

Atlanta Metropolitan State College Sexual Misconduct Policy and Procedures

I. Policy Statement

Sexual Misconduct is a violation of federal, state, Atlanta Metropolitan State College, and USG University System of Georgia (USG) Board of Regents policy Sexual Misconduct, as defined by Board of Regents (BOR) Policy 6.7 Sexual Misconduct “by federal and state law including, Title IX of the Education Amendments of 1972 (“Title IX”) and Title VII of the Civil Rights Act of 1964 (Title VII), the University System of Georgia (USG) prohibits discrimination based on sex in any of its education programs or activities or in employment.”

This policy is any form of sexual misconduct to include, but not limited to, sexual harassment, dating violence, domestic violence, rape, non-consensual sexual contact, sexual Exploitation, and stalking each as more fully defined in this policy. Sexual Misconduct can occur between strangers or acquaintances, and even people involved in intimate or sexual relationships. Atlanta Metropolitan State College prohibits sexual misconduct and will provide resources for individuals whose rights may have been violated by an act of sexual misconduct by any member of the college community.

II. Reason for the Policy

Atlanta Metropolitan State College is committed to providing a safe environment for all members of the College community. Federal Law prohibits discrimination based on gender; this includes Sexual Harassment and Sexual Misconduct. Specific laws and/or acts include Section 703 of Title VII of the Civil Rights Act of 1964 as amended, Title IX of the Education Amendments, the Jeanne Clery Disclosure of Campus Security Policy, and Campus Crime Statistics Act (“Clery Act”), and The Violence Against Women Act (“VAWA”).

III. Proposed Outcome

This policy aims to set in place a process for handling incidents of Sexual Misconduct on the Atlanta Metropolitan State College campus in keeping with federal legislation and guidelines. This policy will assist victims by outing the process for reporting misconduct on campus as well as resources available. Also, the policy will help stay in compliance with federal and state laws and guidelines and Board of Regents policy. This policy seeks to eliminate all forms of Sexual Misconduct on Atlanta Metropolitan State College campus.

IV. Applicability of the Policy

This policy applies to all Atlanta Metropolitan State College (AMSC) employees and students. This policy is in effect regardless of location (including off-campus AMSC-related activities). Persons of any gender or undefined gender identity can be capable of Sexual Misconduct. The

purpose of this Policy is to ensure uniformity throughout the USG in reporting and addressing Sexual Misconduct. This Policy applies to all members of the USG community. This Policy is not intended to infringe or restrict rights guaranteed by the United States Constitution including free speech under the First Amendment, or the due process clauses of Fifth and Fourteenth Amendments. The Atlanta Metropolitan State College policy on Sexual Misconduct reflects the intent of AMSC to provide resources for individuals whose rights may have been violated by an act of Sexual Misconduct and provide prevention tools through education/ training.

There is no statute of limitations for Sexual Misconduct at Atlanta Metropolitan State College.

V. Definitions and Prohibited Conduct

Community: Students, faculty, and staff, as well as contractors, vendors, visitors, and guests.

Complainant: An individual who is alleged to have experienced conduct that violates this policy.

Consent: Words or actions that show a knowing and voluntary willingness to engage in mutually agreed-upon sexual activity. Consent cannot be gained by force, intimidation, or coercion, by ignoring or acting despite objections of another, or by taking advantage of the incapacitation of another, where the respondent knows or should have known of such incapacitation. Consent is also absent when the activity in question exceeds the scope of consent previously given. Past consent does not imply present or future consent. Silence or an absence of resistance does not imply consent. Minors under the age of 16 cannot legally consent under Georgia law.

Dating Violence: Violence committed by a person who is or has been in a romantic or intimate social relationship with the Complainant alleged victim, including sexual, physical abuse or the treatment of such abuse.

Incapacitation: The physical and/or mental inability to make informed, rational judgments, and can result from mental disability, sleep, involuntary physical restraint, or from intentional or unintentional taking of alcohol and/or other drugs.

Nonconsensual Sexual Contact: An intentional sexual touching upon a person, without consent or where the person is incapacitated, and/or by force, by another person or with any object. Sexual contact includes intentional contact with the breasts, buttocks, groin, or genitals, or touching another with these body parts, or making another touch the alleged victim or themselves with or on any of these body parts.

Privileged Employees: Individuals employed by the institution to whom a complainant or alleged victim may talk in confidence, as provided by law. Disclosure to these employees will not automatically trigger an investigation against the complainant's or alleged victim's wishes.

