

**GEORGIAN COURT UNIVERSITY  
SEXUAL & GENDER BASED MISCONDUCT POLICY**

**I. POLICY STATEMENT**

Georgian Court University is a diverse, safe, and nondiscriminatory academic community built on the Mercy Core Values of Respect, Integrity, Justice, Compassion, and Service. All members of the Georgian Court University community (students, faculty, administrators, and staff) are expected to conduct themselves in such a manner that they do not infringe upon the rights of others. Sex/gender harassment, discrimination and misconduct, including sexual violence, sexual gender-based misconduct, domestic violence, dating violence, and stalking are serious violations of these core values and will not be tolerated. Georgian Court University regards these actions to be violations of the standards of the Student Code of Conduct and the Sexual and Gender Based Misconduct Policy as well as violations of state and federal laws.

The University fully complies with all civil and/or criminal laws prohibiting harassment, discrimination, and sexual misconduct. Sexual misconduct is a violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. The University is required to comply with Title IX of the Higher Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities; the Violence Against Women Reauthorization Act of 2013 (VAWA), which requires prompt, fair and impartial investigation and resolution of allegations of sexual assault, stalking, dating violence and domestic violence; and Title VII of the Civil Rights Act of 1964 (as amended in 1991).

**II. SCOPE**

- A. This policy covers all Georgian Court University faculty, administrators, staff, students and third parties who conduct business with the University.
- B. The term "student" includes all persons for whom the University maintains educational records, as defined by the Family Educational Rights and Privacy Act of 1974 and related regulations; who have not yet been awarded his or her degree from the University, and includes undergraduate, graduate, professional, and non-matriculated students at the University. Additionally, this policy applies to participants in any University-related program or activity.
- C. Throughout this policy, "Complainant" refers to the person making the allegation(s) of prohibited conduct and "Respondent" refers to the person alleged to have committed the prohibited conduct. When the Complainant is someone other than the victim of the alleged conduct, the victim also will be deemed the Complainant for purposes of the rights and options available under this policy.
  - Faculty, staff, administrators and students are entitled to appropriate support from the University and to be treated with respect, dignity, and sensitivity in connection with all incidents of conduct prohibited by this policy. In all cases, the University shall ensure that the rights and protections set forth in this policy are received to the extent applicable.

**III. JURISDICTION**

This policy covers both on-campus and off-campus conduct, as described below:

- A. On-Campus Violations:** The campus includes the geographic confines of the University, including its land, institutional roads and buildings, its leased premises, the property, facilities and leased premises of organizations affiliated with the University, including University housing.
- B. Off-Campus Violations:** Off campus violations that affect a clear and distinct interest of the University are subject to disciplinary sanctions. As examples, sexual and gender based misconduct are within the University's interests when the behavior:
- Involves conduct directed at or by a University student or other member of the University community (e.g., private house party, outside employment);
  - Occurs during University-sponsored events (e.g., field trips, social or educational functions, University-related travel, student recruitment activities, internships and service learning experiences);
  - Occurs during the events of organizations affiliated with the University, including the events of student organizations;
  - Occurs during a Study Abroad Program or other international travel;
  - Poses a disruption or threat to any members of the University community; or
  - Creates a hostile environment for any members of the University community.

#### IV. COMPLIANCE

The University's Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination and misconduct. The Title IX Coordinator reports directly to the Vice President of Finance and Administration and is housed in the Office of Human Resources.

A Title IX committee has been created to ensure that the University's learning environment is free from all forms of sexual misconduct. It is the obligation of this committee to be familiar with this policy and, where appropriate and possible, to participate in continuous trainings to guarantee that they are able to fulfill these responsibilities.

##### A. On Campus Resources

###### **Title IX Coordinator**

Tracey Owens  
 Director, Human Resources  
 851 Lakewood Avenue  
 towens@georgian.edu; Tel: 732.987.2287

###### **Deputy Title IX Coordinators**

Kathleen Boody  
 Dean of Student Success  
 Casino Bldg. Room  
 kboody@georgian.edu; Tel: 732.987.2490

Amani S. Jennings  
 Dean of Students  
 102 Jefferies Hall  
 ajennings@georgian.edu; Tel: 732.987.2601

Mary Williams  
 Associate Athletics Director/SWA  
 mwilliams@georgian.edu; Tel: 732.987.2472

GCU encourages all members of the University community to be aware of not only the consequences of sexual misconduct as governed by the provisions of the Sexual and Gender Based Misconduct Policy, but also the options available to Complainants. Complainants are urged to seek assistance using any of the additional resources provided below. All incidents will be taken seriously regardless of gender identity or expression, immigration status, disability or sexual orientation.

## **B. Additional On Campus Resources**

The Counseling Center (confidential)

Tel: 732-987-2680

Casino Building, 2<sup>nd</sup> Floor

The Center provides both immediate crisis intervention and therapy to recent or past survivors of sexual violence. Students are seen either individually or in a group with others who have experienced similar trauma. Therapists can be accessed by appointment, walk-in, or after-hours emergency.

Health Services

Tel: 732-987-2756

Casino Building, 2<sup>nd</sup> Floor

The Center provides information and makes referrals to off-campus clinics, specialists, testing facilities, and pharmacies.

Security Department

Tel: 732.987.2311

Available 24 hours a day, 7 days a week

Open 24 hours, this is the office where individuals who have been violated can file a formal complaint. Appropriate Department of Public Safety staff can discuss available options and assist Complainant(s) to decide on a course of action. (For resident students, course of action can include a change in academic and/or living situations; for faculty, course of action can include change in office).

Providence House (confidential)

Tel: 732.987.2479

Casino Hall Room 204

This Center provides advocacy, support services, information, and referrals to individuals who have, or who think they may have experienced sexual assault, sexual misconduct, stalking, and dating or domestic violence.

## **C. Off Campus Resources**

Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and do not have to share information with the university unless the complainant requests the disclosure and signs a consent or waiver form. Off-campus resources include:

**St. Francis Counseling Center (Southern Ocean County)**

Phone Number: 609.494.1554 or Rape Crisis Hotline 609.494.1090

**Providence House Domestic Violence Services (Ocean & Burlington County)**

Ocean County: Phone Number: 732.244.8259 or Domestic Violence hotline  
1.800.246.8910

Burlington County: Phone Number: 609.871.7551 or Domestic Violence hotline:  
1.877.871.7551

**180/Turning Lives Around (Monmouth County)**

Phone Number: 732.264. 4111 or Sexual Assault Hotline 1.888.264.7273 or  
732.264.7273; Domestic Violence hotline 1.888.843.9262

**Preferred Behavioral Health (Ocean & Monmouth Counties)**

Phone Number: 732.367.4700

**New Jersey Coalition Against Sexual Assault (NJCASA)**

Hotline 1.800.601.7200 24 hours a day/7 days a week

*Emergency Response*

**Lakewood Police Department** is located at 231 Third Street, Municipal Building, Lakewood, NJ 08701; Phone: 732.363.0200, ext. 5712; can be reached by dialing 911 in an emergency.

