

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 Board of Regents policy and may also be subject to criminal prosecution. Sexual Misconduct, as defined by this policy is any form of sexual violence to include, but not limited to, Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, Rape, Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, 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. Sexual Misconduct can be committed by men or women, and it can occur between people of the same or different gender. Atlanta Metropolitan State College will not tolerate sexual misconduct and will provide resources and recourse 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 that supports the dignity of 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 of 1972, The Jeanne Clery Act of 1990, and The Violence Against Women Act (VAWA) of 1994 (reauthorized 2000, 2005, 2013).

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. The implementation of this policy will assist victims by clearly delineating the process for reporting misconduct on campus as well as resources available. Additionally the policy will assist in staying in compliance with federal and state laws and guidelines as well as 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 but not limited to: study abroad and conferences).

Persons of any sex can be capable of Sexual Misconduct; Sexual Misconduct can occur between people of the same gender. It can occur among "couples" involved in romantic relationships. The requirements of this policy are blind to the sexual orientation or preference of individuals engaging in sexual activity. The Atlanta Metropolitan State College policy on Sexual

Misconduct reflects the serious intent of AMSC to provide resources and recourse for individuals whose rights may have been violated by an act of Sexual Misconduct.

There is no statute of limitations for Sexual Misconduct at Atlanta Metropolitan State College. Individuals can be accused/charged with one or more of these offenses for their behavior in a single incident. None of these forms of Sexual Misconduct will be tolerated 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 lodging a complaint. The complainant may not always be the alleged victim.

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 in spite of objections of another, or by taking advantage of the incapacitation of another, where the respondent knows or reasonably 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 social relationship of a romantic or intimate nature with the alleged victim.

Domestic Violence: Violence committed by a current or former spouse or intimate partner of the alleged victim, by a person with whom the alleged victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the alleged victim under the domestic or family violence laws of the jurisdiction, or by 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 jurisdiction.

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. Whether someone is incapacitated is to be judged from the perspective of an objectively reasonable person.

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 but is not limited to, 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 to have 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.). Responsible Employees are not required to report information disclosed at public awareness events (*e.g.*, "Take Back the Night," candlelight vigils, protests, "survivor speak-outs" or other public forums in which students may disclose incidents of prohibited conduct).

Sexual Assault: An umbrella term referring to a range of nonconsensual sexual contact, which can occur in many forms including but not limited to rape and sexual battery.

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:

1. Invasion of sexual privacy;
2. Prostituting another individual;
3. Non-consensual video or audio of sexual activity;
4. 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;
5. Intentional observation of unconsenting individuals who are partially undressed, naked, or engaged in sexual acts;
6. Knowingly transmitting an STD or HIV to another individual;
7. Intentionally and inappropriately exposing one's breasts, buttocks, groin, or genitals in non-consensual circumstances; and/or

8. 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

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:

- (1) Sexual misconduct involving Students should be reported to the Vice President for Student Affairs, Office of Student Affairs, Suite 217, Student Center Building, 404-756-4585.
- (2) Sexual misconduct by faculty or staff should be reported to the Director of Human Resources, Room 114, Library/Administration Building, 404-756-4047.
- (3) Sexual misconduct involving students and/or faculty and staff should be reported to the Title IX Coordinator, Office of Judicial Affairs, Academic Building, Room 118, 678- 623-1271.

The College will protect confidentiality by not disclosing the Complainant's information to anyone outside the College, except as required by law. Within the College, a Complainant's request for confidentiality must be balanced by the College with its responsibility to provide a safe and non-discriminatory environment for the College community. Where the College cannot take disciplinary action against a Student because of a Complainant's insistence upon confidentiality, the College will pursue other steps where available to limit the effects of the alleged Sexual Misconduct and attempt to prevent its recurrence. The right to confidentiality, both of the complainant and the accused, will be respected insofar as it does not interfere with the College's legal obligation or ability to investigate allegations and to take corrective action when it is found that misconduct has occurred.

For all allegations of Sexual Misconduct the following procedures are in effect to file a formal complaint:

A. Filing a Formal 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 at Atlanta Metropolitan State College:

- (1) File an administrative sexual misconduct complaint;

- (2) File a criminal complaint with AMSC law enforcement officials; and
- (3) File an anonymous complaint.

Listed below are the details on how to file 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.

(1) How to File an Administrative Sexual Misconduct Complaint

Complainants of sexual misconduct who wish to file a report with the institution should notify a Responsible Employee, a Deputy Title IX Coordinator, or the Title IX Coordinator. Responsible Employees and Deputy Title IX Coordinators informed about sexual misconduct allegations involving any student must notify the Title IX Coordinator as soon as practicable. 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 the College's investigation of the issue and serves as a form of official documentation of the incident.