Privileged Employees include those providing counseling, advocacy, health, mental health, or sexual-assault related services (*e.g.*, sexual assault resource centers, campus health centers, pastoral counselors, and campus mental health centers) or as otherwise provided by applicable law. Exceptions to confidentiality exist where the conduct involves suspected abuse of a minor (in Georgia, under the age of 18) or otherwise provided by law, such as imminent threat of serious harm. Further, Privileged Employees must still submit anonymous statistical information for Clery Act purposes.

Respondent: Individual who is accused of having engaged in conduct that violates this, Policy.

Responsible Employees: Those employees who must promptly and fully report complaints of or information regarding sexual misconduct to the Title IX Coordinator. Responsible Employees include any administrator, supervisor, faculty member, or other person in a position of authority who is not a Privileged Employee. Student employees who serve in a supervisory, advisory, or managerial role are in a position of authority for purposes of this Policy (*e.g.*, teaching assistants, residential assistants, student managers, orientation leaders, etc.).

Sexual Exploitation: “Sexual Exploitation” occurs when an individual takes non- consensual or abusive sexual advantage of another for his or her own advantage or benefit, or to the benefit or advantage of anyone other than the one being exploited.

Examples of sexual exploitation may include, but are not limited to, the following:

- Invasion of sexual privacy;
- Prostituting another individual;
- Non-consensual video or audio of sexual activity;
- Non-consensual distribution of video or audio of sexual activity, even if the sexual activity or video or audio taken of sexual activity was consensual;
- Intentional observation of Un-consenting individuals who are partially undressed, naked, or engaged in sexual acts;
- Knowingly transmitting an STD or HIV to another individual;
- Intentionally and inappropriately exposing one’s breasts, buttocks, groin, or genitals in non-consensual circumstances; and/or
- Sexually based bullying.

Sexual Harassment: Unwelcome verbal, nonverbal, or physical conduct, based on sex or gender stereotypes, that: is implicitly or explicitly a term or condition of employment or status in a course, program, or activity; is a basis for employment/educational decisions; or has the purpose or effect of interfering with one’s work or educational performance creating an intimidating, hostile, or offensive work or learning environment, or interfering with or limiting one’s ability to participate in or benefit from an institutional program or activity.

Stalking: Engaging in a course of conduct directed toward another person based upon sex that would cause a reasonable person (i) to fear for his or her safety or the safety of immediate family members or close acquaintances, or (ii) to suffer substantial emotional distress.

VI. Reports of Sexual Misconduct

An institutional report occurs when the institution has notice of a complaint. That notice occurs in two instances:

- When a Responsible Employee receives a complaint; or
- When the Title IX Coordinator or their designee receives a complaint

If someone has experienced sexual misconduct, they can report directly to the Office of Human Resources & Title IX. Reports filed through this office are separate from any law enforcement reports which may or may not have been filed. Individuals who report to this office will be informed of how to file a report to law enforcement at their request. Individuals also have the right to file a report with the US Department of Education.

Employees: Must report all known information of sexual misconduct to the Title IX Coordinator. Those employees deemed as responsible employees – all administrator, supervisor, student employees, any position of authority other than those classified as confidential or privileged employee must expeditiously report any complaint of sexual misconduct. Responsible Employees informed about Sexual Misconduct allegations should not attempt to resolve the situation, but must notify and report all relevant information to the coordinator as soon as practicable

Sexual Misconduct by members of the College community should be immediately reported to one of the following Atlanta Metropolitan State College campus officials described below:

- AMSC Department of Student Conduct, Student Activity Center, Building 800, Room 201C, 678-623-1248
- Office of Human Resources and Title IX, Administrative Services, Building 600, Rm 215 404-756-4047
- AMSC Counseling Center, Student Success Building 650, Room 252 (404) 756-4016
- Georgia State Police Department, 404-413-3333

The College, At the Complainant's request for confidentiality, the College must be balanced with its responsibility to of Sexual Misconduct. The right to confidentiality, the complainant and the respondent will be respected as far as it does not interfere with the College's legal obligation or ability to investigate allegations and to take the appropriate action applicable to policy violation.

Information communicated to the Office of Human Resources & Title IX or other Responsible Employees will be shared only with AMSC's employees who need to be involved in responding to the report. Relevant information received will be shared with the Complainant, Respondent, and their advisors (if applicable) in the investigation report.

Confidential Employees or Privileged Employees may receive reports of Sexual -based Misconduct without the requirement to report that information to the coordinator, except as dictated by law or professional standards. Upon request by the Complainant, Confidential Employees and Privilege Employees may make a report to the coordinator within the degree of specificity dictated by the Complainant.

