

## **Complaint and Investigation Policy**

### **Policy Statement**

All members of the Georgia College community shall adhere to all applicable laws, policies, and procedures, including those enacted to ensure proper action against all forms of misconduct. This Policy addresses the process for reporting and investigating alleged misconduct and/or inappropriate behavior of members of the Georgia College community, which include but are not limited to faculty, staff, students, volunteers, visitors, and vendors.

### **Definitions**

The following definitions apply to the terms as used in this Policy:

#### Abuse

The intentional, wrongful, or improper use of resources. Abuse may be a form of wastefulness, as it entails the exploitation of "loopholes" to the limits of the law, primarily for personal advantage.

#### Complaint

A formal allegation against a party.

#### Complainant

A party who makes the complaint of a violation of federal and/or state law, as well as Board of Regents and/or University policies.

#### Confirmation of Complaint

A confirmation provided to the complainant summarizing the nature of the complaint filed, along with any additional information provided in the initial interview.

#### Conflict of Interest

A situation when an individual or organization is involved in multiple interests, one of which may jeopardize the investigation process.

#### Employee

A member of one of the several classifications, as defined by Board of Regents policy, which includes but is not limited to faculty, staff, and student employees.

#### Fraud

A false representation of a matter of fact that is intended to deceive another. A fraudulent act may be illegal, unethical, improper, or dishonest and may include, but is not limited to: embezzlement, misappropriation, alteration or falsification of documents, false claims, asset theft, inappropriate use of computer systems (including hacking and software piracy), bribery or kickbacks, conflicts of interest, or intentional misrepresentation of facts.

#### Interim Measures

A set of short-term actions or activities taken by a University administrator at the beginning or during the course of an investigation to quickly prevent, mitigate, or remedy unacceptable risks to the safety of the campus community, until more permanent actions are suitable.

#### Malfeasance

Misconduct or wrongdoing, especially by a public employee.

#### Misconduct

An unacceptable or improper form of behavior by a student, employee, independent contractor, visitor, or volunteer, which violates federal and/or state law, Board of Regents and/or University policies, ethical and professional standard of conduct, or exhibits fraud, waste, or abuse.

#### Notice of Findings

A notice provided to the parties of a complaint containing the results or findings of an investigation, at the conclusion of the investigation.

#### Notice of Complaint

A notice provided to the parties of a complaint notifying the parties a complaint has been filed, the allegations of the complaint, and that an investigation has commenced.

#### Reporter

A party who makes a Hotline complaint of a violation of federal and/or state laws, as well as Board of Regents and/or University policies.

#### Respondent

A party against whom a complaint of a violation of federal and/or state laws, as well as Board of Regents and/or University policies, has been filed.

#### Response to Allegations

A response provided by the respondent regarding the allegations as set forth in a complaint.

#### Retaliation

An adverse employment decision against an employee for reporting a violation of or noncompliance with a law, rule, or regulation to either a supervisor or government agency. The adverse employment decision may include, but is not limited to, any negative job action, such as demotion, discipline, firing, salary reduction, or job or shift reassignment.

#### Student

An individual at the institution with the primary function of attending classes.

#### Triage Committee

A committee consisting of representatives of University offices responsible for coordinating investigations under the oversight of the Office of Legal Affairs. Permanent members are representatives from the Office of Human Resources, Office of Internal Audit and Advisory Services, and Office of Legal Affairs. Additional members may be added, as needed, on a case by case basis. Unless otherwise required, all University internal investigations shall be coordinated by the investigation coordinator.

#### Waste

An expenditure or allocation of resources in excess of need that is often extravagant or careless.

#### Wrongdoing

A violation of federal and/or state law, Board of Regents and/or University policies, ethical and professional standard of conduct, and fraud, waste, or abuse.

### **Keywords**

Abuse  
Complaint  
Discrimination  
Fraud  
Harassment  
Investigation  
Malfeasance

Misconduct  
Waste  
Wrongdoing

## **Reason for the Policy**

Georgia College's goal of a diverse and inclusive environment includes a commitment to maintain an environment that is safe and free from prohibited discrimination, harassment, and all other forms of misconduct and/or inappropriate behavior. The University has adopted policies in support of this goal and complies with all applicable federal, state, and local laws.

