



Policy 8.2 Sexual Misconduct

Responsible Official: SVP and Dean for Campus Life

Administering Division/Department: Campus Life

Effective Date: May 24, 2007

Last Revision: September 26, 2016

Policy Sections:

- I. Overview
- II. Applicability
- III. Policy Details
- IV. Definitions
- V. Related Links
- VI. Contact Information
- VII. Revision History

Overview

Emory University is committed to maintaining an environment that is free of unlawful harassment and discrimination. Thus, in accordance with federal law and its commitment to a fair and open campus environment, Emory cannot and will not tolerate discrimination against or harassment of any individual or group based upon race, sex, color, religion, ethnic or national origin, gender, genetic information, age, disability, sexual orientation, gender identity, gender expression, veteran's status, or any factor that is a prohibited consideration under applicable law.

Title IX of the Educational Amendments of 1972 protects people from sex discrimination in educational programs and activities at institutions that receive federal financial assistance. Emory fosters a safe learning and working environment that supports academic and professional growth of students, staff, and faculty and does not tolerate sexual misconduct in its community and will take prompt action when misconduct occurs.

This Policy covers sexual misconduct committed by Emory University students. Sexual misconduct is a form of sexual harassment that is prohibited under federal law and the Emory University Equal Opportunity and Discriminatory Harassment Policy (Policy 1.3). Sexual misconduct can occur in many forms, including, but not limited to, sexual harassment, domestic violence, dating violence, intimate partner violence, sexual assault, and stalking.

The university will take seriously every allegation or report of sexual misconduct received. Emory University's response is intended to ensure that all parties involved receive appropriate support and fair treatment, and that allegations of sexual misconduct are handled in a prompt, thorough, and equitable manner.

Concerns, complaints, or questions relating to this Policy may be directed to the staff members listed below:

Lynell A. Cadray
Associate Vice Provost
Office of Institutional Equity and Inclusion

Emory University
Atlanta, GA 30322
404-712-8541
lynell.cadray@emory.edu

Or

Judith Pannell

Title IX Coordinator for Students
Office of Title IX
Emory University
Administration Building, Suite 305
Atlanta, GA 30322
Phone: 404-727-4079
judith.pannell@emory.edu

Questions may also be directed to a Deputy Title IX Coordinator. Their names and contact information are listed at the end of this document.

Applicability

The following policies and procedures apply to situations in which **a student is alleged to have engaged in sexual misconduct**. Allegations of sexual misconduct not involving a student, or involving a student acting in an employment capacity, are primarily addressed through the university's Equal Opportunity and Discriminatory Harassment Policy (Policy 1.3). However, a student acting in an employment capacity may be subject to this Policy as well as any applicable employment policies.

The University Title IX Coordinator monitors and oversees Emory University's compliance with federal regulations concerning sexual harassment and discrimination. Upon receipt of a report of alleged sexual misconduct, the University Title IX Coordinator will monitor responsive action to ensure that the educational environment at Emory University is free of discrimination and discriminatory harassment. Additionally, the University Title IX Coordinator monitors the steps taken, as appropriate, to remedy the effects of the sexual misconduct on the complainant. This may include commencement of disciplinary proceedings against a respondent.

This policy applies to sexual misconduct that occurs in connection with all academic, educational, extracurricular, athletic, and other programs of Emory, whether those programs take place in university facilities, at a program sponsored by the university at another location, or elsewhere.

Policy Details

8.2.1. Reporting Sexual Misconduct

Reporting to the police. Because sexual misconduct may constitute both a violation of University policy and criminal activity, persons having knowledge of a possible violation are

strongly encouraged to report alleged sexual misconduct promptly to the Emory Police Department, or to local law enforcement authorities for incidents that occur off campus. The university strongly encourages survivors who have been sexually assaulted to report the assault, to seek assistance, and to pursue judicial action for their own protection and that of the entire campus community.