Nothing in this provision shall prevent an institution staff member who is otherwise obligated by law (i.e., the Clery Act) to report information or statistical data as required." BOR 6.7.2 **VI. For all allegations of Sexual Misconduct, the following procedures are in effect to file a formal complaint:**

Filing a Complaint of Sexual Misconduct

A Complainant of sexual misconduct can choose from the following reporting options within the institution to file a complaint of sexual misconduct:

- Through AMSC Simplicity software;
- Through AMSC's Public Safety in partnership with Georgia State University law enforcement officials; and Police Department
- An anonymous complaint

Listed below are the details on how to submit a sexual misconduct complaint using each of the above listed options. An individual who believes he/she is a victim of sexual misconduct is encouraged to report allegations of sexual misconduct promptly.

How to File a Sexual Misconduct Complaint

"While there is no statute of limitations on an institution's ability to respond to a report, the ability to respond diminishes with time as information and evidence may be more difficult to secure".

[B.O.R 6.7.2 Reporting Sexual Misconduct](#)

- Complete and submit the online form [FILE A COMPLAINT](#)
- Reach out to the Title IX Coordinator at 404-756-4047
- United States Department of Education, [Complaint Process](#)
- Georgia State University Police Department at 404-413-3333

Anyone wishing to file a report of sexual misconduct with the institution should notify a Responsible Employee, submit a report through Simplicity, or the Title IX Coordinator. Sexual misconduct allegations involving any student must notify the Title IX Coordinator as soon as possible. Employees and Responsible Employees should not attempt to resolve the situation but must notify and report

all relevant information to the Title IX Coordinator. Privileged Employees 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 the Title IX Coordinator. All members of the AMSC College community are encouraged to report incidents of sexual misconduct promptly.

Incidents reported to campus officials should be forwarded to the Title IX Coordinator within 3 days of receiving the complaint. Reporting Sexual Misconduct to the Title IX Coordinator will begin when the Title IX Office receives a report of sexual misconduct the Title IX Coordinator will reach out to the Complainant (the person experienced the reported misconduct) to go over options to resolve the report.

VII. Intake and Initial Fact- Gathering

Complaints can expect to receive information should include as much information as possible (1) the type of sexual misconduct experienced; (2) the name of the respondent; (3) the date(s), time(s), and place(s) of the sexual misconduct; (4) the name(s) of any individual(s) with knowledge of the incident; (5) whether any evidence has been preserved; and (6) whether a criminal complaint has been made.

When the Title IX Office receives a report of sexual misconduct the Title IX Coordinator will reach out to the Complainant (the person experienced the reported misconduct) to go over options to resolve the report, such as:

- To keep report on file, however, decide not to move forward with an investigation
- Title IX Coordinator speak with Respondent and offer educational, non-disciplinary, nonpunitive conversation
- Resolution through informal resolution **before** an investigation (Note: all parties must agree, and this typically would not result in a finding of misconduct for the Respondent)
- Resolution through informal resolution **after** an investigation (Note: all parties must agree, and this typically would not result in a finding of misconduct for the Respondent)
- Accommodations and supportive measures
- Formal resolution after an investigation through the hearing process

Institutional reports will be investigated and passed on judicially separately from any criminal complaints.

- *Confidentiality*: Where a complainant or alleged victim requests that his or her identity be withheld or the allegation(s) not be investigated, AMSC will consider, through the Title IX Coordinator, whether this request can be honored while still providing a safe and nondiscriminatory environment for the institution. Honoring the request may limit the institution's ability to respond fully to the incident and may limit the institution's ability to discipline the respondent.
- *Retaliation*: Anyone who, in good faith, reports what she or he believes to be misconduct under this Policy, or who participates who participates our cooperates in, or is otherwise associated with any investigation, shall not be subjected to retaliation. Anyone who believes he or she has been the target of retaliation for reporting, participating in, acting in, or otherwise being associated with an investigation should immediately contact the AMSC Title IX Coordinator. Anyone found to have engaged in retaliation for violating this Policy shall be subject to disciplinary action.
- *False Complaints*: Individuals are prohibited from intentionally giving false statements to an institution official. Any person found to have intentionally submitted false complaints, accusations, or statements, including during a hearing, in violation of this policy shall be subject to disciplinary action.
- *Amnesty*: Individuals are encouraged to come forward and to report sexual misconduct notwithstanding their choice to consume alcohol or to use drugs. Information reported by an individual during an investigation concerning use of drugs or alcohol will not be used against the individual in a disciplinary proceeding or voluntarily reported to law enforcement; however, individuals may be provided with resources on drug and alcohol counseling and/or education, as appropriate.

VIII. File a Sexual Misconduct Complaint through Law Enforcement

Because sexual misconduct may constitute criminal activity, a Complainant also has the option to file a report with Public Safety Department partnered with Georgia State University or local police, for his or her own protection and that of the surrounding community.