Severe misconduct and/or inappropriate behavior undermines the Georgia College mission and commitment to inclusiveness by threatening the careers, educational experience, and well-being of those associated with the University. Accordingly, this Policy seeks to provide an avenue for members of the University community to report alleged misconduct, and a process by which the University shall address and resolve allegations of misconduct.

## **Proposed Outcome**

The goal of this Policy is to streamline the process by which members of the University community report incidents of misconduct, thereby allowing the University to respond to and investigate such complaints in a more effective, efficient, and proficient manner. This process will further ensure all complaints are resolved in a timely manner and comply with applicable federal and/or state laws, as well as Board of Regents and/or University policies.

## **Applicability of the Policy**

This Policy applies to all members of the Georgia College community, including but not limited to faculty, staff, students, volunteers, visitors, vendors, and invited guests, as well as the general public.

## **Related Policies**

Georgia College Fiscal Misconduct Policy  
Georgia College Progressive Discipline Guide  
Georgia College Non-Discrimination and Anti-Harassment Policy  
Georgia College Grievance Policy and Procedures for Employees  
University System of Georgia Sexual Misconduct Policy  
University System of Georgia Standards for Institutional Student Investigation and Disciplinary Proceedings  
University System of Georgia Ethics Policy

## **Procedures**

### **I. Complaint Process**

- A. Generally speaking, all complaints involving the misconduct of a Georgia College employee, volunteers, visitors, and contract workers, shall be filed with the Office of Human Resources. Generally speaking, all complaints involving the misconduct of a Georgia College student shall be filed with the Office of Student Affairs. Alternatively, all complaints may also be filed via the Georgia College General Online Complaint Form or the Ethics and Compliance Reporting Hotline.
  1. More specifically, certain complaints should be filed as follows:

- a. All complaints of sexual misconduct shall be filed with the Title IX Coordinator.
  - b. All **employee** complaints not related to sexual misconduct shall be filed with the Office of Human Resources.
    - c. All complaints of fraud, waste, and abuse shall be filed with the Office of Internal Audit & Advisory Services.
    - d. Any complaint involving a possible crime, other than those complaints exempted from disclosure under federal or state laws or regulations, shall be referred to the Department of Public Safety as soon as practicable, but no later than two (2) business days.
- B. In addition to the complaint procedures listed here, certain **student-initiated complaints** must also be maintained on a current log for **SACS compliance**.
1. **Only for the purposes of SACS compliance**, a complaint is:
    - a. A statement detailing unfair treatment, dissatisfaction with services, or similar concerns made by a prospective, current, or former student about his or her own experience, in written form including email, letter, submitted form, or a handwritten note.
  2. **Only for the purposes of SACS compliance**, a complaint is not:
    - a. A petition for exception to an established policy or procedure;
    - b. A question about a policy or procedure;
    - c. A request for service;
    - d. An appeal made through an established process;
    - e. An allegation of harassment or discrimination for which other reporting processes exist;
    - f. Complaining, as one might see on a social media site;
    - g. Made by someone who is not a student, or who is speaking on behalf of the student; or
    - h. Spoken.
  3. The complaint log shall contain:
    - a. Date of complaint;
    - b. Student name;
    - c. Summary of complaint;
    - d. Measures taken to resolve complaint;
    - e. Resolution; and
    - f. Date of resolution.
  4. A log shall be maintained by each office or department where students may make complaints, including the Office of the President and all colleges.
    - a. A copy of each log should be provided to the Office of Legal Affairs quarterly.
- C. A complaint should be filed within 120 calendar days following the alleged misconduct or the date on which the complainant knew or should have known of the alleged misconduct, **except:**
1. For allegations involving sexual misconduct
  2. For an employee who leaves the University, the employee must file a complaint relating to alleged discrimination and/or harassment occurring during that individual's employment with the University within ten (10) calendar days following the employee's termination of employment from the University.
  3. For a student bringing a complaint against faculty in the context of a subordinate - supervisory relationship between the faculty member and the student (such as in relation to teaching, advising, research, and thesis or dissertation supervision), a student may file a complaint one (1) year after no longer under the faculty's supervision or three (3) years from the date of the alleged behavior, even if the student is no longer affiliated with the University, **whichever is earlier**.