Confidential reporting (providing information without your name attached to it) is an available option with the Emory Police Department through the TIPS line ((404)727-TIPS/8477); however, investigative or criminal enforcement activity can be significantly limited in the case of anonymous reports. Regardless of whether a complainant pursues a criminal complaint, the university will investigate the incident in question and take appropriate responsive action to ensure that the educational environment at Emory is free of harassment and to prevent the recurrence of a hostile environment, and, as appropriate, to remedy the effects of the harassment.

When the survivor elects not to, or is unable to, report an assault, Emory encourages other persons with knowledge of the assault to make a prompt and accurate report to the Emory Police Department. The wishes of the survivor about confidentiality, if known, should be respected in making such a report.

Pursuant to University Policy 4.119, **Emory University's Mandated Child Abuse Reporting Policy**, unless there is an exception under Georgia law, Emory University requires all Emory University personnel, including faculty, staff, students, and third-parties, to report suspected Child Abuse of which they are made aware in their capacity of employment or duties. Child abuse includes sexual abuse or exploitation of a person who is under eighteen (18) years old. Any uncertainty about whether reporting is required should always be resolved in favor of making a report to the Emory Police Department.

Reporting Sexual Misconduct for University Action. Every university employee who is informed about an allegation of sexual misconduct involving any student is required to notify a Title IX Coordinator either directly or through their relevant reporting structure. However, university employees who serve in a professional role in which communications are afforded confidential status under the law (e.g., medical providers, therapists, and professional and pastoral counselors) are not bound by this requirement but may, consistent with their ethical and legal obligations, be required to report limited information about incidents without revealing the identities of the individuals involved, to a Title IX Coordinator or Deputy Coordinator. All members of the Emory University Community are encouraged to promptly report incidents of sexual harassment and discrimination.

Complaints under this sexual misconduct policy may be filed: (1) with the University Title IX Coordinator, (2) with the Title IX Coordinator for Students, or (3) with a Deputy Title IX Coordinator. The complaint may be made in a written or verbal format. A reporting form is available at <http://sexualmisconductresources.emory.edu>.

Retaliation prohibited. Federal regulations and university policy protect against retaliation directed at any individual who files a complaint or is involved in the adjudicatory process under this policy in good faith or participates in an investigation of a complaint. A complaint of retaliation may be initiated with the Title IX Coordinator for Students for any retaliatory actions resulting from the filing of a complaint under this policy. Retaliation is adjudicated under the guidelines of this sexual misconduct policy.

8.2.2. Investigation and Adjudication

The Title IX Coordinator for Students is primarily responsible for coordinating responses to complaints of possible violations of this policy, directly overseeing the investigation and adjudication of complaints, and coordinating possible remedial actions or other responses designed to reasonably minimize the recurrence of the alleged conduct as well as mitigate the effects of the harassment. The Title IX Coordinator for Students will ensure prompt, fair, and impartial investigations and resolutions of complaints alleging violations of this policy. In most cases, an investigation will be completed within 60 days; however, a longer period may be needed in some

more complex cases.

The procedures for institutional disciplinary action will be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking. The officials, who are members of the Emory University community, will handle matters under this policy promptly and equitably.

When conducting the investigation, the university's primary focus will be on addressing the sexual assault and not on other Emory University alcohol or other drug policy violations that may be discovered or disclosed. Emory encourages reporting and seeks to remove any barriers to reporting. Emory recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of potential Conduct Code consequences for the individual who reports. An individual who reports sexual misconduct, either as a Complainant or a third party witness, will not be subject to disciplinary action by the university for 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. At the conclusion of the investigation, the Title IX Coordinator for Students may initiate an educational discussion or recommend other educational or therapeutic remedies regarding alcohol or other drugs for the reporting individual(s).

The complainant and respondent may each be assisted by an advisor of choice during any investigative meeting or pre-hearing conference that a university official schedules with a complainant or respondent. The principal role of an advisor is to serve as a support to a complainant or respondent, and not as a representative or advocate in interactions with university officials.

The filing of a sexual misconduct complaint under this policy is independent of any criminal investigation or proceeding, and except in cases where it is determined that a conduct proceeding might impede a criminal investigation or otherwise not be in the best interests of the law enforcement agency, a complainant, or the university, a university investigation will not wait for the conclusion of any criminal proceedings to commence its own investigation and take needed interim measures.