**Monmouth Medical Center (Southern Campus)** is located at 600 River Avenue, Lakewood, New Jersey 08701 and can provide urgent medical services. (Physicians are a confidential resource).

**Ocean Medical Center** is located at 425 Jack Martin Boulevard, Brick, New Jersey 08724

**D. Inquiries may be made externally to:**

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Facsimile: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: [Http://www.ed.gov.ocr](http://www.ed.gov.ocr)

U.S. Department of Civil Rights Division  
950 Pennsylvania Avenue, N.W.  
Educational Opportunities Section, PHB  
Washington, D.C. 20530  
Telephone: (202) 514-4092 or 1-877-292-3804 (toll-free)  
Facsimile: (202) 514-8337  
Email: [education@usdoj.gov](mailto:education@usdoj.gov)

---

**Section I: SEXUAL AND GENDER-BASED MISCONDUCT**

Sexual and gender-based misconduct offenses include, but are not limited to:

- **Sexual Harassment**
- **Sexual Exploitation**
- **Sexual Assault**

**A. Sexual Harassment** is defined as any sexually oriented behavior of a deliberate or negligent nature which adversely affects one's academic performance or work environment. It may involve conduct or comments that are unintentional as well as intentional. It may include the use of authority to emphasize the sexuality or sexual identity of an individual in a manner, which prevents the individual's access to the educational benefits and/or opportunities at GCU. Sexual harassment will not be tolerated in any context including student/student, faculty/student, staff/student, or other relationship. This policy prohibits all forms of sexual harassment. It includes, but is not limited to: quid pro quo harassment, hostile environment harassment, gender-based harassment.

- **Quid Pro Quo Harassment** – Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes Sexual Misconduct when submission or rejection of such conduct is made a condition of academic evaluation or the conferral of any benefit. It involves an implicit or explicit threat that if the student does not accede to the sexual demands of someone in authority he or she will suffer adverse consequences.
- **Hostile Environment Harassment** – Harassment that is unwelcome or pervasive enough can create an intimidating, hostile, and objectively offensive environment. It can limit a student's ability to participate in or benefit from academic, athletic and/or other programs. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. For instance, a single incident of rape is sufficiently severe to create a hostile environment. Although quid pro quo harassment, by definition, requires that the harasser be someone in a position of authority over the student, hostile environment harassment can occur when anyone in the campus community, including a student, harasses another person. An individual's intent or lack of intent to harass is not relevant to the determination of whether harassment occurred.
- **Gender-Based Harassment** includes harassment based on actual or perceived gender, sexual orientation, gender identity or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic physical or otherwise, even if the acts do not involve conduct of a sexual nature. Submissions to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's employment, academic standing, or participation in any University programs and/or activities, or is used as the basis for University decisions affecting the individual (often referred to as quid pro quo harassment).
- **Examples of Sexual and Gender-Based Harassment**  
The following examples illustrate conduct that, if proven, the University would consider sexual harassment in either an employment or an academic setting:
  - Pressure for a dating, romantic, or intimate relationship;
  - Unwelcome, unnecessary and/or inappropriate touching, such as patting, pinching, hugging, or brushing against an individual's body;
  - Pressure for or forced sexual activity;
  - Demeaning remarks about a person's gender or sexual orientation;

- Inappropriate sexual innuendoes or humor;
- Offensive sexual graffiti, pictures, or posters (about another individual or posted in common areas with the intent to offend);
- Responsibility for incapacitation of another person (through alcohol, drugs, or any other means) for the purposes of compromising that person's ability to give consent to the alleged sexual activity;
- Observation of private sexual activity from a hidden location (e.g., closet) or through electronic means (e.g. FaceTime, Snapchat, Skype, livestreaming of images) without the consent of the participant(s);
- Engagement in voyeurism (e.g. watching private sexual activity without the consent of the participants or viewing another person's intimate parts, including genitalia, groin, breasts, or buttocks) in a place where that person would have a reasonable expectation of privacy;
- Recording, photographing, disseminating, or transmitting intimate or sexual utterances, sounds, or images of private sexual activity and/or a person's intimate parts (including genitalia, groin, breast or buttocks) without the consent of the participants;
- E-mail and Internet use that violates this policy;
- Unsolicited, unwelcome flirtations, advances, and/or propositions of a sexual nature;
- Insults, jokes, or anecdotes that belittle or demean an individual or a group's sexuality or gender;
- Unwelcome sexually-oriented and/or obscene gestures, verbal expressions, or comments of a sexual nature about an individual's body, clothing, or sexual experience;
- Inappropriate displays of sexually suggestive objects or pictures;
- Leering or ogling;
- Uninvited letters, e-mails and telephone calls of a sexual nature; and
- Suggestions that submission to or rejection of sexual advances will affect decisions regarding such matters as an individual's employment, work assignments, or status, salary, academic standing, grades, receipt of financial aid and/or letters of recommendation, etc.;
- Excluding a person from a program or activity based on pregnancy; and/or
- Excluding a person from a program, activity, or facility based on sexual orientation or gender identity.

**B. Sexual Exploitation** occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit or the benefit anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses. Examples of sexual exploitation may include:

- Invasion of sexual privacy;
- Prostituting of another person;
- Non-consensual digital, video or audio recording of nudity or sexual activity;
- Unauthorized sharing or distribution of digital, video or audio recording of nudity or sexual activity;
- Engagement in voyeurism;
- Going beyond the boundaries of consent;
- Knowingly exposing someone to or transmitting an STI, STD, or HIV to another person;
- Intentionally or recklessly exposing one's genitals in non-consensual circumstances; inducing another to expose their genitals; and/or
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

- C. **Sexual Assault** includes unwelcome, sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct. It can consist of **non-consensual sexual contact or intercourse, including, but not limited to:** (according and to the New Jersey State Law, <http://www.njsp.org/division/operations/sexual-violence-info.shtml>):
- Sexual contact – intentional touching, either of the Complainant or when the Complainant is forced to touch, directly or through clothing, another person’s genitals, breasts, thighs, or buttocks;
  - Sexual penetration – vaginal intercourse, cunnilingus, fellatio, or anal intercourse whether by an acquaintance or a stranger without consent;
  - Attempted rape;
  - Sodomy – oral sex or anal intercourse; and
  - Sexual penetration with insertion of the hand, finger, or object into the anus or vagina either by the actor or upon the actor's instruction; the depth of insertion is not relevant.

