

Georgia Tech
Student Government
Association
2019

Sexual
Violence
Misconduct
Manual



Letter From the Committee

Hello there!

We are JSVAC, SGA's Joint Sexual Violence Advisory Committee at Georgia Tech. The intent of this manual ties into our very vision as a team: to create a campus where ALL students, faculty, and staff are protected and supported on all matters related to sexual and relationship violence.

Sexual and relationship violence are prevalent issues in our community, and we have found that there are still many unanswered questions, specifically from survivors. If you are a survivor of any sort of violence, we want you to know that you are not alone. We have created this document specifically to serve your needs. If you have questions about how and where to find support and resources, or if you just do not know which actions to take, we have outlined basic processes that we hope will help you navigate through difficult times. In addition, if you need to talk to someone, there are several on- and off-campus resources that offer services that you may find helpful, many of which are compiled here. This document also outlines various routes you can take should you wish to have the incident investigated. We also suggest multiple ways you can protect yourself should you wish not to pursue an investigation.

Additionally, if you are simply seeking information about sexual violence issues, we are confident you will find fulfillment in reading this as well. Public policy language can be complicated at times, so the language in this manual has been simplified to promote understanding of the rules that govern our processes here at Georgia Tech.

Yours in White and Gold,

SGA's Joint Sexual Violence
Advisory Committee (JSVAC)



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What is Considered Sexual Misconduct?

Students have the right to pursue education, extracurricular involvements, professional opportunities and social lives without experiencing unwanted sexual behavior.

If a student believes they have experienced sexual misconduct, the definitions below may help identify the specific type of misconduct they have experienced. *Definitions are derived from the Georgia Board of Regents Policy Manual[1].*

Useful Definitions

– Intimate Partner Violence

(includes dating violence and domestic violence)

Sexual, physical or emotional abuse (often times a pattern of abuse), or the threat of such abuse, committed by a person who is in a romantic or intimate relationship with the alleged victim.

– **Sexual Exploitation:** Taking sexual advantage of another for one’s own advantage or benefit, or for the benefit or advantage of anyone other than the one being exploited. Examples of sexual exploitation may include, but are not limited to, invasion of sexual privacy; prostituting another individual; non-consensual distribution of photo, video, or audio of sexual activity even if the sexual activity was consensual; intentional observation of non-consenting individuals who are partially undressed, naked, or engaged in sexual acts; knowingly transmitting an STD or HIV to another individual; intentionally and inappropriately exposing one’s breasts, buttocks, groin, or genitals in non-consensual circumstances; and/or sexually-based bullying.

– **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature in the workplace or learning environment.

– **Stalking:** A pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear.

– **Nonconsensual Sexual Contact:** Any physical contact with another person of a sexual nature without the person’s consent. Consent is defined as words or actions that show a knowing and voluntary willingness to engage in mutually agreed-upon sexual activity. When acquiring consent, remember the following:

- Consent cannot be gained by force, intimidation, coercion, or by taking advantage of the incapacitation of another
- Past consent does not imply present or future consent
- Silence or an absence of resistance does not imply consent
- Consent can be withdrawn at any time by either party by using clear words or actions.

Examples of nonconsensual sexual contact include but are not limited to touching (or penetrating) of a person’s intimate parts (such as genitalia, groin, breasts, or buttocks), touching (or penetrating) a person with one’s own intimate parts, or forcing a person

– **Incapacitation:** Physical and/or mental inability to make informed, rational judgements arising from any of the following: mental disability, sleep, involuntary physical restraint, status as a minor under the age of 16, or intentional/unintentional consumption of alcohol and/or drugs.

What You Need to Know

Survivors of sexual violence should first consider visiting VOICE, Georgia Tech's Sexual Violence Prevention & Victim Survivor Support, run through Health Initiatives.

VOICE is located on the second floor of the Stamps Health Services building and provides resources and support for survivors, particularly through VOICE advocates. Two VOICE advocates, Jennifer Gagen and Amanda Planchard, can be contacted via their information at the end of this document. It is up to a survivor to decide what information they would like to disclose during any discussions, and VOICE can then advise them on what options they have.

There are other resources available should survivors wish to not pursue any of the options mentioned in the Sexual Misconduct Investigation process on page 14: sexual misconduct investigation, GTPD investigation or confidential report.



Housing & Relocation:

- If survivors do not feel safe in their residence due to victimization, VOICE will work with the Department of Housing to find temporary housing for them based on availability.
- If they have a housing contract and do not feel safe, the Department of Housing can also help find a different location on campus for them to reside.
- If they are faced with financial hardship as a result of victimization, VOICE can help them explore various programs to cover any out-of-pocket expenses.
- If they feel unsafe with where their perpetrator lives due to proximity to them and would like for the perpetrator to relocate instead of relocating themselves, they should contact the Title IX Coordinator.

