

Procedure: 4.3.1p2. (III.A.1.)

Employee Sexual Harassment Prevention Procedure

Revised: April 16, 2019; and January 12, 2016.

Last Reviewed: September 20, 2022; and April 16, 2019.

Adopted: March 9, 2007.



I. PURPOSE:

This procedure aims to ensure that all the Technical College System of Georgia employees have an environment free of sexual harassment and retaliation.

All employees are expressly prohibited from engaging in any form of sexual harassment. Any employee who has engaged in such prohibited behaviors or conduct will be subject to disciplinary action, including dismissal.

All employees are required to report any act of sexual harassment. Reports will be treated expeditiously and confidentially to the extent provided by law.

TCSG will not tolerate retaliation for having filed a good-faith complaint of sexual harassment or for providing any information in an investigation. Any employee who retaliates against a complainant or witness in an investigation will be subject to disciplinary action, including dismissal.

Employees in a supervisory or managerial capacity are prohibited from knowingly permitting sexual harassment or retaliation in their assigned work unit(s) and from making sexual advances, welcome or unwelcome, toward any subordinate.

The sexual harassment of an employee by a non-employee (e.g., vendor, contractor, etc.) in conjunction with the performance of his/her assigned duties and responsibilities and the sexual harassment of a non-employee by an employee will not be tolerated.

Conduct that does not rise to the level of sexual harassment may still violate other policies or procedures and subject an employee to disciplinary action, including dismissal from employment.

II. RELATED AUTHORITY:

Title IX of the Educational Amendments of 1972.

TCSG State Board Policy 2.1.1. – Statement of Equal Opportunity.

TCSG Procedure 4.4.1p. – Positive Discipline.

E.O. 01.14.19.02, Preventing Sexual Harassment in Executive Branch of Government Statewide.

Sexual Harassment Prevention Policy, effective March 21, 2019.

III. APPLICABILITY:

All work units and technical colleges are associated with the Technical College System of Georgia. The terms of this Procedure will govern behavior during regular work hours, at work-related functions at or away from the primary work site before or after regular work hours, and/or while off duty when negatively impacting an employee's ability to perform their duties effectively.

IV. DEFINITIONS:

- A. **Sexual Harassment** is physical, verbal, or non-verbal/visual conduct that is either (i) directed toward an individual or (ii) reasonably offensive to an individual because of his or her sex. Therefore, "sexual harassment" includes physical, verbal, or non-verbal/visual conduct constituting:
1. Unwanted sexual attention, sexual advances, requests for sexual favors, sexually explicit comments, and other conduct of an expressed or implied sexual nature by an individual who knows, or reasonably should know, that such conduct is unwanted and offensive; and
 2. Conduct that is hostile, threatening, derogatory, demeaning, abusive, or intended to insult, embarrass, belittle, or humiliate an individual because of his or her sex – regardless of whether the underlying reason for the conduct is apparent.

Examples of Sexually Harassing Conduct or Behavior:

1. Denying (directly or indirectly) an employment benefit or employment-related opportunity to an employee for refusing to comply with a sexually-oriented request;
2. Threatening (directly or indirectly) to deny an employment benefit or employment-related opportunity to an employee for refusing to comply with a sexually-oriented request;
3. Providing or promising (directly or indirectly) to provide an employment benefit or employment-related opportunity to an employee in exchange for complying with a sexually-oriented request;
4. Engaging in sexually-explicit or suggestive physical contact, including touching another employee in a way that is unwelcome or restricting an employee's movement;
5. Displaying or transmitting pornographic or sexually-oriented materials (such as photographs, posters, cartoons, drawings, or other images) or storing or accessing such materials on State-owned equipment for personal use or consumption;
6. Engaging in indecent exposure;
7. Making obscene gestures (i.e., hand or bodily gestures);
8. Making romantic advances and persisting despite the rejection of the advance;
9. Using sexually-oriented language or making sexually-related propositions, jokes, or remarks, including graphic verbal commentary about an individual's body or clothing; and,

10. They send sexually suggestive or obscene messages by mail, in person, by telephone, or by electronic communication.

This is a representative list of conduct or behavior and is not intended to be exhaustive.

