

Georgetown University
Institutional Diversity, Equity, and Affirmative Action
Policy Statement on Sexual Misconduct

Georgetown University has adopted this Policy Statement on Sexual Misconduct in recognition of our commitment to provide a safe and hospitable environment for all members of our community to work and study. Sexual misconduct subverts the University's mission, diminishes the dignity of both victim and perpetrator, and threatens permanent damage to the careers, educational experience, and well-being of our students, faculty and staff.

This policy prohibits sexual misconduct that constitutes sexual harassment, sexual assault, relationship violence, stalking, and related claims of retaliation.

Sexual harassment is a form of sex discrimination and is prohibited by University policy, Title VII of the Civil Rights Act of 1964 ("Title VII"), Title IX of the Education Amendments of 1972 ("Title IX"), and the District of Columbia Human Rights Act. Sexual assault, relationship violence and stalking are also forms of sexual misconduct, and are prohibited by law and this policy.

Both women and men may be victims of sexual misconduct. Sexual misconduct may occur between persons of the same or opposite sex. In the case of sexual harassment, the injured party does not have to be the person harassed but could be anyone affected by the offensive conduct. This policy applies to any allegations of sexual misconduct against faculty and staff (an "employee") or student of Georgetown University or a Georgetown University operated program, regardless of where the alleged conduct occurred.

The actions of third parties (e.g., contractors, vendors, recruiters) that impact students and/or employees may also be subject to review under this policy. If a third party is the accused, IDEAA will refer the grievance to an appropriate authority for resolution.

This Policy Statement on Sexual Misconduct will be widely disseminated to members of the University community, and will be consistently enforced. The policy will be reexamined and updated as appropriate. Training will be provided to employees and students on this policy for the purpose of preventing sexual misconduct and promoting a respectful community. All employees are responsible for completing training identified as mandatory. Investigations involving alleged violations of this policy shall be conducted by officials who receive training on issues related to sexual harassment, sexual assault, relationship violence, and stalking as well as on how to conduct a grievance process that protects the safety of survivors and promotes accountability.

Definitions of Sexual Misconduct and Related Terms¹

Sexual misconduct is unwanted conduct of a sexual nature that constitutes sexual harassment, sexual assault, relationship violence (including domestic violence and dating violence), or stalking, and includes related acts of retaliation.

Sexual harassment is defined as any unwelcome conduct of a sexual nature, including sexual advances, request for sexual favors, or other verbal or physical conduct of a sexual or gender-based nature when:

1. Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or academic relationship; or
2. Submission to or rejection of such conduct is used as a basis for making an employment or academic decision affecting an individual; or
3. Such conduct has the purpose or effect of interfering with an individual's work or academic performance, denying or limiting an individual's ability to participate in or benefit from the University's education programs, or creating an intimidating, hostile, or offensive environment for work or academic pursuit.

Interpretive guidance:

- A hostile or offensive environment exists when conduct is severe or pervasive. Factors to be considered in determining whether conduct is severe or pervasive include the nature, scope, frequency, and duration of the conduct and the number of persons involved. Simple teasing, offhand comments, or isolated incidents that are not severe or pervasive do not create a hostile or offensive environment.
- If an issue of sexual harassment is raised in strictly academic areas, such as coursework, the matter will be handled in consultation and coordination between IDEAA and the Executive Vice President or Dean of the faculty member's school because such matters may also implicate issues of academic freedom.
- To constitute sexual harassment, the conduct in question must be objectively intimidating, hostile or offensive, and must interfere with a person's ability to participate in employment or educational programs or activities of the University. The victim's perception of the offensiveness of the alleged conduct, standing alone, is not sufficient by itself to constitute sexual harassment.
- Sexual harassment is especially serious when it occurs between teachers and students or supervisors and subordinates. In such situations, sexual

¹ The definitions used in this policy are based on federal and/or state law, as applicable. Under the Violence Against Women Act, institutions are required to define terms in accordance with state law. In such circumstances, this policy uses terms as defined in the District of Columbia.

harassment unfairly exploits the power inherent in a faculty member's or supervisor's position. Although sexual harassment often occurs when one person takes advantage of a position of authority over another, the University recognizes that sexual harassment may also occur between people of equivalent status. This includes peer sexual harassment. Regardless of the form it may take, the University will not tolerate unwelcome conduct of a sexual nature that creates an unacceptable working or educational environment.