- D. **Retaliation** is the intentional action taken against an individual or a group because the individual or group made a report concerning sexual misconduct, was the subject of such a report, or otherwise participated in the University’s investigation of such a report.

The University recognizes that retaliation can take many forms, may be committed by an individual or a group against an individual or a group, and that a Respondent can also be the subject of retaliation by the Complainant or a third party. The University will take immediate and responsive action to any report of retaliation and may pursue disciplinary action as appropriate. The Title IX Coordinator will review all reports of retaliation and determine whether to impose immediate corrective action or whether to refer the report for investigation. In making this determination, the Title IX Coordinator may consult with the Title IX Team or members of the Title IX Team.

## Section II: CONSENSUAL RELATIONSHIPS

As per the *Institution-Wide Personnel Policy Volume III*, romantic and/or sexual relationships between faculty and students or staff and students are prohibited. Please reference *Volume III 3.2.2.4 Consensual Relationships* for further details.

Managers, in supervisory roles, as well as staff and faculty entrusted with advising and educating students, are often placed in relationships of trust and power. These relationships should not be jeopardized by the appearance of or behaviors which result in favoritism or unfairness in the exercise of professional judgment or management. It is the expectation of GCU that employees with teaching, supervisory, advisory or evaluative responsibility over students maintain the ethical, legal, behavioral and professional boundaries that should exist in such situations.

## Section III: DEFINITIONS

- A. **Consent** is a mutual and understandable exchange of affirmative words or actions which indicate permission to engage in mutually agreed upon sexual activity. Consent must be informed, voluntary, and actively given. Consent is free of force – including physical violence, threats, intimidation and coercion. It is the responsibility of the initiator to obtain clear and affirmative responses at each stage of sexual engagement. The absence of a negative response is not consent. An individual who is incapacitated by alcohol and/or other drugs both voluntarily or involuntarily consumed may not give

consent. Past sexual activity does not imply ongoing future consent. If any of the following are present, consent cannot be given:

- **Incapacitation** is a state where someone cannot make rational, reasonable decisions because s/he lacks the capacity to give knowing consent (e.g. to understand the “who, what, when, where, why, or how” of their sexual interaction).
  - Sexual activity with someone who is mentally or physically incapacitated by alcohol or drug use, unconsciousness, or blackout
  - A person whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the consumption of rape drugs
  - Alcohol related incapacity results from a level of alcohol ingestion that is more severe than impairment, being under the influence, drunkenness or intoxication. Evidence of incapacity may be detected from context clues, such as:
    - Slurred speech
    - Bloodshot eyes
    - The smell of alcohol on his/her breath
    - Shaky equilibrium
    - Vomiting
    - Unusual behavior
    - Unconsciousness
    - Sleep
  - These signs alone do not necessarily indicate incapacitation. Consumption of alcohol or other drugs alone is insufficient to establish incapacitation.

Whether the Respondent reasonably should have known that the Complainant was incapacitated will be evaluated using an objective reasonable person standard. The fact that the Respondent was actually unaware of the Complainant’s incapacity is irrelevant to this analysis, particularly where the Respondent’s failure to appreciate the Complainant’s incapacitation resulted from the Respondent’s failure to take reasonable steps to determine the Complainant’s incapacitation.

It is the responsibility of each party to be aware of the intoxication level of the other party before engaging in sexual activity. In general, sexual activity while under the influence of alcohol or other drugs poses a risk to all Parties. If there is any doubt as to the level or extent of the other individual’s intoxication, it is safest to forgo or cease any sexual contact or activity.

- **Force** is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats) and/or coercion that overcome resistance.
- **Coercion** is unreasonable pressure for sexual activity. Coercion is the use of emotional manipulation to persuade someone to do something they may not want to do such as being sexual or performing certain sexual acts. Being coerced into having sex or performing sexual acts is not consenting to having sex.

**B. Acquaintance rape and date rape** are terms used to describe a rape in which the Complainant knows the rapist. They may have dated previously, had a class together, met at a party or be relatives or friends. Regardless of any prior relationship that may have existed, if one person forces another to submit to sexual contact, the act is still a form of sexual assault.



**C. Intimate Partner Violence (dating and domestic violence)** is a pattern of behavior in an intimate relationship that is used to establish power and control over another person through fear and intimidation.

A pattern of behavior is typically determined based on the repeated use of words and/or actions and inactions in order to demean, intimidate, and/or control another person. This behavior can be sexual, verbal, emotional and/or physical. Examples of intimate partner violence include, but are not limited to:

- Slapping
- Pulling hair
- Isolation
- Punching
- Damaging one's property
- Driving recklessly to scare someone
- Name calling
- Humiliating one in public
- Harassment directed toward a current or former partner or spouse
- Threats of abuse such as threatening to hit, harm, or use a weapon on another (whether reporting party or acquaintance, friend, or family member of the reporting party), or other forms of verbal threats

**D. Stalking** involves any behaviors or activities occurring on more than one occasion that collectively instill fear in the Complainant and/or threaten her/his safety, mental health, and/or physical health. Such behaviors or activities may include, but are not limited to non-consensual communications (face to face, telephone, electronic), threatening or obscene gestures, surveillance, or showing up outside the targeted individual's classroom or workplace. **Stalking may precede sexual assault.**

**E. Confidentiality** - Anyone who wishes to report sexual misconduct of any kind (including a past rape or abuse) can be assured that confidentiality will be maintained to the extent possible. Reporting a rape or an assault does not mean formal disciplinary or court action has been initiated. A permanent record of the receipt of complaint will be filed with the appropriate Title IX/Deputy Coordinator with an indication of the disposition of the complaint, and shall remain confidential, subject to court subpoena.

- The record of any complaint that is upheld shall be made part of the Title IX personnel file of the respondent for employees or the Office of the Dean of Students' disciplinary records for students.
- All formal hearing proceedings and all evidence introduced will be on the record and must be confidential, subject to court subpoena, pending the outcome of any disciplinary proceedings against the respondent.

**F. Retaliation** is defined as any adverse action taken against a person participating in a protected activity because of his/her participation in that protected activity (subject to limitations imposed by the 1<sup>st</sup> amendment and/or Academic Freedom). Retaliation against an individual for an allegation, for supporting a reporting party or for assisting in providing information relevant to an allegation is a serious violation of University policy.