Complainants considering filing a report of sexual misconduct with law enforcement should preserve any evidence of sexual misconduct, including, but not limited to, the following:

- Clothing worn during the incident including undergarments;
- Sheets, bedding, and condoms, if used;
- Lists of witnesses with contact information;
- Text messages, call history, social media posts;
- Pictures of injuries; and/or
- Videos

IX. How to File an Anonymous Sexual Misconduct Complaint

A person's request or wish to not be identified by name. Reports submitted through Title IX/ Sexual Misconduct form through Simplicity can be made anonymously, without disclosing name or identifying the Respondent. Note: an anonymous report may reduce AMSC's ability to respond.

Responsible Employees are required to disclose all information regarding sexual misconduct, does not have the ability or authority to submit a report anonymously Persons who wish to report an anonymous complaint of sexual misconduct may do so by completing the online incident report form located at www.atlm.edu/administration

X. Process for Investigating Sexual Misconduct Reports

Jurisdiction: The institution shall take necessary and appropriate action to protect the safety and well-being of its community. Accordingly, sexual misconduct perpetrated against students by University System of Georgia students, faculty, or staff should be addressed whenever such acts occur on or off campus, in connection with an institution's program or activity. Further, the policy is applicable to all University System of Georgia students, faculty, and staff, as well as contractors, vendors, visitors, guests or other third parties.

Access to Advisors: Both the alleged victim and respondent, as parties to the matter, shall have the opportunity to use an advisor or support person to include an attorney of their choosing as well as their own expense. The advisor may be present during any meetings and proceedings involved in the investigatory or resolution process in which the advisee is also eligible to be present. The selected advisor may provide questions, suggestions, guidance on the proceedings and responses to any questions of the participant.

Timeframe: Atlanta Metropolitan State College will make all reasonable efforts to complete the investigation and resolution within 60 calendar days of the initial complaint, though a longer period may be needed in some cases. The Title IX Coordinator will notify the respondent and the alleged victim, in writing, of any extension of this time.

XI. Preliminary Review of Sexual Misconduct

The Title IX Coordinator will conduct a timely review of all complaints of Sexual Misconduct to determine if there is reasonable cause to believe the AMSC Sexual Misconduct policy was violated and to which policy is deemed appropriate.

A preliminary review of intake notes will be conducted to include individuals identified in the complaint, to determine the incident and any necessary interim action (see Interim Action below). Based upon the findings of fact during the preliminary review, and the Title IX Coordinator

consulting with the Associate Vice President, Student Success and Special Programs, it will be determined:

- There is insufficient information to pursue the investigation further. In such cases, the Title IX Coordinator will meet with the Complainant and the Responding Student separately to review the preliminary findings and proceed to close the case via informal process.
- There is sufficient information to further investigate the sexual misconduct complaint. The Title IX Coordinator will assign an Investigator to commence a prompt, fair, and impartial investigation.
- The investigator will reach out to Complainant to schedule an interview, an opportunity to share their story. Afterwards the investigator will send a Notice of Investigation to the Complainant and Respondent which includes the identities of both parties, the alleged conduct and the date and location of the incident. Note, the Respondent also has an opportunity to respond to the allegations and share their story. Steps to the investigation process includes:
 - Develop a strategic investigation plan
 - Meet with the Complainant to finalize the Complainant's statement
 - Interview all relevant witnesses, recite the shared information to verify its accuracy
 - Obtain all documents and physical evidence relative to the case, if available
 - Complete the review promptly by analyzing all available information
 - Draft an investigation report to summarize the relevant information to include if there is sufficient information to warrant further consideration of policy violation.
 - Both parties have opportunities to respond to the report, if they choose to do so

If the Complainant is reluctant to pursue the matter, the College will determine whether there is sufficient independent information to support the complaint without the participation of the Complainant. The Title IX Coordinator will notify the Complainant if the College intends to pursue the complaint.

XII. Interim Measures

To maintain a safe environment during the investigation process, the College, through the Title IX Coordinator, may take interim action as appropriate. The Title IX Coordinator or his/her designee may impose interim protective measures before the outcome of an investigation and until final resolution of the allegations. Interim measures may be implemented if the alleged violation constitutes an immediate threat to the safety and well-being of the alleged victim or other USG members.

Imposing interim measures does not indicate that a violation of this Policy is designed to protect the alleged victim and the College. AMSC will attempt to impose interim measures to the extent possible to minimize the burden on both the alleged victim and the respondent, where feasible. Interim measures may include, but are not limited to:

- No contact agreement
- Faculty notification
- Issuance of a “no contact” directive;
- Restrictions or bars to entering certain institution property;
- Changes to academic or employment arrangements, schedules, or supervision;
- Interim suspension; and
- Other measures are designed to promote the safety and well-being of the parties and the institution’s community.