Coursework:

- If the respondent is in the same class as they are, VOICE can work with the Registrar's Office and the Office of Student Life to switch them to a different section. However, this must be done through a Title IX investigation process (see page 14).
- If they are having difficulties in class due to victimization, VOICE can work with the Office of Student Life to assist them in requesting to reschedule an assignment deadline, excuse an absence, make up an exam, etc. VOICE can also ensure that the survivor's privacy is maintained throughout this process, so that the professor is not aware that the rescheduling was due to victimization
- If they need to withdraw from a class and it is past the withdrawal deadline, both VOICE and the Division of Student Life can assist them in submitting a petition to the Registrar's Office to allow them withdraw from the class

Along with these options, there are many other resources on campus to help survivors through this. At the end of this manual, there are additional resources and contact information that may be useful to survivors during these processes.
Sources: Jennifer Gagen at VOICE



Sexual Misconduct Campus Investigation Policy

The following laws and policies are important to know because they affect your rights as far as sexual misconduct goes. If you would like more information on these laws, please contact Title IX coordinator, Marcia Stedecker listed at the end of this manual.

Current Important Laws

Debbie Smith Act: intends to reduce backlog of DNA evidence surrounding sexual violence by providing resources to test DNA samples and add samples to national database

Clery Act: requires that colleges and universities be transparent about all crimes (including sexual violence crimes) that go on in within their community

Victims of Crime Act (VOCA): provides funding for the Crime Victims Compensation Program which pays many out-of-pocket expenses incurred by victims as a result of crime, such as medical bills

Georgia Laws

The Georgia Crime Victims Compensation Fund: law states "A victim shall have the right to have a free forensic medical examination regardless of whether the victim participates in the criminal justice system or cooperates with law enforcement in pursuing prosecution of the underlying crime."

-The University System of Georgia (USG) policy: USG administrators will be notified anytime a complaint that could lead to suspension or expulsion of a student is filed. Policy requires the Title IX office to report directly to the USG. At Georgia Tech, the Title IX office typically hires an outside investigator not employed by the Institute. The victim can file a complaint anonymously and is not required to file a criminal report to be seen by the Title IX office. Someone who intentionally submits false complaints, accusations, or statements could be subject to suspension or expulsion.

Federal Policy

Federal policy concerning sexual violence on college campus is currently complicated due to the change in administration. Secretary of Education, Betsy DeVos is preparing a new policy. The information in this section is expected to change. This manual will be updated once the new policy is finalized. Until then, the interim policy is described here. Current federal policy requires schools to be impartial in sexual misconduct investigations. The policy states that the unfair treatment to either the survivor or respondent could constitute sex discrimination. Schools must approach investigations under the presumption that the accused is not responsible.

What are schools required to investigate

Schools are required to only investigate formal complaints and respond to reports that school officials have knowledge of. A formal complaint is a complaint made to an official who has the authority to implement corrective measures. This means that a complaint issued to a PL or RA will not be considered a formal complaint. Schools are only required to investigate episodes that occurred on campus or during a school program and not any off-campus episodes. Hence, they will be found in violation of the law only if the response is clearly unreasonable given the information they were given or knew.

Evidentiary Standard and Adjudication

The current administration gives schools the choice on whether they want to follow the preponderance-of-evidence standard or the clear-and-convincing evidence standard. The preponderance-of-evidence standard means that the 51% of the evidence has to point to the accused of committing the act. The clear-and-convincing evidence standard requires that the evidence be highly and substantially more likely to be true than untrue. The fact finder must also be convinced that the evidence is highly probable.

The current interim policy makes greater use of mediation between both parties to reach informal resolutions, something that has already been implemented for the past year. Therefore, the survivor and respondent are allowed to cross-examine each other during hearings and both parties are allowed to have access to any evidence obtained during the investigation, even if the evidence will not be used. The current policy allows schools to offer appeals only to the respondent if the school chooses to do so. This means that the school can allow no appeals, appeals by both parties, or only appeals from the perpetrator; the old policy did not have the last category mentioned.

Supportive Measures for Victims

If schools decide to provide supportive measures to victims who choose not to file a written complaint, then the school will not be penalized. Policy encourages schools to provide non-disciplinary individualized services to keep students in school, like counseling, changes in class schedule, restrictions on contact between parties, etc. More information on these services can be found in the "What you need to know" section.