Investigation of a Complaint and Notice of Charges of Alleged Policy Violation. Title IX Coordinator for Students will appoint a team of investigators to examine each complaint received. The investigators will conduct a prompt, thorough, and impartial investigation of the complaint. The investigation may involve interviews of a complainant, respondent, or witnesses, collection of documents or other physical/electronic information, and other appropriate steps in conducting an investigation. Individuals who are interviewed during the investigation will be advised that the matter is confidential and that retaliation is prohibited by this Policy. A complainant and respondent may both provide information and suggestions to the investigators during the investigation, but the investigators have independent authority to conduct an investigation as best determined by the investigators. Neither a complainant nor respondent, or anyone on behalf of a complainant or respondent, is permitted to engage in any independent investigative activity that involves contacting individuals associated with the investigation and adjudication.

At the conclusion of the review, the investigators will submit a written Report of Findings to the Title IX Coordinator for Students detailing the information that was collected. The Title IX Coordinator for Students may ask further clarifying questions of the complainant, respondent, or witnesses to supplement the Report of Findings.

The Title IX Coordinator for Students shall review the Report of Findings and determine whether there is sufficient information to support charging a student with a violation of this Policy. If a determination is made that the available information will not support a violation, then the student will not be charged. If the Title IX Coordinator for Students determines that there is

sufficient information that a student may have committed a violation of this Policy, then within 7 days after the report of findings is completed or supplemented, a written "Notice of Charges of Policy Violation" ("Notice of Charges") will be provided to the respondent and the complainant with summary information that supports the charge(s).

Input from the Complainant Regarding the Method of Resolution. Early on in the investigation, the Title IX Coordinator for Students will seek to determine how the complainant wishes to proceed - whether the complainant wishes to pursue a formal resolution, seeks to resolve the allegation informally, or does not wish to pursue resolution of any kind.

A. If the complainant wishes to proceed with a formal resolution and the Title IX Coordinator for Students determines there is sufficient information to proceed with a disciplinary process, then a hearing will be conducted as outlined in section 8.2.3 (Hearing Procedures) of this policy.

B. If the complainant wishes to proceed with an informal resolution, the Title IX Coordinator for Students may elect to initiate an informal resolution process. However, a complainant (a) should never be required to work out a problem or resolve an issue directly with the respondent without school involvement; (b) must be advised of the right to end the informal process at any time and to begin to pursue a formal complaint process; and (c) should be notified that mediation is not appropriate, even on a voluntary basis, for sexual assault allegations. Additionally, a complainant and respondent must mutually consent to use of the informal resolution. The Title IX Coordinator for Students may elect not to pursue an informal resolution process if it is deemed not in the best interest of the involved parties or in the best interest of the university.

C. Even if the complainant does not wish to pursue resolution, requests that no action be taken, or requests that the complaint remain confidential or elects not to participate in the process, Emory has an obligation to respond to reports of sexual misconduct. The university's ability to respond may be limited if a complainant wishes to remain anonymous. Also, no guarantees can be made to a complainant regarding confidentiality, but the Title IX officials will consider every request for confidentiality and significant weight will be given to honoring that request in determining a response to the report of sexual misconduct. In all cases, information will be treated with discretion and privacy but cannot always be handled confidentially. A student will not be required to make a formal report if the student is not ready to.

A request for confidentiality will be considered in the dual contexts of the university's legal obligation to ensure a living and learning environment free from sexual misconduct and the due process rights of the respondent to be informed of the allegations and their source. Some level of disclosure may be necessary to ensure a complete and fair investigation, although the university will comply with requests for confidentiality to the extent possible. The complainant's request may be weighed against the following factors in considering how to respond: the seriousness of the alleged sexual misconduct, the complainant's age, whether there have been other complaints of sexual misconduct against the same respondent, and the respondent's right to receive information about the allegations if the information is maintained by the university as an "education record" under Family Educational Rights and Privacy Act (FERPA).