- B. **Retaliation:** an act or omission intended to, or having the reasonably foreseeable effect of, punishing or otherwise negatively impacting an individual for submitting (or assisting with submitting) a complaint of or reporting sexual harassment, for participating in a sexual harassment investigation or proceeding, or for otherwise opposing sexual harassment.
- C. **Employees:** Any individual employed in a full- or part-time capacity in any work unit and/or technical college associated with the Technical College System of Georgia (“TCSG”).
- D. **Non-Employee:** Any third party (e.g., volunteer, vendor, contractor, etc.) who conducts business with or on behalf of a work unit or technical college.
- E. **President:** the chief executive officer responsible for the management and operation of the technical college where the complainant and/or respondent are currently employed.
- F. **Human Resources Director:** The highest ranking employee responsible for the human resource function at a technical college. The System Office Human Resources Director provides technical assistance and expertise to all college HR Directors and manages the human resource function for all work units not associated with a technical college.
- G. **Title IX Coordinator:** an individual designated by the college's president to ensure compliance with Title IX of the Educational Amendments of 1972, 20 U.S.C. §§ 1681 et seq., and related federal regulations. The Title IX Coordinator may also be assigned the responsibility for compliance with other state and federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the U.S. Department of Education.
- H. **System-wide Investigator:** the person(s) at the System Office who has delegated the responsibility for the investigation of complaints of sexual harassment against or by another employee or non-employee. NOTE: sexual harassment complaints involving students shall be investigated according to Procedure: 6.1.2p.
- I. **Office of Inspector General (“OIG”):** the agency responsible for reviewing sexual harassment investigations conducted by other Executive branch agencies of the State of Georgia.

V. ATTACHMENTS:

Attachment: 4.3.1p2.a1. Employee Acknowledgment Form

Attachment: 4.3.1p2.a2. Statewide Sexual Harassment Prevention Policy

VI. PROCEDURE:

- A. Policy Administration

1. The State Board Policy Statement on Equal Opportunity should be permanently displayed on official bulletin boards of the technical colleges and System Office and readily assessable to staff.
2. Supervisors must take ongoing proactive steps to ensure their work environments are free from sexual harassment and retaliation and educate their staff on appropriate conduct.
3. All current and future employees shall be required to read and become familiar with the Statewide Sexual Harassment Prevention Policy, the TCSG Statement of Equal Opportunity, and other employment-related policies and procedures in the TCSG State Board Policy Manual (tcsq.edu).
4. All employees and independent contractors who are regularly on Agency premises and/or regularly interact with Agency personnel shall complete employee sexual harassment prevention training annually. An independent contractor may waive state-mandated training upon acknowledgment of this policy and documentation that he/she has completed sexual harassment prevention training offered by his/her employer within the last year. All new or transferred covered employees shall complete sexual harassment prevention training within thirty (30) days of hire.
5. Supervisors and managers shall complete sexual harassment prevention training within thirty (30) calendar days of promotion and annually.
6. Any employee, student, contractor, or volunteer with questions concerning this Procedure should direct those questions to the college's Title IX Coordinator or Human Resources Director.
7. Presidents ensure that employees receive appropriate training on identifying, preventing, and reporting sexual harassment.

B. Reporting and Management Action

1. All employees must report allegations of sexual harassment, retaliation against themselves or others, and other possible policy violations.
 - a. Allegations of sexual harassment or retaliation may be reported to the employee's supervisor or manager, division director, Title IX Coordinator, or Human Resources Director; employees may also email complaints to UnlawfulHarassment@tcsq.edu.
 - b. To the extent, any of the above officials are the alleged sexual harasser or retaliator (in a claim of sexual harassment), or if the employee has a reasonable fear of retaliation by one of the above officials, the employee may submit a complaint or report of sexual harassment or retaliation directly to the OIG.
 - c. Complaints can be expressed in writing, by telephone, or in person.