Sexual assault is a forcible or non-forcible sexual act or sexual contact that occurs without the consent or permission of the other person. Sexual assault is divided into five categories, described below. Sanctions may vary depending on the category of offense.

1. Engaging in a sexual act with the use of force; use of threats or fear; after rendering the person unconscious; or by administering a drug, intoxicant, or other substance that substantially impairs the ability of the other person to appraise or control his or her conduct.
2. Engaging a sexual act where the person knows or reasonably should know that the other person is incapable of appraising the nature of the conduct; incapable of declining participation in the sexual conduct; incapable of communicating unwillingness to engage in the sexual conduct; or incapable of giving consent (such as when the person is incapacitated due to alcohol use).
3. Engaging in sexual contact with another person with the use of force; use of threats or fear; after rendering the person unconscious; or by administering a drug, intoxicant, or other substance that substantially impairs the ability of the other person to appraise or control his or her conduct.
4. Engaging in sexual contact where the person knows or reasonably should know that the other person is incapable of appraising the nature of the conduct; incapable of declining participation in the sexual conduct; incapable of communicating unwillingness to engage in the sexual conduct; or incapable of giving consent (such as when the person is incapacitated due to alcohol use).
5. Engaging in a sexual act or sexual contact with another person with knowledge or reason to know that the sexual act or sexual contact was committed without the person's permission or consent.

For purposes of this definition, the following terms are defined:

Sexual act is penetration, however slight, of the anus or vulva of another by a penis; contact between the mouth and the penis, vulva, or anus; or the penetration, however slight, of the anus or vulva by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person. The emission of semen is not required to be considered a sexual act.

Sexual contact means the touching with any clothed or unclothed body part or any object, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Consent is words or overt actions indicating a freely given agreement to the sexual act or sexual contact in question.

Interpretive guidance:

- The willingness to participate must be clearly indicated prior to any sexual act or sexual contact.
- If at any time during the sexual act or sexual contact any confusion or ambiguity should arise on the issue of consent, it is incumbent upon the individual to stop the activity and clarify, verbally, the other's willingness to continue.
- A verbal "no," even if it may sound indecisive or insincere, constitutes lack of consent.
- The absence of an overt action or an explicit verbal response to a verbal request for consent constitutes lack of consent.
- It is expected that, once consent has been established, a person who changes his/her mind during the sexual act or sexual contact will communicate through words or overt actions his/her decision to no longer proceed.
- Past consent to sexual act or sexual contact does not imply future ongoing consent, and the fact that two persons are in an on-going relationship shall not preclude the possibility that sexual misconduct might occur within that relationship.
- A person's use of alcohol and/or other drugs shall not diminish such person's responsibility to obtain consent.
- Lack of verbal or physical resistance, or submission by the unwilling participant, when such submission results from the use of force, threats, or coercion by the respondent shall not constitute consent.
- A person is considered incapable of giving consent if he/she is asleep, unconscious, and/or losing and regaining consciousness, or clearly mentally or physically incapacitated, for example, by alcohol and/or other drugs (signs of incapacitation include, but are not limited to, difficulty walking, inability to speak in a coherent manner, vomiting or the presence of vomit, etc.).

Force means the use or threatened use of a weapon; the use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or the use of a threat of harm sufficient to coerce or compel submission by another person.

Forcible is defined as any sexual act or sexual contact directed against another person, with force and/or against that person's will; or without force or against the person's will where the victim is incapable of giving consent.

Relationship violence means a violent or threatening familial or intimate partner relationship that causes one to fear for his/her safety or causes physical or psychological injury, pain, or illness. Relationship violence includes:

Domestic violence: an intrafamily offense that results in physical injury, including physical pain or illness, or that caused or was intended to cause reasonable fear of imminent serious physical injury or death.

Dating violence: an offense against an intimate partner (romantic, dating, or sexual relationship) that results in physical injury, including physical pain or illness or that caused or was intended to cause reasonable fear of imminent serious physical injury or death.