Authority to Impose Interim Restrictions and Provide Accommodations. During the investigation and until resolution of allegations, the Title IX Coordinator for Students, University Title IX Coordinator, or designee, may issue interim restrictions, including, but not limited to the following: no-contact or stay away orders between the complainant and the respondent, interim suspension, temporary exclusion from areas of campus, removal from or relocation to another residence hall, changes in academic/course schedules, or limiting participation in certain events, gatherings, or activities, among other measures. Interim measures should not be construed to suggest that any decision has been made about the merits of the cases. Appeals must be submitted in writing to the University Title IX Coordinator within 7 days from the day the parties are notified about the interim restriction. The University Title IX Coordinator will review the materials within 5 days of receipt of the appeal and may affirm the original restriction,; modify the restriction, which may be of greater or lesser severity, or dismiss the original restriction. The

University Title IX Coordinator's determinations on any interim restrictions are final and not appealable. Both parties shall receive simultaneous written notice of the outcome of the appeal.

Accommodations may be provided to individuals involved, regardless of whether formal conduct proceedings are instituted, including academic/course schedule changes; housing reassignments; safety escorts; safety/crime prevention briefings, and other protective or safety measures. Interim restrictions and accommodations are considered on a case-by-case basis by the Title IX Coordinator for Students. Interim restrictions may be appealed to the University Title IX Coordinator.

Acceptance of Responsibility. Within 5 days after receipt of the "Notice of Charges," the respondent has an opportunity to accept or not accept responsibility for the charge(s). If a respondent is charged and accepts responsibility for having violated this policy, the Title IX Coordinator for Students will determine the appropriate sanction within 5 days and send written notification of the sanction imposed and the appeal process to the complainant and respondent. The sanction determination is appealable to the University Title IX Coordinator within 7 days of the notice of sanction. The University Title IX Coordinator's determination shall be final and not appealable.

8.2.3. Hearing Procedures

If an investigation supports moving forward with a hearing and the respondent does not accept responsibility for the alleged conduct, the Title IX Coordinator for Students will appoint a hearing panel of three individuals, drawn from a pool of faculty, staff, and students with appropriate knowledge and training, to determine if the respondent is responsible for violations in the Notice of Charges. The appointment of the hearing panel will occur within 5 days. The Title IX Coordinator for Students will appoint one member of the panel as its chairperson. The Title IX Coordinator for Students will select the date, time, and location of the hearing, and will provide notice to all parties. All parties shall be given at least 10 days' notice in advance of the hearing date, absent agreement by the parties to shorten the time period or extraordinary circumstances as determined by the hearing chairperson.

In hearings conducted under this Policy:

1. Both parties shall be given similar and timely access to information that will be used at the hearing and be given the substantially equivalent opportunities to present relevant evidence and witnesses.
2. The proceedings shall be non-adversarial in nature. The chairperson of the Council is empowered to take such steps as may be necessary to preserve the non-adversarial character of the hearing.
3. Both parties have the right to be present for the entire hearing, except for deliberations or recesses for the panel to discuss procedural issues.
4. The university may require any student to attend and to give testimony relevant to the case under consideration. Signed, written statements of complainants from a respondent or from witnesses who cannot attend the hearing may be accepted at the discretion of the chairperson. The university may request the attendance of a faculty or staff member, or alternatively request that a faculty or staff member furnish a written statement.
5. The complainant and respondent are both permitted to have an advisor of choice present at the board hearing. If an advisor attends a board hearing, the advisor is permitted to communicate with the student but not be directly involved in the proceeding. An advisor may attend the hearing to provide advice and support to a student, but is not permitted to make statements to the hearing panel or question hearing participants. While in a hearing, the advisor's advice and support must be provided in a manner that does not

disrupt the hearing. The chairperson for the board has discretion to place limitations or conditions on the advisor's presence or participation, and in extreme cases, where an advisor fails to adhere to this policy and disrupts a board hearing, the advisor can be dismissed from a hearing. Any cost associated with the participation of an advisor is the sole responsibility of the individual seeking the advisor's assistance.