2. Supervisors who believe that sexual harassment and/or retaliation may exist shall immediately inform the President, Human Resources Director, Title IX Coordinator, and/or the System Office Human Resources Director.
3. Other than reporting the information and discussing it with the investigator, employees must keep the information confidential unless release is approved.
4. Employment-related sexual harassment or retaliation complaints received by the Title IX Coordinator, supervisor, or division director shall be immediately reported to the Human Resources Director. The Human Resources Director shall immediately report all allegations of employee sexual harassment and retaliation related to a sexual harassment complaint to the System-wide investigator or System Office Director of Human Resources as soon as the complaint is received. The System Office must report the complaint to OIG within two (2) business days of receipt.
5. A President or other designee of the Commissioner may suspend with pay, temporarily transfer, or reassign employees involved in an investigation to prevent further harassment or to facilitate the effectiveness of an investigation. Whenever possible, any changes in assignments or work status for a complainant should not be made.
6. Unless otherwise authorized by the System Office Human Resources Director or Office of Legal Services, no disciplinary action shall be taken against the respondent until an investigation has been completed. *NOTE: A suspension with pay pending completion of an investigation is not a disciplinary action.*
7. All allegations of sexual harassment and retaliation by or against a System office employee, Vice President, or President of a technical college shall be reported directly to the System Office Human Resources Director or the System-wide investigator.

C. Investigations

1. All complaints shall be investigated by the System-wide investigator and should be completed within 45 calendar days of the receipt of the complaint. The Commissioner may consider an extension of time due to extenuating circumstances. The parties will be notified if extenuating circumstances exist requiring additional time.
2. The complaining party and the respondent will be equally able to identify witnesses and offer evidence in person or in writing. Best efforts will be made to interview all witnesses identified by the parties.
3. The investigative report will be provided to both the complainant and the respondent before being finalized. Either party has three business days to submit a written response to the report for consideration by the System-wide investigator.
4. For each act alleged in the complaint or report, the following conclusions will be used:

- a. Without merit. The investigation revealed that the act or acts complained of did not occur or were not committed by the respondent.
 - b. Exonerated. The investigation revealed that the act or acts complained of did occur but do not constitute a violation(s) of the Statewide Sexual Harassment Prevention Policy.
 - c. They were not sustained. The investigation failed to reveal evidence to support a conclusion on whether the act or acts complained of occurred or did not occur or whether the respondent committed the act or acts.
 - d. Sustained. The investigation revealed sufficient evidence to support the conclusion that the act or acts complained of occurred, that the respondent committed them, and that it constitutes a violation(s) of the Statewide Sexual Harassment Prevention Policy.
5. Conduct that does not constitute a violation of the Statewide Sexual Harassment Prevention Policy may still violate other TCSG and/or college policies or procedures. Therefore, any such violations should be included in the investigative findings.
 6. Investigative materials generated through the application of this Procedure will be processed and maintained confidentially to the extent permitted by law.
 7. Employees of TCSG and the colleges are required to cooperate fully in investigations and will be subject to disciplinary action up to and including dismissal for failure to cooperate. In addition, intentionally providing false information or withholding information will be considered a failure to cooperate.

D. Review and Disposition

1. The investigation results will be provided to the President and General Counsel.
2. If the investigation results do not support a finding of sexual harassment, retaliation, or other policy violations, the matter will be closed and the parties notified of such.
3. If the investigation results support a violation of the sexual harassment prevention policy or retaliation or any other policy violation, the President or General Counsel shall take any necessary corrective or disciplinary action and remedial measures depending upon the nature of the policy violation. Actions may include but are not limited to mandating training, issuing disciplinary actions, or dismissal from employment. Actions must be implemented no later than twenty-one (21) calendar days of receipt of the investigative report.
4. Presidents will notify the General Counsel of any action taken due to a sexual harassment investigation, regardless of whether the action is disciplinary. In addition, the results of all sexual harassment investigations and any action taken will be reported by the System office to the OIG.

5. Complaints and reports of sexual harassment or retaliation, investigative reports, final determinations, and other related documents will be subject to disclosure under the Open Records Act upon the investigation's completion and any corrective action's delivery.

VI. RECORD RETENTION:

Acknowledgment statements shall be retained permanently in the official personnel files of employees. Investigative files shall be retained for five years after the close of the investigation or the effective date of any adverse employment action resulting from the investigation.