An interim suspension shall occur after consulting with the USG’s Director of Title IX and seeking the Director’s approval. If an interim suspension is issued, the terms of the suspension will take effect immediately. When necessary to maintain safety in a situation that poses a serious and immediate danger or threat to persons or property, the College will make an assessment to consider the existence of a significant risk to the health or safety of the alleged victim or the campus community, the nature, duration, and severity of the risk, the probability of potential injury to significantly mitigate the risk.

When requested by the respondent, a hearing to determine whether the intermediate suspension should continue will be held within five (5) to seven (7) business days of the request.

XIII. Timely Warning - Duty to Warn

The Title IX Coordinator through consultation with the Vice President of Fiscal Affairs, Georgia State Emergency Management and Police department, and AMSC’s Office of Information and Technology Systems, and AMSC’s President should determine whether there is a duty to warn the campus according to Clery Act guidelines.

XIV. Investigations

- The Office of the Title IX is responsible for directly overseeing the investigation and resolution of complaints and coordinating possible remedial actions or other responses designed to minimize the recurrence of the alleged conduct as well as mitigate the effects of any misconduct. The Title IX Coordinator will ensure prompt, fair, and impartial investigations and resolutions of complaints alleging violations of the sexual misconduct policy. The Title IX Coordinator shall be responsible for ensuring any individual participating as an Investigator in the investigation, resolution, or appeal of any sexual misconduct case has received regular training on issues pertaining to sexual misconduct.
- The Title IX Coordinator shall designate an investigator to conduct a prompt, thorough, and impartial investigation. The investigation shall consist of interviews with the complainant, alleged victim, respondent, and witnesses, and the collection and review of documents or other physical or electronic information, and other steps, as appropriate.
- The Title IX Coordinator shall provide the respondent with Initial written notice of the Complaint of the allegation, pending investigation, and available support services. The notice should also include the identity of the Title IX Coordinator and any investigator(s) involved. Notice shall be provided to the Respondent and the Complainant via Simplicity emailed to student email address or as appropriate. If confirmation of receipt is not received by the Title IX Coordinator, the Title IX Coordinator shall engage in other measures to ensure notice is received by the Respondent. The investigator will promptly begin the investigation and will schedule an initial interview with the complainant, Respondent, and any known relevant witnesses. The investigator should retain written notes and/or obtain written or recorded statements from each interview. The investigator shall also keep a record of any named witnesses not interviewed, along with a brief, written explanation.
- After the initial written notice has been received from the Title IX Coordinator, the Respondent will be required to attend an Administrative Conference with the Title IX Coordinator or Designee within seven (7) to ten (10) Business Days from the date of the initial notice. If the Respondent fails to schedule or attend the required Administrative Conference, the Title IX Coordinator or Designee may proceed with the case in the Respondent's absence.
- If the Respondent accepts responsibility for the charges, his/her case will be resolved administratively:
- The Title IX Coordinator and USG Director of Title IX will determine the appropriate disciplinary sanction(s)

- In determining the sanction(s), the Title IX Coordinator and USG Director of Title IX will consider any mitigating or aggravating factors, including any prior violations of the Student Code of Conduct, College or USG policy.
- The Title Coordinator will inform the Complainant and the Respondent of the decision in writing. The written decision will include a statement of the charges, the determination, and the sanction to be imposed, if any, and the right to appeal.
- After the initial written notice has been received from the Title IX Coordinator, each party shall have five (5) business days to submit a written statement to supplement the notice of complaint and the verbal interview. In that response, the Respondent shall have the right to admit or to deny the allegations, provide statement of facts, witnesses, and document. If the respondent has not otherwise responded, a nonwritten response will not be considered or assessed as a denial or admission of the alleged misconduct.
- Based on this response and other relevant information, the investigator shall continue to interview witnesses for both sides, to re-interview parties when necessary, and to collect and review documents, other physical or electronic information, as well as any other pertinent information, as appropriate.
- Where the respondent is a student, the respondent has the right to remain silent during the investigation and resolution process, without an automatic adverse inference resulting. If the respondent chooses to remain silent, the investigation may still proceed and policy violation charges may still result, which may be resolved against the respondent.
- The respondent and/or alleged victim may challenge the participation of the investigator on the grounds of personal bias by submitting a written statement to the Title IX Coordinator setting forth the basis for the challenge no later than three (3) business days after the party should have known of the bias. The Title IX Coordinator will determine whether to sustain or deny the challenge, and if sustained, to appoint a replacement.