Complaints should include as much information as possible – that is: (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 tangible evidence has been preserved; and (6) whether a criminal complaint has been made.

Information from complaints will be shared only as necessary to investigate and to resolve the alleged sexual misconduct. Complaints will be investigated and resolved as outlined below. The Title IX Coordinator, will assess the need for institutional interim measures as described below as appropriate and where reasonable, as well as work with the appropriate institutional department to determine the need to issue a broader warning to the community in compliance with the Clery Act or to report activity to the authorities.

Institutional reports will be investigated and adjudicated separately from any criminal complaints.

1. *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.

2. *Retaliation*: Anyone who, in good faith, reports what she or he believes to be misconduct under this Policy, or who participates or 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 or cooperating in, or otherwise being associated with an investigation should immediately contact the AMSC Title IX Coordinator. Any person found to have engaged in retaliation in violation of this Policy shall be subject to disciplinary action.
3. *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.
4. *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 particular 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.

(2) How to File a Sexual Misconduct Complaint through AMSC Law Enforcement

Because sexual misconduct may constitute criminal activity, a complainant also has the option, should he or she so choose, of filing a report with AMSC Campus Public Safety Department 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:

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

(3) How to File an Anonymous Sexual Misconduct Complaint

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.

B. 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 a campus, in connection with an institution's program or activity, or in a manner that creates a hostile environment for members of the institution community. 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 (including an attorney) of his/her choosing for the express purpose of providing advice and counsel at his/her own expense. The selected advisor shall not otherwise be a party or witness involved in the investigation. 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 advisor may advise the advisee, including providing questions, suggestions, advice on the proceedings, and guidance on responses to any questions of the participant, but shall not participate directly. The institution shall not prohibit family members of any party from attending if the party requests such attendance, but will be limited in number to only two family members.

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 of time 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 timeframe.

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.

A preliminary review of all complaints will be conducted, including contacting individuals identified in the complaint, in order to determine the nature of the incident as well as 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 Vice President for Student Affairs and the Director of Human Resources, it will be determined:

1. There is insufficient Information to pursue the investigation further. In such cases, the Title IX Coordinator and/or the Vice President of Student Affairs will meet with the Complainant and the Responding Student separately to review the preliminary findings and the matter will be closed with no further action.
2. 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 including:
 - developing a strategic investigation plan;
 - meeting with the Complainant to finalize the Complainant's statement, which will be drawn up by the Investigator;
 - interviewing all relevant witnesses, summarizing the information they are able to share and having each witness sign the summary to verify its accuracy;
 - obtaining all documentary information that is available;

- obtaining all physical evidence that is available; and
 - completing the review promptly by analyzing all available information.
3. 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 and inform the Complainant of his/her rights in the process including the option to become involved again in the future if a more comprehensive review is necessary. In such cases, the assigned investigator will commence a prompt, fair, and impartial review including:
- developing a strategic investigation plan;
 - meeting with the Complainant to finalize the Complainant's statement, which will be drawn up by the Investigator;
 - interviewing all relevant witnesses, summarizing the information they are able to share and having each witness sign the summary to verify its accuracy;
 - obtaining all documentary Information that is available;
 - obtaining all physical evidence that is available; and
 - completing the review promptly by analyzing all available Information.

C. Interim Protective Measures

In an effort 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 final outcome of an investigation and until final resolution of the allegations if failure to take the interim measures would constitute an immediate threat to the safety and well-being of the alleged victim or other members of the institution, or to ensure equal access to the institution's education programs and activities. Before any such measures are instituted, however, the Title IX Coordinator shall, where practicable, provide the respondent with an initial opportunity to respond to the allegations and to the imposition of any interim protective measures specifically.

Imposing interim protective measures does not indicate that a violation of this Policy has occurred, and is designed to protect the alleged victim and community and not to harm the respondent. 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:

1. Change of housing assignment;
2. Issuance of a "no contact" directive;
3. Restrictions or bars to entering certain institution property;
4. Changes to academic or employment arrangements, schedules, or supervision;
5. Interim suspension; and
6. Other measures designed to promote the safety and well-being of the parties and the institution's community.

An interim suspension shall only occur when necessary to maintain safety, and shall be limited to those situations where the respondent poses a serious and immediate danger or threat to persons or property. In making such an assessment, the institution shall 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, and whether less restrictive means can be used to significantly mitigate the risk.