ACKNOWLEDGMENT STATEMENT
REGARDING SEXUAL HARASSMENT AND RETALIATION

As an employee of _____, I understand that any form of sexual harassment will not be tolerated. Therefore, I declare that I have read or will read and will fully comply with the Statewide Sexual Harassment Prevention Policy, TCSG Statement of Equal Opportunity issued by the State Board of the Technical College System of Georgia, and all procedures relating to sexual harassment and retaliation in employment. All TCSG and college policies and procedures may be found in the State Board Policy Manual located at tcsge.edu or may be located in a college Employee Handbook. The Statewide Sexual Harassment Prevention Policy may also be found at: <https://oig.georgia.gov/report-sexual-harassment-state-government>.

I understand I am required to immediately report any act or allegation of sexual harassment or retaliation to my supervisor or manager, division director, the Title IX Coordinator, and/or the Office of Human Resources; and that I may also make such reports to UnlawfulHarassment@tcsge.edu. I acknowledge the expectation that I will cooperate fully with any investigation.

If I am or become a supervisor, I understand that I am prohibited from making any sexual advances, welcome or unwelcome, toward any subordinate. I further acknowledge that retaliation against any individual who reports or participates in an investigation of sexual harassment will not be tolerated.

Employee's Signature

Date Signed

Employee's Printed Name

Employee's ID#

Record Retention: Retain permanently in the personnel file.

4.3.1p2.a1 (Revised April 2019)

POLICY



MEMORANDUM

SUBJECT: Statewide Sexual Harassment Prevention Policy	EFFECTIVE: March 1, 2019
ISSUED BY: DEPARTMENT OF ADMINISTRATIVE SERVICES OFFICE OF THE STATE INSPECTOR GENERAL	

I. Introduction

While there are multiple types of workplace harassment, as Executive Order 01.14.19.02 recognizes, incidents of sexual harassment present unique challenges which warrant particular emphasis and the implementation of a particularized approach to the prevention, detection, and elimination of sexual harassment in the State workplace.

II. Purpose

The State of Georgia promotes respect and dignity and does not tolerate sexual harassment in the workplace. The State is committed to providing a workplace and environment free from sexual harassment for its employees and all persons interacting with the state government. Therefore, all State of Georgia employees are expected and required to interact professionally with all persons, including other employees, contractors, and customers, contributing to a respectful work environment free from sexual harassment.

This Policy is intended to set standards for Executive Branch agencies and employees in furtherance of this commitment and to protect individuals from sexual harassment and retaliation.

III. Authority

Executive Order 01.14.19.02 directs the Georgia Department of Administrative Services Human Resources Administration Division (HRA), in consultation with the Executive Counsel to the Governor, to promulgate a uniform sexual harassment prevention policy that shall apply to all Executive Branch agencies.

In addition, according to O.C.G.A § 45-20-4, the Georgia Department of Administrative Services is responsible for ensuring compliance with all applicable federal and State statutes and regulations concerning personnel administration and related matters. This includes, but is not limited to, the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, U.S. Const. amend. XIV., the Equal Protection Clause of the Georgia Constitution, Ga. Const. Art. 1, Sec. I, Para. II., Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, et seq., and the Fair

Employment Practices Act of 1978, O.C.G.A. §§ 45-19-20, et seq., prohibits employment discrimination and harassment based on sex.

IV. Applicability

The provisions of this Policy apply to all Executive Branch agencies. However, this Policy does not apply to the Board of Regents of the University System of Georgia, the Legislative Branch, or the Judicial Branch.

V. Definitions

For purposes of this Policy, the following definitions apply:

- (a) "Agency" or "Agencies" means any Executive Branch agency, authority, board, bureau, commission, council, department, office, unit, entity, or instrumentality of any kind, and others as may be designated by the Governor or to the extent that such designation does not conflict with state law.
- (b) "Employee" is a person who is hired to provide services to the State regularly in exchange for compensation and who does not provide these services as part of an independent business. A "Covered Employee" is a person who is hired to provide services to an Agency regularly in exchange for compensation and who does not provide these services as part of an independent business.
- (c) "Investigator" is a person designated by his or her Agency head to conduct investigations related to sexual harassment complaints or reports.
- (d) "Retaliation" is an act or omission intended to, or having the reasonably foreseeable effect of, punishing or otherwise negatively impacting an individual for submitting (or assisting with submitting) a complaint of or reporting sexual harassment, for participating in a sexual harassment investigation or proceeding, or for otherwise opposing sexual harassment.
- (e) "Sexual harassment" is physical, verbal, or non-verbal/visual conduct that is either (i) directed toward an individual or (ii) reasonably offensive to an individual because of his or her sex. Therefore, for this Policy, "Sexual harassment" includes physical, verbal, or non-verbal/visual conduct constituting:
 - 1. Unwanted sexual attention, sexual advances, requests for sexual favors, sexually explicit comments, and other conduct of an expressed or implied sexual nature by an individual who knows, or reasonably should know, that such conduct is unwanted and offensive; and