XV. Charges of Sexual Misconduct

Based upon the final investigation findings of fact by the assigned Investigator, and consultation with the Title IX Coordinator, the Vice President for Student Affairs and/or the Director of Human Resources, the College may initiate Student Code of Conduct and/or Sexual Misconduct Policy charges, as necessary. The Title IX Coordinator will send the Investigator's final written report to both parties identifying all charges against the Respondent for alleged violations of the Student Code of Conduct and/or Sexual Misconduct Policy. The written charge report will contain sanctions and an explanation of the evidence against the Respondent. The following steps will then apply.

- The parties shall have at least five (5) business days to respond to the report in writing. The respondent's written response should outline his or her plea in response to the charge(s), and where applicable, his or her defense(s), the facts, witnesses, and documents – whether written or electronic – in support of his or her position.
- Upon completion of the investigation, the investigator will review the evidence with the Title IX Coordinator. The Title IX Coordinator will ensure policies have been followed.
- The Title IX Coordinator will contact the Complainant and the Respondent and schedule an opportunity to meet with each party individually. During these meetings, the Title IX Coordinator shall review the report with the parties (individually). Should the report be acceptable to all parties, an informal resolution may be made, which would not require the parties to move to the hearing phase of these procedures. If, however, the parties agree on the conduct, but not on the sanctions, then the sanctions shall be addressed by the hearing panel.
- Allegations of sexual misconduct involving a student that is brought against an institution's faculty or staff will be investigated as outlined above but will be further addressed and/or resolved through AMSC's Human Resources employment policies, and in accordance with the procedures for dismissal outlined in the Board of Regents Policy, including procedures for appealing such decisions.
- Where the respondent(s) is a student, a hearing, as well as corresponding procedures/rights to appeal, shall be set and administered as set forth below, and a final report shall be provided to all parties, which will also provide a date, time, and location for a hearing on the matter.

XVI. Hearing

The Hearing Panel shall be composed of at least three (3) members made up of faculty and/or staff. Neither the Investigator nor a student shall serve on the hearing panel. The Title IX Coordinator will select the hearing panel. If a Sexual Misconduct Hearing is required, the following process will be followed.

- The Title IX Coordinator will preside at the Hearing and will rule upon all procedural matters. Information regarding prior misconduct will not be considered for the purpose of determining responsibility but may after a finding of responsibility has been made, be considered for the purpose of determining appropriate sanctions. The Title IX Coordinator may establish reasonable limits upon the time allotted to the Respondent and the Complainant for presentation and presentation of witnesses,

- The Title IX Coordinator will communicate via Simplicity a written notice to the Respondent and the Complainant at least ten (10) days prior to the date set for the Hearing. The notice will be sent to the Respondent and the Complainant via Simplicity software.
- If the Respondent and/or Complainant cannot attend the hearing on the date scheduled for the hearing due to extraordinary circumstances, he/she must notify the Title IX Coordinator with a written request to reschedule, including reasons for the request, no later than three (3) business days prior to the hearing. The Title IX Coordinator and Hearing Panel will determine whether to approve or deny the request to reschedule the hearing.
- If the Complainant does not want to participate in the formal resolution process, the College reserves the right to present the case at the hearing in his/her absence.
- Both the alleged victim Complainant and Respondent shall present witnesses and evidence to the Hearing Panel. Both parties shall have the right to question any witnesses, including the other party. Witness testimony, if provided, shall pertain to knowledge and facts directly associated with the current case. The Hearing Panel shall ask the questions as written and will limit questions only if they are unrelated to determining the reliability of the charge levied against the respondent(s).
- The Complainant, the Respondent and the Hearing Panel may arrange for witnesses to present pertinent information to the Hearing Panel. The College will try to arrange the attendance of witnesses who are members of the College community, if possible, and who are identified by the parties at least three (3) days prior to the hearing. The attendance of witnesses who are not members of the College community must be secured by the party wishing to have the witness present information to the Hearing Panel. Attendance of witnesses at the hearing is preferred; however, it is acceptable to obtain and present written, signed statements from witnesses if they are unable to attend.
- The Title IX Coordinator reserves the right to allow a party to testify in a separate room, when determined to be necessary. Where such a decision is made, specific measures must be put in place to ensure no party is unfairly disadvantaged by this procedure. A party must still give testimony in the presence of the Panel, and the opposing party must have the opportunity to view the testimony remotely and to submit follow-up questions.