6. A complainant shall not be required to be physically present in the same room as the respondent, and at the discretion of the chairperson of the hearing panel, electronic participation by a complainant may constitute presence for purposes of any proceeding.
7. Panel members shall be required to disclose any conflicts of interest relating to the allegations or the proceeding.
8. Neither party shall be permitted to directly question each other or any witness at the hearing, but they may submit questions to the panel chairperson's consideration.
9. The panel chairperson will determine whether the panel can properly weigh or take into consideration any evidence offered by a party or witness, and will make determinations as to whether specific, requested questions can be asked by members of the panel the parties. These determinations shall be based on relevance. Rules of evidence applicable to criminal or civil court proceedings will not apply.
10. There shall be a single verbatim record, such as a tape recording, of all hearings (not including deliberations). The recording shall be the property of the university. Documentation of conduct proceedings, including written findings of facts, transcripts, and any audio recordings, are maintained in accordance with the applicable university document retention records.
11. For all cases, the standard that shall be used to determine whether a violation was committed is **preponderance of the evidence**, i.e., it is more likely than not that sexual misconduct occurred.
12. After all admissible evidence has been reviewed the panel shall deliberate to decide the case. The respondent shall be found responsible or not responsible for each charge by a majority vote of the panel.

The panel chairperson will submit a written report to the Title IX Coordinator for Students containing the panel's determination and rationale within 5 days of the conclusion of the hearing.

If the panel concludes that, under a preponderance of the evidence standard, the respondent violated this policy, the panel will provide a sanction recommendation to the Title IX Coordinator for Students. The Title IX Coordinator for Students shall be empowered to affirm this sanction and/or determine an alternate sanction and remedy. Both parties shall receive simultaneous written notice of the outcome of the hearing, sanctions and remedies imposed, and the process and deadline for submitting an appeal by either party

Emory may impose a range of sanctions and protective measures following a final determination of a violation of the sexual misconduct code, including rape, acquaintance rape, domestic violence, dating violence, sexual assault, or stalking, among other conduct that violates this Policy. The sanctioning decision will be informed by the degree to which the behavior was intentional, irresponsible, or without knowledge.

Factors pertinent to the determination of what sanction applies include, but are not limited to, the nature of the conduct at issue, prior disciplinary history of the respondent (shared with a panel only upon a finding of responsibility to the allegation), respondent's willingness to accept

responsibility for the respondent's actions, previous university response to similar conduct, and university interests.

The broad range of sanctions includes:

- Expulsion (Students found responsible for engaging in actual or attempted sexual penetration without consent, or who are found responsible for repeated sexual misconduct, should be prepared to be permanently separated from the university).
- Suspension for an identified time frame or until satisfaction of certain conditions, or both;
- Temporary or permanent separation of the parties (e.g. only: change in classes, reassignment of residence, no contact orders, limiting geography where parties may go on campus) with additional sanctions for violating orders;
- Successful completion of sexual or relationship sensitivity training/awareness education program/bystander intervention training;
- Successful completion of alcohol and other drug awareness and abuse prevention program;
- Counseling or mentoring;
- Educational programs that focus on rehabilitation of the mindset;
- Volunteering/Community Service requirements;
- Loss of university privileges;
- Delays in obtaining administrative services and benefits from the university (e.g. only: holding transcripts, delaying registration, graduation, diplomas);
- Additional academic requirements relating to scholarly work or research on sexual assaults or sexual assaults on university campuses;
- Financial restitution (payments) to any individual(s) who were injured or impacted by the Respondent's conduct; and
- Any other discretionary sanctions that are directly related to the violation or conduct and that are aimed at eliminating sexual misconduct, preventing its recurrence, and addressing its effects.

8.2.3.1. Appeals

Both parties shall have the right to appeal the outcome on any of the following grounds:

1. To consider new information, sufficient to alter the decision, or other relevant facts not brought out in the original hearing, because such information was not known or knowable to the person appealing during the time of the hearing.
2. To allege a procedural error within the hearing process that may have substantially impacted the fairness of the hearing.
3. To allege that finding was inconsistent with the weight of the information.