2. Conduct that is hostile, threatening, derogatory, demeaning, abusive, or intended to insult, embarrass, belittle, or humiliate an individual *because of his or her sex* – regardless of whether the underlying reason for the conduct is apparent.

This Policy purposefully prohibits all sexual harassment and is not limited to conduct that would rise to unlawful conduct under state or federal anti-harassment laws.

- (f) “Supervisor” or “Manager” is a Covered Employee who has the authority to oversee, hire, fire, demote, or effectively recommend hiring, firing, or demotion, or to make or effectively recommend other material changes to the working conditions of at least one employee.

VI. Prohibited Conduct

- (a) All Covered Employees are strictly prohibited from engaging in sexual harassment as defined herein. This prohibition applies to conduct occurring in or otherwise affecting the workplace. As such, it includes conduct occurring both on and off the work premises and during or outside work hours. While sexual harassment encompasses a wide range of conduct, some examples of conduct prohibited explicitly by this Policy include, but are not limited to:

1. Denying (directly or indirectly) an employment benefit or employment-related opportunity to an employee for refusing to comply with a sexually-oriented request;
2. Threatening (directly or indirectly) to deny an employment benefit or an employment-related opportunity to an employee for refusing to comply with a sexually-oriented request;
3. Providing or promising (directly or indirectly) to provide an employment benefit or employment-related opportunity to an employee in exchange for complying with a sexually-oriented request;
4. Engaging in sexually-explicit or suggestive physical contact, including touching another employee in a way that is unwelcome or restricting an employee’s movement;
5. Displaying or transmitting pornographic or sexually-oriented materials (such as photographs, posters, cartoons, drawings, or other images) or storing or accessing such materials on State-owned equipment for personal use or consumption;
6. Engaging in indecent exposure;
7. Making obscene gestures (i.e., hand or bodily gestures);
8. Making romantic advances and persisting despite the rejection of the advances;
9. Using sexually-oriented language or making sexually-related propositions, jokes, or remarks, including graphic verbal commentary about an individual’s body or clothing; and,

10. They send sexually suggestive or obscene messages by mail, in person, by telephone, or by electronic communication.
- (b) Agencies and Covered Employees are further prohibited from retaliating against an employee for submitting (or assisting with submitting) a complaint of or reporting sexual harassment, participating in a sexual harassment investigation or proceeding, or otherwise opposing sexual harassment.
 - (c) A Covered Employee found to have engaged in sexual harassment and/or retaliation in violation of this Policy will be subject to corrective and/or disciplinary action, up to and including termination of employment.
 - (d) A third party found to have engaged in sexual harassment and/or retaliation may be subject to appropriate corrective action. Such action may include but is not limited to termination of the contract, removal from Agency premises, restricted access to Agency premises and/or personnel, or notification to the third party's employer.
 - (e) Agencies shall immediately refer any reported criminal conduct to the appropriate law enforcement agency. Such referral shall not prohibit an Agency from pursuing its investigation of the complaint or report. If criminal activity is suspected, the Agency shall confer with the Office of the State Inspector General (OIG) regarding how to proceed with the Agency investigation.

VII. Training

- (a) Agencies shall require all Covered Employees, including part-time, temporary, seasonal employees, and independent contractors who are regularly on Agency premises and/or regularly interact with Agency personnel, to complete employee sexual harassment prevention training annually. However, an independent contractor may waive state-mandated training upon acknowledgment of this Policy and documentation that he/she has completed sexual harassment prevention training offered by his/her employer within the last year.
- (b) Agencies shall provide sexual harassment prevention training to all new or transferred Covered Employees within thirty (30) days of hire.
- (c) Agencies shall require sexual harassment prevention training for supervisors and managers on an annual basis. New supervisors and managers must complete this training within thirty (30) calendar days of employment or promotion to a supervisory or managerial position.
- (d) Agencies shall utilize the standardized training provided by HRA to fulfill this policy's employee and manager training obligations.