Stalking is a course of conduct directed at a specific individual with the intent to cause that individual (or where the person knows or should have known that it would cause the individual) to fear for his or her safety or the safety of another person; feel seriously alarmed, disturbed, or frightened; or suffer emotional distress.

Student means an individual who is registered or enrolled as a student at the University (or where there is an expectation of continued enrollment) at the time the alleged sexual misconduct occurred and at the time a complaint is made to the University. For purposes of this policy, a student includes a graduate student with instructional responsibilities.

Employee means a person who is employed by the University at the time the alleged sexual misconduct occurred and at the time the grievance procedures are invoked.

Title IX Coordinator and Deputy Title IX Coordinators

The following person has been designated as the Title IX Coordinator to coordinate Georgetown University's compliance with Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex, including sexual harassment and sexual assault:

Samantha Berner
Office of Institutional Diversity, Equity, and Affirmative Action
M-36 Darnall Hall
37th & O Streets NW
Washington, DC 20057
Phone: (202) 687-4798
Fax: (202) 687-7778
Email: titleixideaa@georgetown.edu

A list of Deputy Title IX Coordinators is available on the University's website at <https://titleix.georgetown.edu/title-ix-contacts>

Reporting Obligations for Faculty and Staff

The University recognizes that supervisors (including those who supervise employees and those who supervise students) bear a particularly important responsibility to deter sexual misconduct. Any faculty or staff member (other than those who are statutorily prohibited from reporting) who learns of conduct that may violate this policy must contact the appropriate Deputy Title IX Coordinator within 24 hours, or as soon as possible. Only those individuals who are statutorily prohibited from reporting (such as health professionals and certain members of Campus Ministry to whom the pastoral privilege applies) shall not have a duty to report to the Deputy Title IX Coordinators. If in doubt as to whether certain conduct violates this policy, or if you have any questions about this policy or its application, call IDEAA for a consultation.

Confidentiality

Complaints and investigations under this policy are treated as confidential. IDEAA expects complainants, respondents, and witnesses who participate in this process to maintain confidentiality due to the sensitive nature of grievances. The University will preserve the confidentiality of information provided in connection with enforcement of this policy to the extent possible, consistent with the goals of prompt and thorough investigation and resolution as well as compliance with the law. The University complies with the Family Educational Rights & Privacy Act (FERPA) / Health Insurance Portability and Accountability Act (HIPAA) at all times in the course of investigations. To the extent permissible by law, all publicly available records required to be maintained by law will omit the names and other personally identifiable information about complainants and other victims who choose not to file a grievance.

Procedure for Filing Complaints

Any member of the University community who believes conduct that violates this policy has occurred, or who has questions concerning this policy, is encouraged to contact the Office of Institutional Diversity, Equity and Affirmative Action (IDEAA) or one of the Deputy Title IX Coordinators.

The Deputy Title IX Coordinators will assist complainants in initiating a complaint under the applicable grievance procedures that apply to complaints of sexual misconduct:

For allegations against a Georgetown University employee (including faculty and staff): IDEAA Grievance Procedures to Investigate Allegations of Discrimination and Harassment.

For allegations against a student, including student-on-student sexual misconduct:

- Code of Student Conduct (for students in the College of Arts and Sciences, the Graduate School of Arts and Sciences, the Business School, the School of Foreign Service, the School of Nursing and Health Sciences, Biomedical Graduate Education, and the School of Continuing Studies).
- Law Center Student Disciplinary Code (for students at the Law Center)
- School of Medicine Procedures of the Sexual Misconduct Subcommittee (for students in the School of Medicine)

Where an accused individual is both a student and employee of the University, the procedures that apply will depend on the status of the individual during the alleged incident. If there is ambiguity regarding which procedures shall apply, the Title IX Coordinator shall decide.

Time limits, if any, for filing grievances are determined under the applicable grievance procedures. Individuals are encouraged to report sexual misconduct immediately in order to maximize the University's ability to obtain evidence, and conduct a thorough, impartial investigation. Failure to report promptly may impair the University's ability to enforce this policy.

