily injury or property damage; or Repeated telephonic, electronic, or other forms of communication – anonymously or directly – made with the intent to intimidate, terrify, harass, or threaten.

**Aiding or Facilitating** refers to when any individual or group of individual’s aids, facilitates, promotes, or encourages another to commit a violation under this Policy.

**Retaliation** refers to any acts, threats, or attempts to discourage a person from reporting prohibited conduct or participating in the investigation or hearing process. Retaliation also refers to any acts, threats, or attempts to seek retribution against a Complainant, Reporting Party, Respondent, or any individual or group of individuals involved in the investigation and/or resolution of an allegation of sexual misconduct. Retaliation can be committed by any individual or group of individuals, not just a Reporting Party or Accused Party.

IV. Consent and Related Definitions

**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. While consent can be given by words or actions, non-verbal consent is more ambiguous than explicitly stating one’s wants and limitations. Silence cannot be assumed to indicate consent. 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.

**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. Relying on non-verbal communication can lead to misunderstandings. 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. Withdrawal of consent should be outwardly demonstrated by words or actions that clearly indicate a desire to end sexual activity. 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. A person violates this Policy if they have sexual contact with someone without their consent.

**Respondent**: Refers to an individual involved in the complaint resolution process who has been accused of violating the Title IX/Sexual Misconduct Policy

**Complainant**: Refers to an individual who alleges and/or files a complaint alleging violation of the Title IX/Sexual Misconduct policy through the university’s Title IX process.

For information about the Compliance and Complaint Procedures associated with this policy, please visit the Title IX Website (www.govst.edu/titleIX)
Additionally, policies from other institutions were reviewed including: Southern Illinois University Carbondale, Southern Illinois University Edwardsville, University of Illinois System, Northeastern Illinois University, Moraine Valley Community College, & Northwestern University
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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:  
Dr. Elaine P. Maimon, President