Appeals must be submitted in writing to the University Title IX Coordinator within 7 days from the day the parties are notified about the outcome of the case. Upon receipt of an appeal the University Title IX Coordinator will appoint an appellate review panel of 3 members from a pool of trained faculty, staff, and students. The panel will review the materials within 10 days of receipt of the appeal. The panel will examine all documentation of the hearing to determine if there is a reasonable basis for changing the outcome, and in its discretion, can hold an appellate hearing. The panel will issue a written determination of the appeal, or may request that the University Title IX Coordinator take appropriate steps in the appeal, which may include: affirm the original finding and sanction; affirm the original finding but issue a new sanction, which may be of greater or lesser severity; remand the case back to the hearing body to correct a procedural or factual defect; or, dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The panel's determinations are final and not appealable. However, the outcome of a remanded case may again be appealed under this provision. Both parties shall receive simultaneous written notice of the outcome of the appeal. Both parties shall receive

simultaneous written notice of any change to the results that occurs prior to the time that such results become final; and when such results become final.

8.2.4. Support Services and Options for Students going Through the Sexual Misconduct Process

A variety of support resources are available on campus and in the community to assist students in dealing with sexual or dating violence, whether it happened recently or in the past. A full listing of support, including healthcare, counseling, advocacy or peer support, and other support services may be found at <http://sexualmisconductresources.emory.edu>. The Respect Program, in the Office of Health Promotion, Campus Life, http://studenthealth.emory.edu/hp/programs/respect_program/, provides education, advocacy, and support for students who have been affected by sexual and relationship violence as well as their friends and families. Amanda Yu, Director of the Center for Healthful Living, serves as the primary point of contact for students at Oxford College. http://www.oxford.emory.edu/life/support_services/health-education/wellness-resources/sexual-assault.doc.

8.2.5. Contact Information

All Emergencies (any campus/location) 9-1-1

Emory Police Department 404.727.6111 or 404.727.8005

Emory Police Department TIPS line 404.727.8477/TIPS

Emory Trust Line 1-888-550-8850

Counseling and Psychological Services (CAPS)—Atlanta Campus 404.727.7450

Student Health and Counseling Services—Oxford Campus 770-784-8394

Student Health Services—Atlanta Campus 404.727.7551

Deputy Title IX Coordinators:

Emory Campus Life
Dona Yarbrough, Ph.D.
Senior Director/Senior Associate Dean for Learning and Innovation
409G Dobbs University Center
Drawer PP; 605 Asbury Circle
Atlanta, GA 30322
Phone: (404) 727-2003
dona.yarbrough@emory.edu

Candler School of Theology
Anne Burkholder
Associate Dean, Professor
1531 Dickey Dr.
301 Candler School of Theology
Atlanta, GA 30322
Phone: (404) 727-1351
anne.burkholder@emory.edu

Emory College of Arts and Sciences
Priscilla Echols
Associate Dean

212 White Hall
Atlanta, GA 30322
Phone: (404) 727-1499
pechols@emory.edu

Emory University Law School
Katherine Brokaw
Assistant Dean, Student Affairs
1301 Clifton Rd.; G111 Gambrell Hall
Atlanta, GA 30322
Phone: (404) 727-6809
kbrokaw@emory.edu

Nell Hodgson Woodruff School of Nursing
Arnita Howard
Director of Enrollment, Office of Admissions
1520 Clifton Rd.
Atlanta, GA 30322
Phone: (404) 712-6826
ahoward@emory.edu

Laney Graduate School
Donna Cunningham-Lynch
HR Manager
202 Administration Building
Atlanta, GA 30322
Phone: (404) 727-2669
dlynchc@emory.edu

Rollins School of Public Health
Brittney Romanson
Assistant Director of Student Life
1518 Clifton Road; Grace Crum Rollins Building
Phone: (404) 712-0672
brittney.romanson@emory.edu

Goizueta Business School
Harriet Ruskin
Director, International Programs 1330 Clifton Rd.
212 Goizueta Business School
Atlanta, GA 30322
Phone: (404) 727-6644
harriet.ruskin@emory.edu