- (e) Agencies shall track and maintain records according to the statewide record retention schedule documenting employee and manager training attendance. Such records are subject to audit by the OIG.
- (f) Agencies shall require designated investigators (see Section IX. Investigations) to complete statewide investigator training provided by the OIG to ensure consistency in sexual harassment investigations across the State. Agencies shall require designated investigators to complete the statewide training within thirty (30) calendar days of the effective date of this Policy. Designated investigators appointed after the effective date of this Policy shall complete such training as soon as practicable.

VIII. Complaint Procedure

- (a) Covered Employees who believe they have been subjected to sexual harassment or retaliation in violation of this Policy are strongly encouraged to promptly submit a complaint regarding the incident(s) to one of the following officials:
 - 1. The Covered Employee's supervisor or manager;
 - 2. The Covered Employee's division director;
 - 3. The Agency's Human Resources Director; or,
 - 4. Other Agency designee.
- (b) Covered Employees who have witnessed or otherwise have reason to believe that another employee is being or has been subjected to sexual harassment or retaliation shall promptly report the same to one of the Agency officials listed above.
- (c) To the extent that any of the above officials are the alleged harasser or retaliator, or if a Covered Employee has a reasonable fear of retaliation by one of the above officials, a Covered Employee may submit a complaint or report of sexual harassment or retaliation directly to the OIG.
- (d) While written complaints and reports of sexual harassment or retaliation are preferred, Agencies shall accept all complaints and reports, whether written, verbal, or anonymous. They will ensure that each complaint or report is promptly, appropriately investigated, and resolved.
- (e) Agencies shall review all complaints and reports of sexual harassment and retaliation and notify the OIG within two (2) business days of receipt.

IX. Investigations

- (a) Each Agency shall designate at least two of its employees, not the same gender, to conduct investigations under this Policy. In addition, agencies must ensure that employees directly supervised by designated investigators can submit complaints or reports of sexual harassment to individuals other than their direct supervisor or manager.
- (b) Agencies shall report to the OIG the names and contact information for the designated investigators and an HR contact via the OIG's online portal within seven (7) business days of the effective date of this Policy. Should a vacancy in an investigator or HR contact role occur, a replacement shall be designated and reported to the OIG within seven (7) business days of the vacancy via the OIG online portal.
- (c) Agencies shall cooperate with any determination by the OIG that a complaint or report cannot be handled internally at the Agency from which it originated. Agencies shall cooperate fully with the impartial investigator assigned by the OIG to handle the complaint or report.
- (d) The assigned investigator shall complete the investigation and issue a report of findings as promptly as possible but at least within forty-five (45) calendar days of assignment. An Agency Head may consider an extension of time due to extenuating circumstances.

X. Resolution

- (a) Agencies shall make a final determination and, if necessary, implement appropriate corrective or disciplinary action and remedial measures depending upon the nature of the policy violation as soon as possible but in no event more than twenty-one (21) calendar days of receipt of the investigative report.
- (b) Agencies shall consult with and provide updates to the OIG as requested and promptly produce any information related to a sexual harassment or retaliation complaint or report or the investigation upon the OIG's request.
- (c) Agencies shall maintain the confidentiality of information reported to the Agency to the extent consistent with thorough investigation and procedures outlined in this Policy. However, complaints and reports of sexual harassment or retaliation, investigative reports, final determinations, and other related documents will be subject to disclosure under the Open Records Act upon completion of the investigation.

XI. Acknowledgment and Recordkeeping

- (a) Agencies shall make this Policy available to all Covered Employees and retain documentation of each Covered Employee's acknowledgment of receipt of the Policy

in his or her personnel file.

- (b) All complaints and reports, investigative documents, policy acknowledgments, and training attendance records shall be retained according to the statewide record retention schedule and as otherwise required by law according to specific requests for preservation.

Effective Date

This Policy becomes effective March 1, 2019 and may be revised as necessary.

Revision History

Version	Date
1.0	March 1, 2019