#### **Section IV: GROUNDLESS OR MALICIOUS ALLEGATIONS**

It is a violation of this policy for anyone to knowingly make false accusations of sexual misconduct. Failure to prove a claim of sexual misconduct, however, is not equivalent to making a false accusation. Sanctions may be imposed for making unwarranted or vindictive accusations of sexual misconduct.

## **Section V: REPORTING OPTIONS**

- A.** The University also strongly encourages all individuals to make a report to the University and to local law enforcement, although neither is required. These reporting options are not mutually exclusive. Both internal and criminal reports may be made simultaneously.

The University has a strong interest in supporting survivors of sexual harassment, sexual violence, stalking, and intimate partner violence and strongly encourages all individuals or third party witnesses to report any incident to the University.

Making a report means telling a Responsible Employee what happened—in person, by telephone, in writing, or by email. At the time a report is made, a Complainant does not have to request any particular course of action, nor does a Complainant need to know how to label what happened. Choosing to make a report, and deciding how to proceed after making the report, can be a process that unfolds over time. The University provides support that can assist each individual in making these important decisions, and will respect an individual's autonomy in deciding how to proceed to the extent legally possible. In this process, the University will balance the individual's interest with its obligation to provide a safe and non-discriminatory environment for all members of the University community.

The University will investigate and resolve all reports of Prohibited Conduct in a fair and impartial manner. A Complainant, a Respondent and all individuals involved will be treated with dignity and respect. In response to all reports of Prohibited Conduct, the University will make an immediate assessment of any risk of harm to the Complainant, Respondent, or to the broader campus community and will take steps necessary to address those risks. These steps may include interim measures to provide for the safety of the individual and the campus community.

Individuals are encouraged to bring forward complaints as soon as possible after the incident(s) in order that the most thorough and fair consideration of the matter may occur. Although there is no time limit on the reporting of formal charges with the University, the University may ultimately be unable to investigate if too much time has passed or if the respondent student has graduated.

- It is recommended that complaints be initiated within one calendar year of the alleged incident.
- Early resolution of complaints can benefit the complainant, the respondent, and the University.
- Factors that could negatively affect the University's ability to investigate include the loss of physical evidence (e.g., prompt medical examinations are critical to preserving the physical evidence of sexual assault), the potential departure of witnesses, or loss of memory.
- If the reporting student or a witness has concerns that his or her own alcohol or drug use, or the fact that other prohibited activity was involved, the Office of the Dean of Students will not pursue disciplinary actions toward a student in violation of alcohol or drug use if the student is making a valid report of sexual misconduct.

- B.** Any individual, not just the Complainant, may make a report under this policy, including a student, employee, visitor, guest, or other third party.

- C. For all complaints where the respondent is a student, this Sexual and Gender-Based Misconduct Policy shall govern the complaint, investigation, and adjudication process.
- D. Upon notification, the Title IX Coordinator, Dean of Students, as well as the Security Department, may take immediate interim actions to protect the safety of the University community.
- These actions may include the interim suspension of the respondent and/or no-contact notices between the individuals involved.
  - There may be other arrangements including, but not limited to:
    - Modifying class or work schedules;
    - Making alternate housing arrangements;
    - Addressing other academic concerns (e.g., absences, assignments, grades, leaves of absence, withdrawal); and/or
    - Safety planning.
- E. For emergencies or if criminal behavior is expected, contact 911. For non-emergencies, contact the Security Department by phone at 732.987.2611 or in person at 900 Lakewood Ave, Lakewood, NJ 08701. GCU encourages those who have experienced sexual misconduct to speak with somebody about what happened so s/he can get the help and support s/he needs and the University can respond appropriately and effectively.

#### **F. Amnesty for Those Who Report Sexual Misconduct**

GCU encourages reporting and seeks to remove any barriers to reporting by making the procedures for reporting an incident of sexual misconduct transparent. The University recognizes that anyone who has been drinking or using drugs at the time of an incident also may be hesitant to make a report because of potential disciplinary consequences for their own conduct. Thus, anyone who reports sexual misconduct, either as a Complainant or a third party witness, will not be subject to disciplinary action by the University for their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The University may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs.

#### **G. Bystander Intervention**

GCU strongly encourages all community members to take reasonable and prudent actions to prevent or stop sexual misconduct, including relationship violence, stalking and sexual assault. Taking action may include directly or indirectly confronting the situation, taking steps to interrupt the situation, 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.

- H. Individuals who choose to pursue action under this policy should make a report to the Title IX Coordinator or any of the following options:

**Title IX Coordinator**

Tracey Owens

Director, Human Resources

851 Lakewood Avenue

towens@georgian.edu; Tel: 732.987.2287

**Deputy Title IX Coordinators**

Kathleen Boody  
Dean of Student Success  
Casino Bldg. Room  
kboody@georgian.edu; Tel: 732.987.2490

Amani S. Jennings  
Dean of Students  
102 Jefferies Hall  
ajennings@georgian.edu; Tel: 732.987.2601

Mary Williams  
Associate Athletics Director/SWA  
mwilliams@georgian.edu; Tel: 732.987.2472

- I. Confidential Resources** are those offices who report to the University without personally identifying information. If a student speaks with one of these staff members, the incident will not be reported to anyone at the University without the student's express permission, except in instances in which there is an immediate and serious concern about his/her safety or the safety of others in the community.

- The Counseling Center  
Casino Building, 2<sup>nd</sup> Floor  
Tel: 732-987-2680
- Health Services  
Casino Building, 2<sup>nd</sup> Floor  
Tel: 732-987-2756
- Father Anthony DiPalma, Chaplin  
Mercy Hall, 1<sup>st</sup> Floor  
Tel: 732.987.2620
- Providence House  
Casino Bldg. room 204  
Tel: 732.987.2479

\*In such cases where confidentiality is maintained, the University may be unable to conduct an investigation into the incident or take action against the alleged perpetrator.

**Reporting to Responsible Employees/Community Members:**

- A responsible employee/community is a member of the GCU community who has an affirmative duty to report all instances of sexual misconduct that come to his/her attention to a Title IX Coordinator or Deputy Coordinator. All employees, other than those noted above as confidential resources, fall into this category and are considered responsible employees/community members.