Oxford College
Rhiannon Hubert
Asst. Dean for Campus Life/Director for Student Involvement & Leadership
100 Hamill Street; Candler 101
Oxford, GA 30054
Phone: (770) 784-8445
rhiannon.hubert@emory.edu

School of Medicine
J. William "Bill" Eley
Executive Associate Dean, Medical Education and Student Affairs
100 Woodruff Circle; Room 453, School of Medicine Administration Building
Atlanta, GA 30322

Phone: (404) 712-9979
jeley@emory.edu

School of Medicine
Jada Bussey-Jones, MD, FACP
49 Jessie Hill Jr. Drive
Atlanta, GA 30303
Phone: 404-778-1606
Fax: 404-778-1601
jcbusse@emory.edu

Definitions

Allegation. A statement by a complainant that an act of sexual misconduct has occurred..

Coercion. Coercion is inappropriate pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When a person makes clear that they do not want sex, wants to stop, or that going past a certain point of sexual interaction is unwanted, continued pressure beyond that point can be coercive.

Complainant. The person making an allegation or complaint of sexual misconduct.

Complaint. A formal notification, either orally or in writing, of the belief that sexual misconduct has occurred.

Consent. Consent is clear, unambiguous, and voluntary agreement between participants to engage in specific sexual activity. Consent is active, not passive, and is given by clear actions or words. Consent may not be inferred from silence, passivity, or lack of active resistance alone. A current or previous dating or sexual relationship is not sufficient to constitute consent, and consent to one form of sexual activity does not imply consent to other forms of sexual activity. Being intoxicated does not diminish one's responsibility to obtain consent. In some situations, an individual may be deemed incapable of consenting to sexual activity because of circumstances or the behavior of another, or due to their age.[1] Examples of such situations include, but are not limited to, incompetence, impairment from alcohol and/or other drugs, fear, unconsciousness, intimidation, coercion, confinement, isolation, or mental or physical impairment.

Dating violence. Violence committed by a person: who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

Domestic violence. A felony or misdemeanor crime of violence committed by: a current or former spouse or intimate partner of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabitated with the victim as a spouse or intimate partner, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Georgia, or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Georgia.

Force. The use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcomes resistance or produces consent. There is no requirement that a person has to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

Incapacitation. Incapacity can result from mental disability, sleep, involuntary physical restraint, or from intentional or unintentional taking of alcohol and/or other drugs. An incapacitated person does not have the ability to give knowing consent. Sexual activity with a person who one should know to be – or based on the circumstances should reasonably have known to be – mentally or physically incapacitated, constitutes a violation of this policy. The perspective of a reasonable person will be the basis for determining whether one should have known about the impact of the use of alcohol and/or drugs on another’s ability to give consent.

Intimate Partner Violence (IPV). Physical, sexual, or psychological harm by a current or former partner or spouse. This type of violence can occur among heterosexual or same-sex couples, whether cohabitating or not, and does not require sexual intimacy. IPV can vary in frequency and severity, can occur on a continuum, and can include acts of physical violence, sexual violence, threats of physical or sexual violence, or psychological or emotional violence. Psychological or emotional violence is a broad term that results in trauma to a victim caused by acts, threats of acts, or coercive tactics, and can include acts of humiliation, intimidation, isolation, stalking, and harassment.

Non-Consensual Sexual Contact. Any intentional sexual touching by a person upon a person, that is without consent and/or by force. Sexual Contact includes, but is not limited to, intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice, with any object.

Non-Consensual Sexual Intercourse. Any sexual intercourse by a person upon a person, that is without consent and/or by force. Intercourse includes, but is not limited to, vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

Respondent refers to the person against whom the allegation or complaint of sexual misconduct is made.

Sexual Exploitation occurs when a student takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to the following:

invasion of sexual privacy;

prostituting another student;

non-consensual video or audio-recording of sexual activity or circulation of such video and video or audio recording;

going beyond the boundaries of consent;

observing unsuspecting individuals who are partly undressed, naked, or engaged in sexual acts;

knowingly transmitting an STI or HIV to another student;

exposing one’s breasts, buttocks, groin, or genitals, in non-consensual circumstances; inducing another to expose their breasts, buttocks, groin, or genitals;

sexually-based stalking and/or bullying may constitute a form of sexual exploitation, as well as a form of sexual harassment, as discussed above.