What options do you have?

Survivors have three options should you choose to follow an investigative process after an assault. The steps you need to take per option are detailed in Fig.1.

- a. To seek a criminal investigation (police report)
- b. To file a confidential report
- c. To pursue a sexual misconduct investigation

Sexual Misconduct

If you choose to follow the Sexual Misconduct Reporting and speak with any non-confidential resource on campus, they will forward your information to the Title IX Coordinator for follow up by the institute but will defer based on your wants.

You can meet with the Title IX Coordinator as well. You will be given information about your rights and options under the Sexual Misconduct Policy. You can have an advisor (non-GT employee) and up to 2 family members present at any time.

If no informal resolution: A formal Title IX investigation will proceed and a Title IX Investigator will interview you, the respondent, and any witnesses.

An informal resolution can occur. i.e. the case would be resolved based on an agreement between both parties .

Charges will be issued and a formal hearing will be scheduled. The case will be heard by a panel of 3 trained faculty and staff. You will be in a separate room from the respondent.

The panel will determine if the respondent is responsible for the charge(s) and issue sanctions if the respondent is found responsible.

You and the respondent both have the right to appeal the finding. You will be kept informed of the appeals process.

Police Report

If you report to GTPD you have 2 options

File Information-only Report (no criminal investigation)

File Investigative Police Report

Trained investigator or police officer will interview you and gather any evidence. You will be given information about your rights and options. You can have a survivor advocate present with you at any time.

Criminal investigation begins with the investigator interviewing suspect, witnesses and gathering any other evidence.

Investigation report will be shared with the Title IX Coordinator. This may lead to an institute investigation.

Criminal case will be forwarded to the local prosecutor. He will decide whether to file criminal charges and arrest suspect

Note: GTPD may choose to use any information they obtain directly from you in a police report.

Confidential Report

If you choose to speak with a confidential resource, they are not obligated to file a formal report w/o your consent. These include VOICE Advocate, GT Counselling Center, Stamps Health, Women's Resource Center, LGBTQIA Resource Center.

You will be given the option to meet in person with a confidential VOICE advocate to discuss your rights and reporting options in detail.

If you choose to file formal report (Police Report or Sexual Misconduct/Title IX Report, or both), an advocate can still support you through each step in the process

Whether or not you choose to report, an advocate can assist you with any other needs: safety planning, housing and academic concerns, and refer you to off-campus resources as needed

Although any of the confidential resources may provide statistical information to GTPD concerning your incident (to comply with federal laws), VOICE will not release your name or other identifying info to GTPD.

3. Under Title IX, every school must have and make known procedures for students to file complaints of sexual discrimination. Under this rule, students are entitled and can demand their rights to the following:

a. **Every alleged victim has the right to present their own case.** This includes the right to an equal investigation of completion (the careful search with the intention to discover facts for both parties), an equal opportunity to present witnesses, and the right to appeal processes.

b. **Every alleged victim has the the right to be notified of the time frame of the investigation.** This includes *where* and *when* a.) a school will conduct a full investigation of the complaint made b.) both parties will be notified of the outcome of the complaint and c.) the parties may file an appeal. With an appeal, whatever your appeal procedure is, both parties have an equal right to that. USG's policy has a specific appeal policy: in that process, both parties can appeal and can go through every stage of that process vs federally, schools can choose to not allow an appeal.

c. Every alleged victim has the right for the complaint to be decided using an "it is more likely that the act of sexual harassment occurred than not" standard.

d. Every complainant has the right to be notified of the outcome of the complaint.

i. Schools must inform the victim about any sanction taken on the perpetrator if it relates directly to the harassed students; this includes a restraining orders against the harassed students and any variations of so.

ii. Applies to only *post-secondary institutions (colleges and higher)*: through the Clery Act, both, parties (harasser and harassed) must be informed of the outcome, including any sanction being taken, of any institutional proceeding alleging a sex offense. Therefore, colleges may not require a victim to abide by a Non-Disclosure Agreement.

What does this mean?

All of the included procedures and responsibilities must be adhered to by the federal government level. This means that if a student feels as though one of these policies is not being properly adhered to by their institution, they may address the complaint University System of Georgia, the investigator, or the school's Title IX coordinator. For example, if during an investigation or hearing, an investigator or hearing panel does not allow a victim's witness to be heard the victim may contact Georgia Tech's Title IX Coordinator, the University System of Georgia, or reach out to the Department of Education Office for Civil Rights to file a complaint.

This is an example of how someone could follow up if they felt as though they did not have proper access to their rights under Title IX.