- Once the information has been reported to a responsible employee, the Title IX Coordinator and/or Deputy Coordinator will be notified. The responsible employee/community member must report all relevant details of the allegation of policy violation, including the names of the Complainant, the alleged respondent, and witnesses, as well as any other relevant facts, such as date, time, and specific location of the incident. Depending upon the nature of the policy violation and the individuals involved, the case will be assigned to an investigator.
- J. In all cases, Georgian Court University endeavors to respond promptly and effectively to investigate the allegations. Typically investigations can take up to sixty (60) calendar days following receipt of the complaint. Factors that could impair the timing of the investigation include the complexity and severity of the conduct, the number and availability of witnesses, the need to identify and acquire physical or other evidence, or the University's academic calendar.

#### **Section VI: WITHDRAW**

At any time, the complainant may choose to withdraw from these complaint proceedings. Nevertheless, the University's legal commitment to provide an environment free from sexual and gender-based misconduct may obligate the University to proceed in the absence of a complaint from the person directly affected. In deciding whether to proceed in such cases, the University will take into account all relevant circumstances including, but not limited to, the availability of evidence, the accessibility of witnesses, the need for protection against retaliation on the part of witnesses and the need for due process on the part of respondents.

#### **Section VII: INFORMAL RESOLUTION**

- A. Informal Resolution is not an option in cases involving allegations of assault or violence.
- B. The informal proceeding requires voluntary agreement of the parties and focuses on conciliation rather than culpability.
- C. The Parties may proceed to Informal Resolution only if the following occurs: first, the Title IX Coordinator agrees that the complaint may be resolved appropriately through Informal Resolution; second, the Reporting Party agrees to Informal Resolution; and third, the Respondent agrees to Informal Resolution.
- D. If any of the three conditions is not met, investigator will proceed with a Formal Resolution.
- E. If all three conditions are met, the investigator will notify the Parties within five (5) calendar days and proceed with the Informal Resolution.
- F. The nature of Informal Resolution is flexible, and not all complaints resolved through Informal Resolution will proceed in uniform fashion. In some cases, an Informal Resolution may include meditation to be conducted by the investigator or another party as designated by the Title IX Coordinator.
- G. Typically, however, the investigator will ask the Complainant to prepare a written report, which sets out the factual basis for the grievance and any proposed resolution. The investigator will share the written report with the Respondent, and will instruct the Respondent to provide a written response to the report within five (5) calendar days of reviewing the Complainant's report. The investigator will then meet separately with both Parties to discuss potential alternative resolutions based on the Parties' statements and (if applicable) other information available. The investigator is not a fact-finder; rather, the investigator identifies possible

alternative resolution(s) to the complaint. Possible alternative resolution(s) may include, but are not limited to:

- Permanent no-contact order between the students
- Academic or residential reassignment
- Written apology and/or explanation of the circumstances surrounding the grievance
- Educational remedies
- Community service

Any Party (including the Title IX Coordinator) may terminate the Informal Resolution process at any time. In that event, the Title IX Coordinator will so notify the Parties in writing and will describe next steps and timeframes for the Formal Resolution. If the investigator and the Parties reach agreement, the matter is closed. If not, the investigator will proceed with Formal Resolution set forth below.

### **Section VIII. FORMAL RESOLUTION**

**Notice of the Investigation.** Once a report has been assigned to an investigator, the Respondent will receive a written notice of investigation. The notice of investigation will include the identities of the parties, if known, alleged policy violations, order of no contact, Respondent rights, and other information relevant to the investigation. The Complainant will also be notified in writing that the investigation has begun.

The designated investigator(s) meets separately with the Complainant, the Respondent(s), and the witnesses, giving everyone the chance to submit, identify, and/or gather related information or evidence, including documents, photographs, communications between the parties, medical records (subject to the consent of the applicable person) and other electronic records as appropriate.

Following the interview, each person will be provided with an opportunity to view a draft summary of his/her statement so that s/he can review to ensure its accuracy and completeness. Any party (Complainant, Respondent, Witness) may request to submit a written statement instead of participating in an interview.

**Participation by the Parties and Witnesses Is Voluntary.** Complainants, Respondents, or witnesses may choose to participate or decline to participate in the formal resolution process. However, even if a Complainant or Respondent declines to participate, the University will continue to investigate the report and issue findings based on available information.

**Presumption of Non-Responsibility and Standard of Proof.** The investigation is a neutral, fact-gathering process. The Respondent is presumed to be not responsible. This presumption may be overcome only where the investigator(s) conclude that there is sufficient evidence, by the preponderance of evidence standard, to support a finding that the Respondent violated the policy. A preponderance of the evidence means that it is more likely than not (50.1%) based on all the reasonable evidence and reasonable inferences from the evidence, that the Respondent violated this policy.

**Acceptance of Responsibility.** The Respondent may, at any time, elect to resolve the formal resolution process by accepting responsibility for the prohibited conduct, in which case, the investigation will be closed and the investigator will submit a final investigative report.

**Evidence.** The investigator is responsible for gathering relevant evidence to the extent reasonably possible. However, the Complainant and the Respondent will be asked to identify witnesses and provide all relevant information (documents, communications, photographs, etc.) as promptly as possible. All information considered relevant by the investigator will be provided to the parties for their review and comment, with respect to FERPA regulations.

**Prior or Subsequent Conduct of the Respondent** will never be used to prove character, but may be considered for other purposes, such as determining pattern, knowledge, intent, or the Respondent's reasons for taking the action. The determination of relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was similar to the conduct under investigation or indicates a pattern of similar prohibited conduct. The investigator will determine the relevance of this information and both persons will be informed if evidence of prior or subsequent conduct is deemed relevant.

**Prior Sexual Contact Between Complainant and Respondent.** This will not be used to prove character or reputation. Moreover, evidence related to the prior sexual history between the parties is generally not relevant to the determination of a policy violation and will be considered only in limited circumstances.

**Witnesses.** Witnesses must have observed the acts in question or have information relevant to the incident and cannot participate solely to speak about an individual's character. Following the interview, a witness will review the draft summary to ensure its accuracy and completeness. As appropriate, the investigator will give this summary to the Complainant and Respondent for their review and comment. This information will be included in the investigation report.

**Coordination with Law Enforcement.** If the University is made aware that there is a concurrent criminal investigation, the investigator will inform any law enforcement agency that is conducting its own investigation that a University investigation is also in progress; ascertain the status of the criminal investigation; and determine the extent to which any evidence collected by law enforcement may be available to the University in its investigation.

- At the request of law enforcement, the University may agree to temporarily defer part or all of the investigation until after the initial evidence-gathering phase of the law enforcement investigation is complete.
- The investigator will communicate with the parties, consistent with the law enforcement request and the University's obligations, about resources and support, procedural options, anticipated timing, and the implementation of any necessary interim measures for the safety and wellbeing of all affected individuals.
- Standards for criminal investigations are different than the standards for a violation of this policy, and therefore, the University will not base its decisions under this policy solely on law enforcement reports and/or actions. The University will fulfill its legal and ethical obligation to take immediate and appropriate action in response to a report of prohibited conduct, even if there are other external processes or procedures pending in connection with that same report.