Sexual Harassment. Unwelcome conduct, based on sex or on gender stereotypes, which is so severe or pervasive that it unreasonably interferes with a person’s university employment,

academic performance or participation in university programs or activities or creates a working, learning, program or activity environment that a reasonable person would find intimidating, hostile or offensive. Sexual harassment may include, for example, an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention or advances; to punish a refusal to comply with a sexual based request; to condition a benefit on submitting to sexual advances; sexual violence or sexual assault; intimate partner violence; stalking; inappropriate comments; and gender-based bullying.

Sexual Misconduct. Sexual misconduct encompasses sexual harassment, non-consensual sexual contact (or attempts to commit same); non-consensual sexual intercourse (or attempts to commit same), and sexual exploitation. Sexual misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual misconduct can be committed by persons of any gender or sex, and it can occur between people of the same or different sex.

Stalking. Behavior where a person follows, places under surveillance, or contacts another person without the consent of that person for the purpose of harassing and intimidating him or her. The term “contact” means to make or attempt to make any communication, including, but not limited to, communication in person, by telephone, by mail, by broadcast, by computer or computer network, or by any other electronic device. “Harassing and intimidating” refers to a course of conduct or communications directed at a person that causes the person to suffer emotional distress that would cause a reasonable person to fear for personal safety or the safety of others, and which serves no legitimate purpose. It does not require that an overt threat of death or bodily injury be made.

Student. The term student means any person pursuing academic studies at the university. The term also includes: (1) a person not currently enrolled who was enrolled in the fall, spring, or summer term preceding the alleged violation, or (2) a person who, while not currently enrolled, was previously enrolled in Emory University and who is reasonably anticipated to seek enrollment at a future date, (3) a person who has applied to or been accepted for admission to Emory university and has accepted an offer of admission or may reasonably be expected to enroll, or (4) a person enrolled in an Emory program on a credit or non-credit basis.

 [1] In Georgia, minors under the age of 16 years are generally unable to provide consent, with narrow exceptions. See Georgia Code Ann. § 16-6-3, Statutory Rape.

Related Links

- Current Version of This Policy: <http://policies.emory.edu/8.2>
- [Policy 1.3: Equal Opportunity and Discriminatory Harassment Policy](http://policies.emory.edu/1.3) (http://policies.emory.edu/1.3)
- [Policy 4.119: Mandated Child Abuse Reporting](http://policies.emory.edu/4.119) (http://policies.emory.edu/4.119)

Contact Information

Subject	Contact	Phone	Email
Policy Posting	Campus Life Central	404-727-4364	kmoos@emory.edu

Revision History

- Version Published on: Jul 14, 2016 (*location of Judith Pannell, replace 2 deputies*)
- Version Published on: Jul 14, 2016 (*school of medicine deputy info changed*)
- Version Published on: Jul 13, 2016 (*new Deputies for Laney and Oxford*)
- Version Published on: Sep 15, 2015
- Version Published on: Nov 25, 2014 (*based on community feedback*)
- Version Published on: Nov 03, 2014
- Version Published on: Oct 08, 2014 (*annual review of policy*)

- Version Published on: May 27, 2014 (*changed Lynell's address*)
- Version Published on: May 23, 2014 (*updated University Title IX coordinator's name, deputy names*)
- Version Published on: Sep 25, 2013 (*summer 2013-Centralized Sexual Misconduct*)
- Version Published on: May 24, 2013
- Version Published on: Aug 16, 2012 (*change coordinator & program names*)
- Version Published on: Nov 28, 2007 (*last paragraph-updated contact information*)
- Version Published on: May 24, 2007
- Version Published on: Mar 28, 2007 (*Original Publication*)

Emory University policies are subject to change at any time. If you are reading this policy in paper or PDF format, you are strongly encouraged to visit policies.emory.edu to ensure that you are relying on the current version.