How to access your rights

To learn more about these rights, students can contact the Georgia Tech Title IX Coordinator OR the US Department of Education, Office for Civil Rights at (800) 421-3841 // ocr@ed.gov.

If a student believes their school did not adhere to their rights, they can also consult with an attorney or any national legal advocacy groups e.g. Know Your IX, the Victim's Rights Law Center, and Atlanta Women for Equality (see end of document for contact info).

Other Definitions

- Allegation

A claim or assertion that someone has done something wrong or illegal that occurs before an investigation

- Due Process

A principle that states fairness in all legal proceedings Presuming the accused is innocent until proven guilty

- The Clery Act

Disclosure of information related to crime on and near campus. This information is disclosed through email usually, and urgent threats are dis-

- Complainant

The person lodging a complaint of a violation of the sexual misconduct policy. This person is usually the victim of sexual violence.

- Respondent (Perpetrator)

Someone who is alleged to have engaged in conduct that violates the sexual misconduct policy

- Sanction

Imposing a penalty or punishment on someone who is found responsible for a policy violation

- Title IX

A federal law that protects people from being discriminated against based on their gender at educational institutions or activities funded by the federal government

Title IX is also involved in acts that affect educational opportunities such as sexual violence

A link to Title IX at Georgia Tech can be found by searching "Georgia Tech Title IX" or following this link <http://titleix.gatech.edu/>

- USG and Board of Regents

USG stands for the University System of Georgia

The USG is comprised of 26 higher education institutions, including Georgia Tech, and it creates policy affecting these schools

The Board of Regents is part of the USG

The Board of Regents governs higher public education in Georgia The Board is comprised of members appointed by the governor

Helpful Resources

For Survivors:

On Campus Resources

– VOICE Advocates

(404) 385-4464 // (404) 385-4451
After hours, call GT Police (404-894-2500) and ask to speak to an on-call VOICE advocate
www.healthinitiatives.gatech.edu/voice

– VOICE Peer Educator Program

Coordinator - Deontez Wimbley
deontez.wimbley@health.gatech.edu

– Dean of Students

<http://studentlife.gatech.edu/users/john-stein>

– Women’s Resource Center

<http://www.womenscenter.gatech.edu>
melanie.demaeyer@studentlife.gatech.edu

– Stamps Health Services

(404) 894-1420 // <http://health.gatech.edu>
Women’s Health // (404) 894-2585

– GT Counseling Center

(404) 894-2575 <http://counseling.gatech.edu>

– Title IX Coordinator

Marcia Bull Stadeker // 404-385-5583
marcia.stadeker@gatech.edu

– LGBTQIA Resource Center

<http://lgbtqia.gatech.edu>

– People Against Unwanted Sexual

Experiences (PAUSE) - student organization focused on preventing sexual violence and raising awareness about this issue
pause.GT@gmail.com

Community Resources

– National Domestic Violence Hotline

<https://www.thehotline.org>

– Partnership Against Domestic Violence

<http://padv.org>

– Atlanta Women for Equality

Offers free legal advocacy and can serve as advisor during investigation process
<http://www.atlantawomenforequality.org>
(404) 624-6822

– RAINN

Anti-sexual violence organization providing free and confidential 24/7 hotline <https://www.rainn.org>

– Know your IX

<https://www.knowyourix.org>

– People Against Unwanted Sexual

Experiences (PAUSE) - student organization focused on preventing sexual violence and raising awareness about this issue
pause.GT@gmail.com

For Respondents:

– Men Stopping Violence

(404) 270-9894
<http://menstoppingviolence.org/programs/>
**There are currently no similar resources for female perpetrators of sexual assault.

The Title IX Office

Marcia Bull Stadeker // 404-385-5583
marcia.stadeker@gatech.edu
<http://titleix.gatech.edu/resources-respondents-accused>

References

University System of Georgia (USG) Board of Regents Sexual Misconduct Policy

<https://www.usg.edu/policymanual/section6/C2655>

Georgia Tech Sexual Misconduct Policy

<http://policylibrary.gatech.edu/student-life/student-sexual-misconduct>

RAINN: Sex Crimes- Definitions and Penalties:

<https://apps.rainn.org/policy/policy-crime-definitions.cfm?state=Georgia&group=3>

AJC.com

<https://www.ajc.com/news/victims-see-flaws-campus-sex-assault-investigations/yN46JjHQcLw2NFutXW-GqvJ/>

Title IX Changes to Sexual Misconduct Investigations

<https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>

<https://www.einvestigator.com/stalker>

<https://soar.org.ng/2018/09/28/victim-to-survivor-support-program/>

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