**Time Frame for Completion of Investigation.** The period from commencement of an investigation, which begins with notice of the investigation to the Respondent, through resolution (finding) typically should not exceed sixty (60) calendar days.

- This time frame may be extended for good cause, which may exist if additional time is necessary to ensure the integrity and completeness of the investigation, to comply with a request by law enforcement for temporary delay to gather evidence, to accommodate the availability of

witnesses, to account for University breaks or vacations, to account for case complexities including the number of witnesses and volume of information provided by the parties, or for other legitimate reasons.

- The investigator will notify the Complainant and Respondent in writing of any extension of this time frame and the reasons for such extension as soon as possible.

**Preliminary Investigation Report.** After each person has had the opportunity to comment on their own statement and to identify witnesses and other potential information, and the investigator has completed witness interviews and the gathering of evidence, the investigator will prepare a preliminary report. The preliminary report will include, as applicable, the Complainant's statement, the Respondent's statement, each witness statement and either a copy or written summary of any other relevant information collected during the investigation. The preliminary report will not contain any findings.

- The Complainant and Respondent may review the preliminary report and provide feedback. The Complainant and the Respondent must submit any comments, feedback, additional documents, evidence, requests for additional investigation, names of additional witnesses, or any other information they deem relevant to the investigator. This process can take no more than (5) five business days.
- In the event that new, relevant information is provided or identified by one of the parties, the information will be incorporated into the preliminary report and the parties will be provided a second opportunity to review and provide feedback before the investigator proceeds with the final report.

**Assumption of Good Faith Reporting.** The University presumes that reports of prohibited conduct are made in good faith. A finding that the behavior at issue does not constitute a violation of this policy or that there is insufficient evidence to conclude that the incident occurred as reported does not mean that the report was made in bad faith. The University encourages all individuals who have experienced or witnessed behavior they believe violates this policy to report the matter so that it may be addressed, without fear of consequences from the University.

**Final Investigation Report.** After the five (5) calendar day comment period has lapsed with/without comment, the investigator will address any relevant issues identified by the Complainant and/or Respondent, as appropriate, and pursue any additional investigative steps as needed. The investigator's final written report will contain all information from the preliminary report, as supplemented by the relevant feedback submitted; any additional information gathered; the investigator's findings; a rendering of responsible or not responsible; and a summary of the investigator's rationale in support of the findings.

The investigator's final report will be submitted to the Title IX coordinator to ensure that the preponderance of evidence standard was properly applied and that the investigative procedure was followed without fault.

### **Conduct Hearing Board**

A three person Conduct Hearing Board may also be utilized as a part a formal investigation. Either the reporting or responding party can request a Conduct Hearing Board. The investigator may also request the involvement of the Conduct Hearing Board. The Title IX coordinator will decide when the use of the Conduct Hearing Board is appropriate.



Upon completion of the investigation, the designated investigator will submit the final investigative report (without a finding of responsible or not responsible) to the designated Conduct Hearing Board chair. The Conduct Hearing Board members have been trained for their responsibility, including training for adjudication of sexual misconduct complaints. Either the complainant or the respondent may object to any member of the Board based on bias.

All parties will be notified at least seven business days prior to the hearing date. The Complainant and respondent must submit to the hearing board chair, any relevant evidence and/or the names and contact information for any witnesses at least five business days prior to the hearing date. Advisors for the complainant or respondent can be present, but are not permitted to participate in the hearing. Either party may submit questions for consideration to the Conduct Hearing Board. There will be no direct questioning from one party to another.

Neither the complainant nor the respondent (or witnesses) need to be physically present in order to conduct a hearing. Either party can choose not to participate in the hearing or submit a written statement to be openly read. Upon the request of the complainant or respondent, arrangements will be made to allow the hearing to continue without both parties present in the same room. The use of audio/visual equipment or other technological innovations may be used.

Upon the completion of the hearing, the Conduct Hearing Board will convene to render a finding of responsible or not responsible based on the preponderance of evidence standard. The final hearing board report will be submitted to the Title IX coordinator to ensure that the preponderance of evidence standard was properly applied and that the hearing was properly conducted.

**Notifying the Complainant and respondent of the outcome.** Upon the completion of the review by the Title IX coordinator, the Complainant and the Respondent will be simultaneously notified in writing of the investigator's or Conduct Hearing Board's finding(s). The notice of outcome will include the investigator's or Conduct Hearing Board's rationale, sanctions (when appropriate) and information about the appeals process. Both the Complainant and the Respondent have the right to appeal. All student appeals go to the Dean of Students.

### **Section IX: SANCTIONS/ UNIVERSITY DISCIPLINARY ACTION**

Any member of the GCU campus community who participates in sexual and gender based misconduct can be subject to sanctions which range from a warning to expulsion. They can also face action through the criminal justice system. Recommendations for sanctions for students will be made to the Office of the Dean of Students, who will issue the sanction to the Respondent.

Sanction	Description
Warning	Notice in writing that continuation or repetition of prohibited conduct may be the cause for additional disciplinary action.
Disciplinary Probation	This is a specified period of time during which the student will be excluded from participation in University privileged and/or extracurricular activities. During the probationary period, the student shall not represent the University in any extracurricular activity, run for, or hold office in any student group or organization. Additional restrictions and/or conditions may also be imposed, such as loss of campus housing or other privileges. Notification will be sent to appropriate University offices, including the Student Activities. Failure to comply with the