- D. A complaint may not be reopened after final resolution, despite whether the investigation was formal or informal.
  - 1. When a complaint has been resolved, all allegations that are the subject of the complaint are considered resolved.
  - 2. A resolution is considered final once the time for an appeal, if applicable, has expired or the appeals process is otherwise complete.
  - 3. If misconduct continues after final resolution, a new complaint may be filed.

## **II. Interim Measures**

- A. Pending resolution of the matter, a representative from one of the following offices: Office of Human Resources, Office of Internal Audit & Advisory Services, Office of Legal Affairs, and Office of Student Affairs, may recommend to the appropriate University or University System of Georgia official, under applicable faculty/staff or student policy, interim measures to protect all members of the University community and/or to maintain the integrity of the investigation process.
  - 1. These measures may include, but are not limited to:
    - a. No-contact orders;
    - b. Change of housing assignment;
    - c. Change in class schedule or location;
    - d. Change in job area/location or schedule;
    - e. Change in supervision, administrative leave; or
    - f. Any other suitable measure.

## **III. Investigation Process**

- A. The investigation process consists of five (5) phases:
  - 1. Assessment phase;
  - 2. Fact-finding/informal investigation phase;
  - 3. Formal investigation phase;
  - 4. Report writing phase; and
  - 5. Implementation phase.
- B. Assessment Phase
  - 1. The assessment phase consists of a complaint being received by the appropriate office whereby the Office of Legal Affairs reviews the complaint, determines if an investigation is necessary, and assigns an investigator to proceed according to the process outlined in this Policy.
    - a. In some cases, the complainant's concerns may be addressed by referring him or her to applicable laws, regulations, grant requirements, or University policies and, as such, will not warrant further investigation.
  - 2. If there is any question as to what office should house the complaint and/or investigation, or the complaint is complex in nature, the complaint shall be referred to the Triage Committee to review the facts of the complaint, determine whether an investigation is necessary, and determine which office shall investigate the complaint.
    - a. The area to which the matter is assigned shall be based on the type of incident reported. Possible investigation offices include: Office of Human Resources, Office of Internal Audit & Advisory Services, and Office of Legal Affairs.
  - 3. A case manager from the investigative office will be assigned to the complaint.
  - 4. The case manager shall investigate or select an investigator and oversee the investigation within the office to ensure investigation is completed within the confines of this policy.
- C. Fact-finding/Informal Investigation Phase

1. The fact-finding phase consists of gathering documents and other pertinent information related to the investigation and interviewing the complainant and/or other key parties to the complaint to determine whether such information warrants a formal investigation.
  - a. If the fact-finding process reveals there is sufficient information to proceed with a formal investigation, the investigator shall proceed according to the formal investigation phase process outlined in this Policy.
  - b. If the fact-finding process reveals there is insufficient information to proceed with a formal investigation, the case manager or investigator shall prepare an informal investigation report based on the results of the fact-finding/informal investigation and proceed according to the reporting phase process outlined in this Policy.

D. Formal Investigation Phase

- a. The formal investigation phase consists of several steps, which include:
- b. Sending out Acknowledgement of Complaint within two (2) business days.
- c. Sending a Confirmation of Complaint to the complainant summarizing his/her allegations and the investigation process.
- d. Complainant confirming content of Confirmation of Complaint.
- e. Sending a Notice of Complaint to the respondent informing him/her of the allegations, with copy sent to chain of command.
- f. Respondent is entitled to, but not required to, submit a Response to Allegations within five (5) business days of receipt of the Notice of Complaint.
- g. The investigator meets with the parties, relevant witnesses, and collects all supporting evidence.

E. Report Writing Phase

1. When an investigation is concluded, the reporting phase begins which consists of the investigator preparing a written report and providing the report to appropriate University officials.
  - a. The written report may contain: findings of fact, conclusions, concerns, recommendations, or any other information the investigator believes **bears significance** on the outcome of the investigation.
  - b. At minimum, the investigation report should contain:
    - A summary of the complainant's relevant allegations;
    - A summary of the respondent's relevant statements in response to the allegations;
    - A description of the relevant information provided by witnesses or obtained from documents, including comments submitted in response to the investigation;
    - Investigator's statement of credibility; and
    - The investigator's analysis and findings.
  - c. The written report will be provided to appropriate University officials as is necessary to ensure proper resolution and follow-up regarding the matter.
    - Appropriate University officials are, but are not limited to, the director and/or vice president of the appropriate division, or the University president.
    - A copy of all completed reports shall be submitted to the Office of Legal Affairs for centralized retention.
  - d. The investigator will provide a Notice of Findings to all parties involved within established guidelines.

