

Procedure: 6.1.1p. (V.A.1)

Unlawful Harassment and Discrimination of Students

Revised: January 14, 2019; January 12, 2016; July 16, 2014; April 25, 2013; and March 9, 2007.

Last Reviewed: October 3, 2022; and September 26, 2019.

Adopted: April 25, 2013.



I. PURPOSE:

This procedure aims to ensure that all students within the Technical College System of Georgia (TCSG) shall be provided with an environment free of unlawful harassment, discrimination, and retaliation.

All students and employees are prohibited from engaging in any form of unlawful harassing, discriminating, intimidating, or retaliatory behavior or conduct ("prohibited conduct") in all interactions, whether or not the interaction occurs during class or on or off campus. Visitors to campuses also shall not engage in prohibited conduct and may be barred from campus for such prohibited conduct. Allegations of discrimination, harassment, or retaliation occurring at clinical sites assigned to students shall be investigated under this procedure.

Student complaints regarding sexual harassment, sexual assault, sexual violence, dating violence, domestic violence, sexual exploitation, or stalking will be processed under the Sexual Harassment and Misconduct Procedure.

Any student or employee engaged in prohibited conduct will be subject to disciplinary action, including expulsion or dismissal. Nothing in this procedure shall be interpreted to interfere with any person's right to free speech as provided by the First Amendment to the Constitution of the United States of America.

All students are encouraged to report any prohibited conduct. Reports will be treated expeditiously and confidentially. TCSG will not tolerate retaliation for having filed good faith harassment and/or discrimination complaints or for providing any information in an investigation. Any individual who retaliates against a complainant or witness in an investigation will be subject to disciplinary action, including expulsion or dismissal.

Employee complaints of unlawful harassment or discrimination shall be conducted pursuant to the process outlined in Unlawful Harassment, Discrimination, and Retaliation in Employment.

II. RELATED AUTHORITY:

TCSG State Board Policy 2.1.1. – Statement of Equal Opportunity.
Titles VI and VII of the Civil Rights Act of 1964.
Age Discrimination Act of 1975.

Rehabilitation Act of 1973, as amended.
Americans with Disabilities Act of 1990.
Americans with Disabilities Amendments Act (ADAAA) of 2008.
Genetic Information Nondiscrimination Act (GINA) of 2008.
TCSG Procedure 6.5.3p – Student Grievances.

III. APPLICABILITY:

All work units and technical colleges are associated with the Technical College System of Georgia.

IV. DEFINITIONS:

Unlawful Harassment (Other Than Sexual Harassment): unlawful verbal or physical conduct that disparages or shows hostility or aversion toward an individual because of that person's race, color, religion, national origin, age, genetic information, or disability and which:

1. Has the purpose or effect of creating an objectively and unreasonably intimidating, hostile, or offensive educational environment, or
2. Has the purpose or effect of objectively and unreasonably interfering with an individual's educational performance.

Unlawful harassing conduct or behavior can include but is not limited to epithets, slurs, negative stereotyping, or threatening, intimidating, or hostile acts that relate to race, color, religion, national origin, genetic information, age, or disability. In addition, unlawful harassing conduct can include jokes or pranks that are hostile or demeaning concerning race, color, religion, national origin, age, or disability.

Unlawful harassing conduct may also include written or graphic material that disparages or shows hostility or aversion toward an individual or group because of race, color, religion, national origin, age, or disability, and that is displayed on walls, bulletin boards, computers, or other locations, or otherwise circulated in a college community in any format.

Conduct that threatens, coerces, harasses, or intimidates another person or identifiable group of persons in a manner considered unlawful under state and federal laws about stalking while on college premises or at college-sponsored activities may also be considered unlawful harassment under this procedure.

Unlawful discrimination: the denial of benefits or admission to the college or any of its programs or activities, either academic or nonacademic, curricular or extracurricular, because of race, color, religion, age, gender, national origin, genetic information, or disability.

Unlawful retaliation: adverse action taken, an unfavorable condition created, or a student or employee took another action for intimidation directed toward a student because the student initiated an allegation of unlawful harassment/retaliation or participated in an investigation of an allegation.

Technical College System of Georgia: all work units and technical colleges are governed by the State Board of the Technical College System of Georgia.

Employees: any individual employed in a full or part-time capacity in any TCSG work unit or technical college.