Sanction	Description
	conditions of probation and/or additional Code of Conduct violations may result in additional disciplinary sanctions.
Restitution	This constitutes reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service or an assessment to repair or otherwise compensate for damages. Restitution may not be in excess of the damage or loss incurred.
Suspension	This constitutes separation of the student from the University for a specified period. Exclusion from classes and other privileges and/or activities is instituted during the suspended period. The suspension shall continue until it has been determined that the conditions for reinstatement have been satisfied. A student who is suspended from the University is not eligible for the return of tuition, room, or board fees or other fees paid or owed to the University. The student shall not participate in any University-sponsored activity and will be barred from University premises.
Expulsion	A permanent dismissal from the University and exclusion from University premises, privileges, and activities. A student who is expelled from the University is not eligible for the return of tuition, room, or board fees or other fees paid or owed to the University.
OTHER SANCTIONS – In the judgment of University and as appropriate, other sanctions may be imposed, instead of, or in addition to, those specified.	
Community Service	Service to the University community for a specified number of hours until the date of completion; failure to complete all or part of a service project in a satisfactory manner by the completion date may automatically result in a fine being imposed by the hearing body that assigned the project. Such action does not preclude additional disciplinary sanctions being imposed subsequent to a hearing to determine the reasons for failure to comply.
Censure	A written reprimand for violating the Sexual and Gender Based Misconduct Policy and/or exhibiting behavior not conducive to the Mercy Core Values. This conduct status specifies a period of time during which the student's good standing with the College may be in jeopardy. The student is officially warned that continuation or repetition of prohibited conduct may be cause for additional conduct action including probation, suspension, or expulsion from the College.
Assessment, Counseling, Mediation (harassment, not assault) and/or Treatment	Referrals to an appropriate agency for assessment, mediation, counseling, and/or treatment of possible psychological, emotional or substance abuse problems may be required.
Administrative Relocation of Housing	Administrative transfer of a Student from one campus housing location to another.
Educational Projects	Projects assigned for the educational benefit of the student, the organization, and/or the University community. Examples include enrollment in particular classes, participation in workshops or seminars, conducting research, writing papers, planning programs, etc.
Repeat/Aggravated Violations	Increased penalties may result from repeated or aggravated violations of any section of the Sexual and Gender Based Misconduct Policy and the Student Code of Conduct.

Sanction	Description
Restorative Justice	Restorative Justice will not be implemented when addressing sexual and gender based misconduct.

### **Section X: THE RIGHT TO AN APPEAL**

Students may appeal decisions made as the result of an investigation or a formal/informal hearing in accordance with the following provisions:

- A. Students are entitled to no more than one appeal review per case.
- B. Students electing to appeal an investigative or hearing board decision must file a written appeal, including the reasons for the appeal, with the Dean of Students, within seven (7) University business days of notice of the sanction of the original hearing.
- C. Appeals must be in writing and must state specific grounds for the appeal. Grounds for appeal are limited to the following:
  - The sanction(s) imposed are significantly disproportionate to the offense
  - Specified procedural errors or errors in interpretation of University regulations were so substantial as effectively to deny the student a fair hearing
  - New and significant information became available and could not have been discovered by a properly diligent student before or during the original hearing
- D. The Dean of Students will review all documentation associated with the case and determine whether sufficient grounds exist to reopen the investigation/case or amend the previously rendered finding and/or sanction. If sufficient grounds do not exist, the finding(s) and sanction(s) from the original investigation/hearing will stand and no further appeal is provided. If sufficient grounds exist to reopen the investigation/case, the Dean of Students may elect to hear the case in part, in total or de novo and is not bound by the finding(s) or sanction(s) of the original investigation/hearing body.
- E. The Dean of Students shall have seven business days to render a final decision on the appeal.

### **Section XI: COMPLAINTS INVOLVING A GCU EMPLOYEE**

#### **Section XII: TRAINING**

GCU provides training to students and employees to ensure they understand this Policy and the topics and issues related to maintaining an educational and employment environment free from all forms of Prohibited Conduct.

#### **Section XIII: ROLES AND RESPONSIBILITIES**

##### **C. Advisor**

An Advisor may guide and assist the complainant or respondent by:

- Assistance in connection to Counseling Services if emotional support is needed.

- Assistance in connection to academic support (e.g., tutoring, independent study, re-scheduling exam, if they are having difficulty with their academics).
- Clarifying questions about the investigation and conduct process.
- If applicable, helping to create a safety plan and the logistics to make it effective (e.g. security escort).
- Assist in the reporting of any instance of retaliation.
- Assist with requesting No Contact orders or checking in to be sure they are enforced.
- Assist with connection to the appropriate resources for the process of criminal reporting if they choose to explore that option.
- Inquire if investigation process is fair and equitable and contact the Title IX office if there are any concerns.
- Providing general support during what can be a stressful process.
- Attending any meetings or proceeding throughout the resolution process with individuals (e.g. interviews with investigators, etc.
- Serve as an advocate

### **Limitations and Boundaries**

Advisors are *private* (not confidential) resources. This means that Advisors:

- Will contact the Title IX Coordinator, Dean of Students or Security if something or someone may pose a threat to the campus community and/or someone may be in immediate danger.
- Will contact the assigned investigator if a student admits to providing false information related to a case.
- Will contact the assigned investigator if any party admits responsibility for the code violation(s) being investigated.
- Will contact the assigned investigator if an individual participates, knows others who have participated in, or knows of retaliation directed toward the Complainant, Respondent or anyone involved with the investigation.
- Will refer inquiries/concerns raised by the parents of a Respondent or Complainant to the designated investigator or to the Dean of Students.
- Advisors are NOT to talk to parents or family members about a student and/or their case.
- The University has the right at all times to determine what constitutes appropriate behavior on the part of an advisor and to take appropriate steps to ensure compliance with the policy.
- The Advisor may not testify or obstruct the meeting.
- The Advisor cannot discuss the report, arrange or attend related meetings without the Complainant and/or the Respondent in attendance.

### **Section XIV: GUIDELINES FOR THE COMPLAINANT TO FOLLOW**

- A.** Get to a safe place as soon as you can.
- B.** Try to preserve all physical evidence. Do not wash, use the toilet, or change clothing, if you can avoid it. If you do change clothes, put all clothing you were wearing at the time of the attack in a paper bag, do not use a plastic bag.

- C. Get medical attention as soon as possible. A medical examination will provide any necessary treatment and collect important evidence. Injuries may not be immediately apparent: you can ask to be tested for sexually transmitted diseases, and at a later time, you may want to be tested for pregnancy and/or HIV. You are not alone.

#### **Section XV: GUIDELINES FOR FACULTY AND STAFF TO FOLLOW**

*Faculty and staff can refer to the sections on Reporting Options should an incident of sexual assault and gender based misconduct be reported to them. Additionally, any of the indicated on-campus resources can be contacted directly should faculty or staff have any questions or concerns.*

#### **Section XV: EDUCATION AND PREVENTION**

Campus programs and training will be planned throughout the year to educate the community on how they can work toward the prevention of sexual assault as well as intimate partner violence and stalking. The offerings will include:

- A. New Student Orientation
- B. Athletics Orientation
- C. Improvisational theatre presentations and discussions
- D. Workshops on gender issues
- E. Presentations to athletes, clubs and organizations, faculty, staff, and resident students
- F. Events sponsored through the [grant]
- G. A commitment by GCU to make every effort to promote awareness among faculty, staff and students on these various issues, address its effects, and provide the Complainant resources and services

#### **Section XVI: THE RIGHTS OF THE COMPLAINANT AND THE RESPONDENT:**

##### **A. NEW JERSEY CAMPUS SEXUAL ASSAULT COMPLAINANT'S BILL OF RIGHTS**

A University must be devoted to the pursuit of truth and knowledge through reason and open communication among its members. Academic communities acknowledge the necessity of being intellectually stimulating where the diversity of ideas is valued. Its rules must be conceived for the purpose of furthering and protecting the rights of all members of the University community in achieving these ends.