F. Implementation Phase Process

1. Corrective action includes, but is not limited to, recommended training, retraining, counseling, reprimand, administrative leave, and/or termination of employment.

- a. All corrective actions should be consistent with the Progressive Discipline Process and Student Disciplinary Process.
- b. If corrective action is recommended, the director or vice president of the appropriate department or division shall be notified, in writing, of such recommended corrective action.
- c. Investigator shall provide a request for services form to any office responsible for implementing any recommended services as an outcome of the investigation.
- d. Any recommended corrective action pertaining to employees will be taken by or coordinated with the Office of Human Resources.
- e. Investigator shall follow up with director/vice president and Office of Human Resources within thirty days to ensure implementation of appropriate recommendations.

#### **IV. Ethics and Compliance Reporting Hotline**

- A. The same procedure/process for receiving and resolving complaints via other avenues applies to complaints received via the Hotline, except:
  1. A response to complaints received via the Hotline shall be made to the reporter/complainant within two (2) business days of receipt of the Hotline report that, at minimum, acknowledges receipt of the report.
  2. While an investigation report may be necessary, the investigator or case manager shall also promptly document and close the case in the Hotline software.
    - a. Closing the Hotline investigation shall include, at minimum, notifying the reporter/complainant, documenting the resolution and action taken, and making the required entries in the Hotline software in a manner that the date on which the case is closed is properly documented.
- B. Complaints involving members of the Triage Committee or University administration related to fraud, waste, or abuse shall be referred to the University System of Georgia's Office of Internal Audit and Compliance for remediation and/or investigation.

#### **V. Miscellaneous**

- A. Investigation Timeframe
  1. An investigation is considered complete once a final investigation report has been issued and the time for an appeal has expired, if applicable.
  2. Barring extenuating circumstances, all investigations should be completed within sixty (60) days of receipt of a complaint – unless a separate policy governing a particular investigation states otherwise.
    - a. If an investigation proceeds beyond sixty (60) days, such extenuating circumstances shall be noted to investigation file or report.
- B. Conflict of Interest
  1. In the event a conflict of interest arises surrounding an investigation, the parties may request an alternate investigator, or the case manager may assign an alternate investigator.
    - a. The alternate investigator may be from another office, so long as the alternate investigating office's director or supervisor has approved, and the investigator is qualified to conduct the investigation.
    - b. If a party requests an alternate investigator, one will only be appointed for good cause upon completing an Alternate Investigator Request.
- C. Reporting Protection

1. Retaliation is strictly prohibited by federal and state law, as well as University System of Georgia and University policies, and is defined as “the discharge, suspension, or demotion by a public employer of a public employee or any other adverse employment action taken by a public employer against a public employee in the terms or conditions of employment for disclosing a violation of or noncompliance with a law, rule, or regulation to either a supervisor or government agency.”
2. Georgia Whistleblower Act protects public employees who disclose an alleged violation of or noncompliance with any federal, state, or local law, rule or regulation pertaining to the possible existence of any activity constituting fraud, waste, and abuse in or relating to any state programs or operations.
  - a. “Any public employee who reports a potential violation shall be free from discipline or reprisal from his employer, unless such disclosure was made with false and reckless disregard.”

## **VI. Guidelines**

- A. Generally, investigations are subject to the Georgia Open Records Act; however, some investigations are exempted from disclosure under the Act per federal and/or state law. Requests for investigation materials are open records requests and shall be processed by the Office of Legal Affairs.

## **VII. Non-Compliance**

- A. Failure to comply with the requirements of this policy may result in disciplinary action up to and including termination or expulsion in accordance with relevant University policies and may result in prosecution in accordance with state and federal law.

## **Forms**

Alternate Investigator Request Form  
General Complaint Form  
Student Complaint Release Form  
Referral for Services Form

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