Visitor: any third party (e.g., volunteer, vendor, contractor, member of the general public, etc.) who conducts business or regularly interacts with a work unit or technical college.

Clinical Site: any off-campus location to which students or faculty are assigned for completion of program requirements, including labs, internships, or practicums.

President: the chief executive officer responsible for the management and operation of the technical college where the complainant and/or accused violator are enrolled or employed.

Human Resources Director: the highest ranking employee responsible for the human resources function at a technical college or TCSG work unit.

Local Investigator: the individual(s) at the technical college who is responsible for investigating unlawful harassment, discrimination, and/or retaliation complaint. Local investigators may be assigned based on the subject matter of the complaint or their function within the organization.

Compliance Officer: the individual designated by the Deputy Commissioner to coordinate TCSG compliance with Title IX of the Educational Amendments of 1972 and other state and federal laws governing unlawful discrimination and harassment and educational access by disabled individuals.

Section 504 Coordinator: an individual designated by the President of the college to ensure compliance with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990 as Amended, and any other state and federal regulations governing disabilities; the responsibilities of the 504 Coordinator will include, but may not be limited to evaluating students requesting accommodations for a disability and ensuring equal access to facilities, services, and programs.

V. ATTACHMENTS:

Attachment 6.2.1p.a1. TCSG Usage for Statement of Equal Opportunity

VI. PROCEDURE:

A. Administration and Implementation

1. Each college president shall designate one or more officials to serve as the Title IX Coordinator and the Section 504 Coordinator and ensure the designated officials have received appropriate training.
2. Contact information for the Title IX and Section 504 Coordinators and the Statement of Equal Opportunity should be permanently displayed on official bulletin boards and included in electronic or written college publications and educational materials described in the TCSG Usage for Statement of Equal Opportunity.
3. Instructors/administrators must take ongoing proactive steps to ensure educational opportunities (including classrooms, clinics, labs, programs, etc.) and student activities (clubs, sports, etc.) are accessible and free from unlawful discrimination or harassment.
4. The Compliance Officer will conduct training programs and monitor the colleges to ensure the correct administration and implementation of this procedure and will

ensure that proactive or corrective measures have been taken to prevent unlawful discrimination, harassment, or retaliation.

B. Reporting and Management Action

1. All students are encouraged to report events of unlawful harassment, discrimination, and/or retaliation (“prohibited conduct”) against themselves or others.
2. If a student filing a complaint requests anonymity or asks that the complaint not be pursued, the college must inform the student that its ability to respond may be limited, that retaliation for filing a complaint is prohibited, and that steps to prevent harassment and retaliation will be taken. The college should take all reasonable steps to investigate and respond to the complaint consistent with the request and pursue other steps to limit the effects of the alleged harassment and prevent a recurrence.
3. Colleges may weigh a request for anonymity or a request they not pursue a complaint considering the following factors: the seriousness of the alleged conduct, the complainant’s age, whether there have been other harassment complaints about the same individual, and the alleged harasser’s rights to receive information about the allegations if the information is maintained as an “education record” under FERPA. The college must inform the student if the request cannot be granted.
4. Reports concerning all prohibited conduct referenced in this procedure will be processed confidentially to the extent permitted by law; communications regarding complaints will be disseminated to others on a need-to-know basis to ensure that necessary steps are taken to protect the community as a whole, and that appropriate disciplinary measures or corrective actions are considered and taken.
5. Allegations or suspicions of unlawful discrimination, harassment, or retaliation may be reported to the technical college’s Vice President for Student Affairs, Section 504 Coordinator, the President, or the Human Resources Director (should the complaint involve employees). Complaints may also be emailed to unlawfulharassment@tcsq.edu.
6. Complaints under this procedure can be expressed in writing, by telephone, or in person; individuals are, however, encouraged to express complaints in writing to ensure all concerns are addressed.
7. Suppose an allegation of unlawful harassment, discrimination, or retaliation is made to an employee not designated to receive such reports. In that case, the employee receiving the complaint must report the allegation as provided in section 6 above.
8. Students or employees may be suspended, transferred, or reassigned employees or students in order to prevent possible further harassment, discrimination, or retaliation, to facilitate the investigation, or to implement preventive or corrective actions under this procedure.
9. Any allegation of unlawful harassment, discrimination, or retaliation against employees must be reported to the Human Resources Director, who may elect to investigate in conjunction with other local investigators.