The boundaries of personal freedom are limited by applicable state and federal laws and institutional rules and regulations governing interpersonal behavior. Respect for the individual and human dignity is of paramount importance in creating a community free from violence, sexual assault and non-consensual sexual contact.

The State of New Jersey recognizes that the impact of violence on its Complainants and the surrounding community can be severe and long lasting. Thus, it has established this Bill of Rights to articulate requirements for policies, procedures and services designed to insure that the needs of Complainants are met and that the universities in New Jersey create and maintain communities that support human dignity.

##### **BILL OF RIGHTS N.J.S.A. 18A:61E-2**

The Commission on Higher Education shall appoint an advisory committee of experts which shall develop a "Campus Sexual Assault Victim's Bill of Rights" which affirms support for campus organizations

which assist sexual assault victims and provides that the following rights shall be accorded to victims of sexual assaults that occur on the campus of any public or independent institution of higher education in the State and where the victim or alleged perpetrator is a student at the institution or when the victim is a student involved in an off-campus sexual assault.

a. The right to have any allegation of sexual assault treated seriously; the right to be treated with dignity; and the right to be notified of existing medical, counseling, mental health or student services for victims of sexual assault, both on campus and in the community whether or not the crime is reported to campus or civil authorities.

"Campus authorities" as used in this act shall mean any individuals or organizations specified in an institution's statement of campus security policy as the individuals or organizations to whom students and employees should report criminal offenses.

b. The right to have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the crime occurred, and the right to the full and prompt cooperation and assistance of campus personnel in notifying the proper authorities. The provisions of this subsection shall be in addition to any campus disciplinary proceedings which may take place.

c. The right to be free from pressure from campus personnel to refrain from reporting crimes, or to report crimes as lesser offenses than the victims perceive the crimes to be, or to report crimes if the victim does not wish to do so.

d. The right to be free from any suggestion that victims are responsible for the commission of crimes against them; to be free from any suggestion that victims were contributorily negligent or assumed the risk of being assaulted; to be free from any suggestion that victims must report the crimes to be assured of any other right guaranteed under this policy; and to be free from any suggestion that victims should refrain from reporting crimes in order to avoid unwanted personal publicity.

e. The same right to legal assistance, and the right to have others present, in any campus disciplinary proceeding that the institution permits to the respondent; and the right to be notified of the outcome of any disciplinary proceeding against the respondent.

f. The right to full, prompt, and victim-sensitive cooperation of campus personnel in obtaining, securing, and maintaining evidence, including a medical examination if it is necessary to preserve evidence of the assault.

g. The right to be informed of, and assisted in exercising, any rights to be confidentially or anonymously tested for sexually transmitted diseases or human immunodeficiency virus; the right to be informed of, and assisted in exercising, any rights that may be provided by law to compel and disclose the results of testing of sexual assault suspects for communicable diseases.

h. The right to have access to counseling under the same terms and conditions as apply to other students seeking such counseling from appropriate campus counseling services.

i. The right to require campus personnel to take reasonable and necessary action to prevent further unwanted contact of victims with their alleged assailants, including but not limited to, notifying the

victim of options for and available assistance in changing academic and living situations after an alleged sexual assault incident if so requested by the victim and if such changes are reasonably available.

#### **B. The Rights of the Complainant/Respondent**

- The right to written and oral explanation of the charges.
- The right to present his or her side of the story.
- The right to a written statement explaining the Hearing Board process.
- The right to file a no-contact order to prohibit harassment of the respondent by the Complainant, friends, or supporters.
- The right to challenge the Investigator/Hearing Board on conflicts of interest (e.g., if the Complainant is a member of a particular student organization, the respondent may challenge the presence at the hearing of an advisor from that student organization).
- The right to know ahead of time the names of the witnesses to be called to the hearing.
- The right to have needs promptly addressed.
- The right to have a support person accompany him/her through the investigative process and/or hearing. All participants will be bound by the rules of confidentiality governing the investigation and/or hearing. Subject to court subpoena, all participants have the right not to have their identity revealed outside the confidential proceedings, without consent.
- The right to a fair and impartial formal resolution.
- The right not to have past sexual history discussed during the hearing.
- The right to request that a judicial hearing be considered.
- The right to remain present for the entire proceeding.
- The right to be absent from the entire proceeding
- The right to have access to any information that will be used during an investigation.
- The right to a formal resolution without unnecessary delays.
- The right to be informed within of the Investigator/Hearing Board findings and of the outcome of the hearing.
- The right to appeal the decision of the Investigator/Hearing Board in writing within five business days of notification.
- The right to know the status of the case at any point during the investigatory process.
- The right to remain silent.
- The right to testify on his/her behalf.

#### **XVII: RESOURCES**

- A. Atixa Gender-Based Harassment, Discrimination and Sexual Misconduct Model Policy, [www.atixa.com](http://www.atixa.com), Authored by the NCHERM Group LLC Partners: Brett Sokolow, J.D., W. Scott Lewis, J.D., Saundra K. Schuster, J.D., Daniel C. Swinton, J.D., Ed.D. [www.ncher.org](http://www.ncher.org). 2015. THE NCHERM GROUP/ATIXA.
- B. Policy 3.29.16, Student Code of Conduct
- C. Sexual and Gender Based Misconduct Policy
- D. Workplace Violence Policy
- E. New Jersey Campus Sexual Assault Victim's Bill of Rights, N.J.S.A. 18A:61E-1 et seq.
- F. U.S. Department of Education, Office for Civil Rights, <http://www.ed.gov/ocr>
- G. U.S. Department of Justice, Office on Violence Against Women, <http://ovw.usdoj.gov>
- H. <http://www2.ed.gov/about/offices/list/oese/oshs/emergingpractices.pdf>

- I. 20 U.S.C. §§ 1681-1688; Dear Colleague Letter: Transgender Students (May 13, 2016), [www.ed.gov/ocr/letters/colleague-201605-title-ix-transgender.pdf](http://www.ed.gov/ocr/letters/colleague-201605-title-ix-transgender.pdf).