- Similarly, where the Title IX Coordinator determines that a witness or party necessary to the proceedings is unavailable and able to be present due to exigent circumstances (e.g., on a study abroad program, medical restrictions on travel, etc.), he or she may establish special procedures for providing testimony from a separate location. In doing so, the Title IX Coordinator must determine whether there is a valid or basis for the unavailability, ensure proper sequestration manner in a manner that ensures the testimony has not been tainted, and determination decide that such an arrangement will not unfairly disadvantage any party. Should it be believed that a party or witness not physically present has presented tainted testimony to the Panel, it will disregard that witness's testimony.
- No later than three (5) business days prior to the hearing, the parties will exchange the following information in writing by submitting the information to the Title IX Coordinator for delivery distribution. In addition, the parties shall also provide a separate copy of the said Information to the Title IX Coordinator:
 - A list of the names of the witnesses who may be called to speak at the hearing;
A concise summary of the anticipated statements of each witness;
 - Copies of all documents statements to be presented at the hearing;
 - The name and title of the person who will present the findings of the Review Process on behalf of the College;
 - The name of the Complainant and the name Advisor, if any; and
 - The name of the Respondents and the name Advisor, if any.
- Both the Respondent and the Complainant may challenge the participation of any member of the Hearing Panel by submitting a written statement to the Title IX Coordinator setting forth the basis for the challenge no later than three (3) business days before the hearing. The Title IX Coordinator will determine whether to sustain or deny the challenge. If the challenge is sustained, a replacement member will be appointed to serve on the Hearing Panel. If a challenge is filed against the Title IX Coordinator, the Vice President for Student Affairs will determine whether to uphold or deny the challenge.
- Members of the college community will be expected to comply with any request or directive issued by the Title IX Coordinator in connection with a student conduct proceeding unless compliance would result in significant personal hardship or substantial interference with normal college functions.
- All hearings regarding sexual misconduct charges against an individual student(s) or student organizations will be closed in accordance with FERPA (Family Educational Rights and Privacy Act). The deliberation stage of all hearings shall also be closed.

- The Title IX Coordinator will preside at the Hearing and will rule upon all procedural matters. The formal rules of evidence will not apply, although challenges to the introduction of specific statements or documents may be considered by the Title IX Coordinator based on the relevance to the charges. Information regarding prior misconduct will not be considered for the purpose of determining responsibility but may, after a finding of responsibility has been made, be considered for determining appropriate sanctions. The Title IX Coordinator may establish reasonable limits upon the time allotted to the Respondent and the Complainant for presentation and presentation of witnesses.
- Witnesses will be excluded from the hearing, except during their specific witness testimony.
- The standard of review shall be a preponderance of the evidence; however, any decision to suspend or to expel a student must also be supported by USG Title IX Director with substantial evidence.
- Both the respondent and complainant shall be provided with a written report via Simplicity of the outcome and any resulting sanctions. The written report will summarize the evidence in support of the sanction. The report will also include details on how to appeal, as outlined below.

XVII. Sanctions for Sexual Misconduct

The severity of sanctions or corrective actions may depend on the severity, frequency and/or nature of the offense, history of past discriminatory, harassing, or retaliatory conduct, the respondent's willingness to accept responsibility, previous institutional response to similar conduct, and the institution's interests. The Hearing Panel will determine the sanction after reviewing the investigatory findings.

In the case of students found to be in violation;

- The broad range of sanctions includes but is not limited to: expulsion; suspension for an identified time frame or until satisfaction of certain conditions, or both; temporary or permanent separation of the parties (e.g., change in classes, reassignment of residence, no contact orders, limiting geography of where parties can go on campus) with additional sanctions for violating orders; required participation in sexual or relationship sensitivity training/awareness education programs; required participation in alcohol and other drug awareness and abuse prevention programs; counseling or mentoring; volunteering/community service; loss of institutional privileges; delays in obtaining

administrative services and benefits from the institution (*e.g.*, holding transcripts, delaying registration, graduation, diplomas); additional academic requirements relating to scholarly work or research on sexual misconduct; financial restitution; or any other discretionary sanctions related to the violation or conduct.

- In the case of faculty or staff who are found to be in violation of sexual misconduct, the appropriate disciplinary action up to and including employment termination will be imposed.

XVIII. Sexual Misconduct Appeals

The Complainant and the Accused may appeal the final case disposition outcome. Parties shall have the right to appeal the outcome on any of the following grounds:

- To consider current 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;
- To allege a procedural error within the hearing process that may have impacted the fairness of the hearing, including but not limited to whether any hearing questions were improperly excluded or whether the decision was tainted by bias; or
- To allege that the finding was inconsistent with the weight of the information. Appeals may be made by the alleged offender for the above reasons in any case where sanctions are issued – even those in which such sanctions are held “in abeyance,” such as probationary suspension or expulsion.