C. Investigation

1. Local investigators shall investigate all prohibited conduct complaints under these procedures thoroughly and expeditiously.
2. A complaining party will be notified if the complaint does not specify facts sufficient to allege unlawful discrimination, harassment, or retaliation. A formal investigation will not be conducted under this procedure.
 - a. In writing, the complaining party may appeal the decision to the President

within five business days of receiving the notice. After that, the President's decision will be final.

3. Individuals designated to investigate or recommend corrective actions in response to allegations will be trained to conduct an investigation that protects the safety of victims and promotes accountability. Individuals assigned as the investigator for a particular incident shall disclose to the President any relationship with the parties that could call into question their ability to be objective prior to taking any action concerning the investigation. The President will reassign alternate individuals if necessary.
4. Investigations will be conducted by gathering relevant information and interviewing appropriate witnesses. Both the complaining party and the respondent (the parties) will be given equal opportunity to identify witnesses and offer evidence in person or writing. Best efforts will be made to interview all witnesses identified by the parties. Both the complaining party and the respondent may be accompanied by an advisor of his or her choice. However, the advisor may not speak on behalf of the party.
5. The college will evaluate the information collected during the investigation and determine whether a preponderance of the evidence substantiates unlawful discrimination, unlawful harassment, and/or unlawful retaliation.
6. Investigations and summary findings will be documented appropriately.

D. Corrective Actions

1. Colleges will take all reasonable steps to prevent unlawful retaliation against complainants and other individuals participating in investigations under this procedure.
2. If prohibited conduct is determined to have occurred following the investigation, the college, through the appropriate officials, shall implement steps to prevent a recurrence and to correct the discriminatory effects on the complaining party and others as appropriate. Steps may include but are not limited to mandating training or evaluation, disciplinary sanctions, policy implementation, or reassignment of students or employees.
3. Should recommend disciplinary sanctions involve academic suspension or expulsion, the matter must be referred to the Vice President for Student Affairs, as provided by the college's Student Code of Conduct and Disciplinary Procedure.
4. Individuals responsible for conducting investigations or proposing sanctions under this procedure should not also serve as reviewing officials or hearing officers in the appeal of sanctions arising from an investigation.
5. Even in the absence of sufficient evidence to substantiate a finding that unlawful discrimination, unlawful harassment, or retaliation has occurred, colleges are expected to address inappropriate conduct and take all reasonable steps to prevent future unlawful discrimination, harassment, or retaliation.

E. Reviews and Dispositions

1. Any parties to a complaint under this procedure may request a review of the investigative findings within five business days of receiving notice of the investigative results by submitting a written request to the President.
2. The President shall review all investigations conducted under this procedure and ensure that the appropriate corrective actions have been implemented.
3. Within ten business days of receiving a request for a review of the investigative findings, the President of the college will notify the parties in writing of his/her final determination, including any change in the result of the findings. In addition, the

notice will inform the parties that they have a right to appeal the determination to the Technical College System of Georgia's Office of Legal Services by submitting a written request within three business days by regular mail or email to one of the following:

Technical College System of
Georgia Office of Legal Services
1800 Century
Place, N.E. Suite
400
Atlanta, Georgia

30345 OR

unlawfulharassment@tcsq.edu

4. The Office of Legal Services will convene a panel of at least three individuals not employed by the requestor's college to review the investigative findings. The panel's decision is final and will conclude the processing of the complaint. Both parties will be notified in writing simultaneously of the results of the review and any changes in the investigative findings under appeal.

VII. RECORD RETENTION:

Documents relating to formal complaints, including investigations, dispositions, and the complaint itself, shall be held for five years after the student's graduation or the date of the student's last attendance. Any confidential information documents shall be held in a secure location under the custody and control of the Vice President of Student Affairs or the President's designee. Documents about employees maintained by the Office of Human Resources shall be maintained in a secure location under the Georgia State Archives records retention schedule but in no case fewer than five years.

Usage for Statement of Equal Opportunity

Revised October 2022

The Technical College System of Georgia and its associated colleges are subject to the rules and regulations of the U.S. Department of Education's Office of Civil Rights. These rules require wide distribution of the Equal Opportunity Policy. As such, it is imperative that all publications, marketing material, and advertising used to promote the technical college system or any individual college comply with the following guidelines for using disclaimer statements and reuse a font and font size that are easily read for all statements.