Before an interim suspension is issued, AMSC will make all reasonable efforts to give the respondent the opportunity to be heard on whether his or her presence on campus poses a danger. If an interim suspension is issued, the terms of the suspension will take effect immediately. 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.

D. Assess Duty to Warn

The Title IX Coordinator through consultation with the Director of Human Resources and the Vice President for Student Affairs, along with the AMSC Chief of Police and Public Safety should determine whether there is a duty to warn the campus according to Clery Act guidelines.

Investigations

1. The Office of the Title IX Coordinator is responsible for directly overseeing the investigation and resolution of complaints, and coordinating possible remedial actions or other responses reasonably 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 in the investigation, resolution, or appeal of any sexual misconduct case has received regular training on issues pertaining to sexual misconduct.
2. The Title IX Coordinator shall designate an investigator to conduct a prompt, thorough, and impartial investigation into each complaint received. The investigation shall consist of interviews of the complainant, alleged victim, respondent, and witnesses, and the collection and review of documents or other physical or electronic information, as well as other steps, as appropriate.
3. Unrelated charges and cases shall be investigated separately, unless the respondent consents to having them aggregated.
4. The Title IX Coordinator shall provide the respondent with Initial written notice of the complaint, pending investigation, possible charges, possible sanctions, and available support services, with a copy to the alleged victim. The notice should also include the identity of the Title IX Coordinator and any investigator(s) involved. Notice shall be provided the respondent and the alleged victim via certified mail or institution email. 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.

5. The investigator will promptly begin the investigation and will schedule an initial interview with the complainant, alleged victim, 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.
6. 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 Accused's absence, including making an administrative decision about the Respondent's responsibility regarding the charges.
7. If the Respondent accepts responsibility for the charges, his/her case will be resolved administratively:
 - (a) The Title IX Coordinator or Designee, in conjunction with an administrative panel, will determine the appropriate disciplinary sanction(s) to apply.
 - (b) In determining the sanction(s), the Title IX Coordinator or Designee, in conjunction with an administrative panel, will consider any mitigating or aggravating factors, including any prior violations of the Student Code of Conduct, College or USG policy.
 - (c) The Designee will inform both the Accused and the Complainant 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.
8. 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, and to set forth a defense with facts, witnesses, and documents – whether written or electronic – in support. If the respondent has not otherwise responded, a non-written response will be considered a general denial of the alleged misconduct.
9. 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.
10. 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.
11. 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 reasonably 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.

C. 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 all parties (i.e. the Respondent and the Victim) identifying all charges against the Accused for alleged violations of the Student Code of Conduct and/or Sexual Misconduct Policy. The written report of charges will contain possible sanctions, as well as an explanation of the evidence against the Respondent. The following steps will then apply.

1. 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.
2. The investigator shall, as necessary, conduct further investigation and update the report as warranted by the response(s),
3. 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.
4. The Title IX Coordinator will contact the alleged victim(s) and the respondent(s) 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.
5. Allegations of sexual misconduct involving a student that are 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.
6. 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.
7. The final report shall be provided to the Hearing Panel for consideration in adjudicating the charges brought against the respondent. The investigator may testify as a witness before the panel regarding the investigation and findings, but shall otherwise have no part in the hearing process and shall not attempt to otherwise influence the panel outside of providing testimony during the hearing.

E. Sexual Misconduct 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.

- (1) 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 on the basis of 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 purposes of determining appropriate sanctions. The Title IX Coordinator may establish reasonable limits upon the time allotted to the Accused and the Complainant for oral presentation and presentation of witnesses,
- (2) The Title IX Coordinator will prepare and send a written notice to the Accused and the Complainant no less than five (5) business days prior to the date set for the Hearing. The notice will be delivered personally or sent to the Accused and the Complainant via official AMSC email or certified mail.
- (3) If the Accused or the 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 will determine whether to approve or deny the request to reschedule the hearing.
- (4) 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.
- (5) Both the alleged victim and respondent shall have the opportunity to present witnesses and evidence to the Hearing Panel. Both parties shall have the right to question any witnesses, including the other party, by submitting written questions to the Title IX Coordinator and/or his or her designee for consideration. Witness testimony, if provided, shall pertain to knowledge and facts directly associated with the current case. Advisors may actively assist in drafting questions. The Hearing Panel shall ask the questions as written, and will limit questions only if they are unrelated to determining the veracity of the charge levied against the respondent(s). In any event, the Panel shall err on the side of asking all submitted questions, and must document the reason for not asking any particular questions.
- (6) The Complainant, the Accused 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 reasonably possible, and who are identified by the parties at least three (3) business 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.
- (7) 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 determination is made, special 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.