In accordance with the guidelines of the Equal Employment Opportunity Commission and the Office for Civil Rights of the Department of Education, all complaints will be investigated promptly, reliably, and impartially. Corrective or disciplinary action will be taken where appropriate for violations of this policy.

Sanctions for Violations of this Policy

Individuals who have been found to have violated this policy may be subject to sanctions, which may include, but are not limited to: written reprimand; restitution; training; no-contact order; referral; housing suspension; housing expulsion; probation (academic or employment); reduction in salary or rank; demotion; removal of administrative appointment; suspension (academic or employment); termination of employment; expulsion; or any other sanction that is determined by the decision-maker to be fair and proportionate to the violation. Faculty members who are subject

to sanctions under this policy will receive the procedural protections set forth in the Faculty Handbook.

Administrative Action

In the event that an aggrieved individual declines to pursue a grievance and resolution, Title IX nonetheless requires the University to investigate and take reasonable action in response to the information provided. However, the University's ability to respond may be limited. The University will consider the seriousness of the alleged misconduct, whether there have been complaints against the same accused individual, the accused's rights to receive information about the allegations, and other factors in determining how to proceed. The University reserves the authority to take reasonably necessary action. The University will take steps to prevent recurrence of any sexual misconduct and to correct its discriminatory effects on the complainant or third parties, as appropriate. The University will also ensure that appropriate steps are taken to protect the complainant from any deleterious acts related to the complaint during investigation and resolution.

Other Reporting Options

In the event of a safety emergency, individuals should call the Georgetown University Police Department (GUPD) 202-687-4343 (<http://police.georgetown.edu/>) or the Metropolitan Police Department (MPD) (<http://mpdc.dc.gov/>). Complainants may also choose to file a complaint with GUPD or MPD at any time. At a complainant's request, IDEAA or a Title IX Coordinator, as applicable, is available to assist in notifying MPD. All complainants have the right to seek a protective order or similar lawful order issued by a criminal or civil court.

A complainant who wishes to file a criminal complaint or seek a protective order is urged to take steps to preserve evidence, as it may be necessary to the proof of criminal domestic violence, dating violence, sexual assault, or stalking, or in obtaining a protection order.

Because the standards for finding a violation of a criminal law are different from the standards articulated in this policy, criminal investigations or reports are not determinative of whether a violation of this policy has occurred. The filing of a complaint under this policy is independent of any criminal investigation or proceeding. The University's investigation may be temporarily delayed while the criminal investigators gather evidence. However, the University will not wait for the conclusion of any criminal investigation or proceeding before beginning its own investigation or taking interim measures to protect the complainant and the University community, if necessary.

Complainants are encouraged to exhaust internal procedures established to enforce this policy before pursuing administrative remedies outside the University. However, the University acknowledges the rights of complainants to seek redress from any

external enforcement agency, including the District of Columbia Office of Human Rights, the Equal Employment Opportunity Commission, and the Office of Civil Rights of the United States Department of Education. The filing of an external complaint or investigation will not preclude the University from investigating and addressing issues or concerns raised to the University, nor will it preclude a complainant from receiving assistance from the University in changing academic, living, transportation or working conditions, if such arrangements are reasonably available.

Support Resources

Concerned individuals are encouraged to seek confidential counseling and other support resources offered by the University and third parties. Individuals are encouraged not to wait to seek confidential counseling, and University counselors can take proactive steps to assist concerned individuals. A description of these resources is available on the University's website at: <https://sexualassault.georgetown.edu/resourcecenter>. In addition, a description of the Faculty Staff Assistance Program is available at: <http://hr.georgetown.edu/fsap/>.

Retaliation Prohibited

This policy prohibits retaliation, harassment, or other adverse action against an individual for making a complaint in good faith, assisting in an investigation, opposing harassment or otherwise exercising rights protected by law. It further prohibits taking any adverse academic or employment related action against an individual based on an unsubstantiated allegation or rumor of sexual misconduct. Retaliation should be reported promptly to IDEAA or the Title IX coordinators and may result in disciplinary action up to and including dismissal. The University encourages individuals to make good faith reports.