The appeal must be made in writing and must set forth one or more of the bases outlined above and must be submitted within five (5) business days of the date of the final report. Currently at AMSC the Chief HR Officer and Title IX Coordinator positions are held by the same person the approval levels are as follows:

(1) First Level Appeal – Associate Vice President for Student Success and Special Programs:

Where the Complainant and Respondent appealing the outcome, the appeal should be made to the Associate Vice President for Student Success and Special Programs or designee. The appeal shall be a review of the record only, and no new meeting with the respondent or alleged victim will be held. The non-appealing party shall be given the opportunity to respond to the appellant’s submission. The AVP for Student Success and Special Programs may affirm the original finding and sanction; affirm the original finding but issue a new sanction of greater or lesser severity; remand the case back to the Title

IX Coordinator to correct a procedural or factual defect; or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The AVP shall then issue a decision in writing to both the respondent and alleged victim simultaneously within a reasonable time. Absent extenuating circumstances, the AVP will decide on the appeal within 10 to 15 business days.

(2) **Second Level Appeal - To the President:**

The decision of the Associate Vice President, Student Success and Special Programs may be appealed in writing within five (5) business days (as determined by the date of the decision letter) to the President of the institution solely on the grounds.

The President may affirm the original finding and sanction; affirm the original finding but issue a new sanction of greater or lesser severity; remand the case back to the Title IX Coordinator to correct a procedural or factual defect; or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The President's decision shall be issued in writing to both the respondent and alleged victim and shall be issued within a reasonable amount of time. The President's decision shall be the final decision of the institution. In the absent of or not withstanding any extenuating circumstances, the President will decide on the appeal within 15 business days.

(3) **Third Level Appeal - To the Board of Regents:**

Should the aggrieved person be dissatisfied with the decision of the College President, he or she may apply to the Board of Regents of the University System of Georgia, without prejudice to his or her position, for a review of the decision. The application for review must be submitted in writing in accordance with Board of Regents Policy 8.6 (Application for Discretionary Review) within a period of 20 calendar days following the decision of the President. This application for review shall state the decision complained about and the redress desired. A review by the Board is not a matter of right but is within the Board's sound discretion.

XIX. Recusal / Challenge for Bias

Any party may challenge the participation of any institution official or employee in the process on the grounds of personal bias by submitting a written statement to the institution's designee setting forth the basis for the challenge. The written challenge should be submitted within a reasonable time after the individual should have known of the existence of the bias. The institution's designer will determine whether to sustain or deny the challenge, and if sustained, the replacement to be appointed.

XX. Confidentiality

Information communicated to the Office of Human Resources & Title IX or other Responsible Employees will be shared only with AMSC's employees who need to be involved in responding to the report. Relevant information received will be shared with the Complainant, Respondent, and their advisors (if applicable) in the investigation report.

In all cases, while confidentiality cannot be guaranteed, the privacy of the complainant will be maintained by restricting the exchange of information solely relevant to the case as deemed a necessity or "**need-to-know**" basis.

Federal Statistical Reporting Obligations required certain campus officials have a duty to report Sexual Misconduct for federal statistical reporting purposes mandated by the Clery Act.

XXI. Retaliation

Retaliation against any member of the College community who makes a report of Sexual Misconduct or cooperates in the review of such report is prohibited and may lead to further disciplinary action. Retaliation includes intimidation, harassment, threats, or other adverse actions or speech. Retaliation of any kind should be promptly reported to the Title IX Coordinator.

XXII. Complaint Forms

"While there is no statute of limitations on an institution's ability to respond to a report, the ability to respond diminishes with time as information and evidence may be more difficult to secure".

[B.O.R 6.7.2 Reporting Sexual Misconduct](#)

- Complete and submit the online form [FILE A COMPLAINT](#)
- Reach out to the Title IX Coordinator at 404-756-4047
- United States Department of Education, [Complaint Process](#)

An electronic copy of the form may also be obtained from the Atlanta Metropolitan State College webpage under Administration or by entering Title IX in the search box.

XXIII. Campus Contacts

Timika Boykin, Chief HR Officer and Title IX Coordinator

Tboykin@atlm.edu

404-756-4047

Dr. Dorothy Williams, Director of Counseling and Support Services dwilliams@atlm.edu

[404-756-4016](tel:404-756-4016)

Professor Lisa Mallory, Professor of English lmallory@atlm.edu

404 756-4700

Tocarro Combs, Director of Student Life and Engagement

Tcombs@atlm.edu

678-623-1248

Dr. Meda Rollings, AVP of Student Success and Special Programs

Mrollings@atlm.edu

678-623-1148

Related Policies

http://www.usg.edu/policymanual/section4/C327/#p4.1.7_sexual_misconduct_policy

<https://www.usg.edu/policymanual/section6/C2655>

All Sexual Misconduct adjudication involving an employee Respondent, shall be addressed utilizing Board and institutional employment policies and procedures including [Human Resources Administrative Practice Manual, Prohibit Discrimination & Harassment](#).