- (8) Similarly, where the Title IX Coordinator determines that a witness or party necessary to the proceedings is unavailable and unable 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 there is a valid basis for the unavailability, ensure proper sequestration in a manner that ensures the testimony has not been tainted, and make a determination that such an arrangement will not unfairly disadvantage any party. Should it be reasonably believed that a party or witness who is not physically present has presented tainted testimony to the Panel, the Panel will disregard the testimony of that witness.
- (9) No later than three (3) 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 or notarized 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 and title of the Complainant's Advisor, if any; and
 - The name of the Accused and the name and title of the Accused's Advisor, if any.
- (10) Both the Accused and the Complainant may challenge the participation of any member of the Hearing Panel 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 prior to 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.
- (11) 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.
- (12) All hearings regarding sexual misconduct charges against individual students or student organizations will be closed in accordance with FERPA. The deliberation stage of all hearings shall also be closed.
- (13) 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 on the basis of 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 purposes of determining appropriate sanctions. The Title IX Coordinator may establish reasonable limits upon the time allotted to the Accused and the Complainant for oral presentation and presentation of witnesses.

- (14) Witnesses will be excluded from the hearing, except during their specific witness testimony.
- (15) 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 substantial evidence at the hearing.
- (16) The civil rules of evidence do not apply to the investigatory or resolution process. Both the respondent and alleged victim shall be provided a written report via certified mail or institution email 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.

VIII. 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 review of the investigatory findings.

In the case of students found to be in violation;

- (1) 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 directly related to the violation or conduct.
- (2) 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.

IX. 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:

- (a) 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;

- (b) To allege a procedural error within the hearing process that may have substantially 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
- (c) 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.

(1) First Level Appeal - To Vice President for Student Affairs:

Where the respondent or alleged victim appealing the outcome, the appeal should be made to the Vice President for Student Affairs or his/her 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 Vice President or his/her designee, 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 Vice President or his/her designee shall then issue a decision in writing to both the respondent and alleged victim simultaneously within a reasonable time period. Absent extenuating circumstances, the Vice President will make a decision on the appeal within 15 to 20 Business Days.

(2) Second Level Appeal - To the President:

The decision of the Vice President or his/her designee 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 aforementioned 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 make a decision 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 of and the redress desired. A review by the Board is not a matter of right, but is within the sound discretion of the Board.

IX. 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 reasonably should have known of the existence of the bias. The institution's designee will determine whether to sustain or deny the challenge, and if sustained, the replacement to be appointed.

X. Confidentiality

A. Different people on campus have different reporting responsibilities, and different abilities to maintain confidentiality, depending on their roles at the College. In all cases, while confidentiality cannot be guaranteed, the privacy of the complainant will be maintained by restricting the exchange of information regarding a case to a "need to know" basis.

B. Federal Statistical Reporting Obligations

Certain campus officials have a duty to report Sexual Misconduct for federal statistical reporting purposes mandated by the Clery Act.

XII. 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 strictly prohibited and may lead to further disciplinary action. Retaliation includes, but is not limited to, intimidation, harassment, threats, or other adverse action or speech. Retaliation of any kind should be promptly reported to the Title IX Coordinator.

XIII. Complaint Forms

Hardcopy Complaint Forms to report Sexual Misconduct are available in the Office of Human Resources, the Office of Student Affairs, the Office of Judicial Affairs, and the Office of Counseling and Disability Services. The complaint form should be completed by the person making the complaint and returned to the Vice President for Student Affairs, the Director of Human Resources, or the Title IX Coordinator following a report of Sexual Misconduct. An electronic copy of the form may also be obtain from the webpage of the Office of Student Affairs or the Office of Human Resources. Complaints may also be completed online at www.atlm.edu.

XIV. Contacts

Mr. James Altemus, Executive Director of Title IX and Judicial Affairs
AMSC Title IX Coordinator
jaltemus@atlm.edu, 678 623-1271

Dr. Maria Lumpkin, Interim Vice President for Student Affairs
mlumpkin@atlm.edu, 404 756-4585

Ms. Regina Ray Simmons, Director of Human Resources
Deputy Title IX Coordinator
rsimmons@atlm.edu. 404 756-4047

Ms. Dorothy Williams, Director of Counseling and Disability Services
Deputy Title IX Coordinator
dwilliams@atlm.edu, 678 623-1205

Professor Lisa Mallory, Professor of English
Deputy Title IX Coordinator
lmallory@atlm.edu, 404 756-4700

XV. Related Policies

USG Policy on Sexual Misconduct:

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