A. For all college catalogs, student handbooks, and employee handbooks, the following statement must be included:

The Technical College System of Georgia and its constituent Technical Colleges do not discriminate based on race, color, creed, national or ethnic origin, sex, religion, disability, age, political affiliation or belief, genetic information, disabled veteran, a veteran of the Vietnam Era, spouse of a military member, or citizenship status (except in those particular circumstances permitted or mandated by law). This non-discrimination policy encompasses all technical college-administered programs and programs financed by the federal government, including any Workforce Innovation and Opportunity Act (WIOA) Title I financed programs, educational programs, and activities, including admissions, scholarships and loans, student life, and athletics. It also encompasses the recruitment and employment of personnel and contracting for goods and services.

The Technical College System and Technical Colleges shall promote equal opportunity through a positive continuing program of specific practices designed to ensure the full realization of equal opportunity. The following person has been designated to handle inquiries regarding the non-discrimination policies:

This statement must be followed by contact information for each school's Title IX and Section 504 coordinator(s). Contact information includes name,¹ title, office address, and phone number. In addition, the Title IX Coordinator's email address must be included.

B. For all other printed material such as newsletters, magazines, website and electronic publications, written materials distributed to students, notices posted on campus, and local newspapers, and other materials (particularly those related to student recruitment and employment), this abbreviated statement may be used:

As outlined in its student catalog, (name of college) does not discriminate based on race, color, creed, national or ethnic origin, sex, religion, disability, age, political affiliation or belief, genetic information, veteran status, or citizenship status (except in those particular circumstances permitted or mandated by law).

The following person(s) has been designated to handle inquiries regarding the non-discrimination policies:

¹ The name may be omitted in publications not printed often, such as the college catalog. However, easily changed items, such as the website and online handbooks, should always include the name of the coordinators.

This statement must be followed by contact information for each school's *Title IX* and *Section 504* coordinator(s). Contact information includes name or title, office address, and phone number. It is strongly recommended that the coordinators' email addresses be included in the contact information.

C. If there is not enough space in the publication resulting in a tiny font, please use this abbreviated statement, which will keep us in compliance with OCR regulations:

The (name of college) does not discriminate based on race, color, national origin, sex, age, or disability.

This statement must be followed by contact information for each school's *Title IX* coordinator and the *Section 504* coordinator. Contact information includes name, title, office address, and phone number. It is strongly recommended that the coordinators' email addresses be included in the contact information.

In certain minimal circumstances, a print advertisement might state only "Equal Opportunity Institution." However, this should only be used when space is extremely limited/expensive, such as a newspaper classified advertisement.

D. Small Format Advertising (outdoor, radio, and TV): If the size or length of the advertising medium does not allow room for either of the above statements without accruing substantial additional cost, the following statement can be used. However, this shortened statement should be used sparingly:

Equal Opportunity Institution

E. Annual Notification

Every fall prior to the beginning of the Fall Semester, each college must run a notice in the local newspaper(s) stating that the college does not discriminate based on race, color, national origin, sex, disability, or age; provide a summary of the college's educational offerings; describe admission criteria and include the name, address, and phone number of the Title IX and Section 504 coordinator(s).

The following is a sample Annual Notification:

[Technical College] is an equal opportunity employer and offers the following career and technical education programs for all, regardless of race, color, religion, sex, marital status, age, disability, or national origin.

[List of programs can be a list of general categories such as nursing, information technology, etc. Also may include every program]

Persons seeking further information concerning the career and technical education offerings and specific pre-requisite criteria for admission to these programs should contact:

[Technical College admissions office contact information]

[Technical College] offers additional services to students with limited English language skills or with disabilities so that they may benefit from these programs.

For additional information regarding these services, your rights, grievance procedures, or the College's non-discrimination policies, please contact:

This statement must be followed by contact information for each school's *Title IX* and *Section 504* coordinator(s). Contact information includes name, title, office address, and phone number. In addition, the Title IX Coordinator's email address must be included.

Please contact your college's *Title IX* Coordinator, *Section 504* Coordinator, Kim Ellis (kellis@tcsg.edu), or Josh McKoon (JMcKoon@tcsg.edu) if you have questions or need clarification.