

# **TITLE IX TRAINING**

RECOGNIZING, RESPONDING AND REPORTING

NORTH GEORGIA TECHNICAL COLLEGE

AUGUST 2022

# TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 (HIGHER EDUCATION ACT OF 1965)

- Title IX of the Education Amendments of 1972 protects people from discrimination based on sex in education programs or activities which receive Federal financial assistance. Title IX states that:
  - “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”
- The United States Department of Education (DOE) maintains an Office for Civil Rights (OCR).

# POLICY STATEMENT

- The procedures of North Georgia Technical College are established for all employees and students to be able to enjoy a work and educational environment that is free from all forms of discrimination, including sexual harassment. North Georgia Technical College follows TCSG procedure regarding student conduct codes and unlawful harassment and discrimination of students.
- The U.S. Department of Education defines sexual harassment as verbal or physical conduct of a sexual nature imposed on the basis of sex, by an employee or student that denies limits, provides different, or conditions the provision of aid, benefits, services, or treatment protected under Title IX. Prohibited conduct is that which:
  - Is sexually motivated or of a sexual nature when that conduct creates an intimidating, hostile, or offensive environment.
  - Is used as a factor in employment or academic decision.
  - Unreasonably interferes with an individual's work or academic performance.
- Sexual harassment is an unlawful practice under federal law and is a form of discrimination that is specifically prohibited at North Georgia Technical College. Any student or employee who violates this procedure will be subject to disciplinary action.

# DON'T WAIT

- Please do not wait to report conduct of concern until harassment becomes sufficiently serious (i.e., severe, pervasive, or persistent) to create a hostile environment.
- The Equal Opportunity and Affirmative Action/Title IX Coordinator, designees, and other college officials can take proactive steps to prevent harassment from continuing and perhaps escalating and to protect or otherwise assist the person harassed.
- For example, the college can arrange for no-contact orders, counseling and changes in class schedules, living arrangements, class requirements, and testing schedules as needed.
- The designees can also provide expertise and advice to help identify conduct that might be a warning sign of or constitute sexual harassment or hostile environment harassment prohibited by this policy and address any concerns or complaints appropriately.

# ACADEMIC FREEDOM AND FREE SPEECH

- Constitutionally protected speech and traditional notions of academic freedom are valued in higher education. These ideals help to create the stimulating and challenging learning environment that should characterize higher education.
- In the spirit of a true college environment, individuals are encouraged to invite, rather than inhibit, discourse on ideas. In addressing all complaints and reports under this policy, the college will take all permissible actions to ensure the safety of students and employees while complying with free speech requirements for students and employees.
- While the college will vigilantly protect students' and employees' rights against sex discrimination under this policy, this policy does not apply to curriculum or in any way prohibit or abridge the use of particular textbooks or curricular materials.

# DISCRIMINATORY CONDUCT

Discrimination is conduct that is based upon an individual's race, color, religion, national origin, creed, service in the uniformed service, veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation that excludes and individual from participation, denies the individual the benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment, or participation in a college program or activity.

# HARASSMENT

- Harassment is covered under this policy if it is based upon an individual's race, color, religion, national origin, creed, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation.
- Harassing conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating.
- Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Sex-based harassment includes sexual harassment and non-sexual harassment based on stereotypical notions of what is female/feminine v. male/masculine or a failure to conform to those gender stereotypes.

# SEXUAL HARASSMENT

- Sexual harassment can include unwelcome:
  - Sexual advances;
  - Requests for sexual favors; or
  - Other verbal or physical conduct of a sexual nature, including sexual assault.  
(Can involve persons of the same or opposite sex.)
  - Tangible Employment or Educational Action (Quid pro quo)
  - Hostile Work or Educational Environment



# HOSTILE ENVIRONMENT

A Hostile Environment based on race, color, religion, national origin, creed, service in the uniformed services, veteran status, sex, age, political ideas, marital or family status, pregnancy, physical or mental disability, genetic information, gender identity, gender expression, or sexual orientation exists when harassment:

- is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to deny or limit a person's ability to participate in or benefit from the college's programs, services, opportunities, or activities; or
- when such conduct has the purpose or effect of unreasonably interfering with an individual's employment.
- hostile environment can be created by anyone involved in a college program or activity (e.g., administrators, faculty members, students, and even campus guests).
- Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a serious incident, such as a sexual assault, even if isolated, can be sufficient.

# HOSTILE ENVIRONMENT

In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a similar situation would have perceived the conduct as objectively offensive.

Also, the following factors will be considered:

- The degree to which the conduct affected one or more students' education or individual's employment;
- The nature, scope, frequency, duration, and location of incident or incidents;
- The identity, number, and relationships of persons involved; and
- The nature of higher education.

# SEXUAL MISCONDUCT

Sexual Misconduct includes sexual assault, inducing incapacitation for sexual purposes, sexual exploitation, and relationship violence.

Sexual Assault means an actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to:

- Involvement in any sexual contact when the victim is unable to consent;
- Intentional and unwelcome touching of, or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast); or
- Sexual intercourse without consent, including acts commonly referred to as "rape."

# STALKING

- Stalking includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method, that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.

# RETALIATION

- Retaliation is action taken by an accused individual or an action taken by a third party against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy.
- This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation.
- Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

# CONSENT

- Consent is informed, freely given, and mutual. If coercion, intimidation, threats, or physical force are used there is no consent;
- If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious;
- There is no consent when there is force, expressed or implied, or use of duress or deception upon the complainant.
- Silence does not necessarily constitute consent.
- Past consent to sexual activities does not imply ongoing future consent.
- Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent.

# REPORTING MISCONDUCT

- In order to enable the college to respond effectively and to stop instances of sex-based discrimination, sexual harassment and sexual misconduct involving students at the college proactively, all college employees must, within 24 hours of receiving the information, report information they have about alleged or possible sex-based discrimination, sexual harassment, and sexual misconduct involving students to the EO.

# MANDATORY REPORTING

- Upon receiving a report of alleged or possible sex-based discrimination, sexual harassment, or sexual misconduct, the TITLE ix coordinator will evaluate the information received and determine what further actions should be taken. The TITLE IX coordinator will follow the procedures described in the Discrimination Grievance Procedures.
- The TITLE IX coordinator will take steps, either directly with the Complainant or through a reporting employee, to provide information about the college's Discrimination Grievance Procedures, as well as available health and advocacy resources and options for criminal reporting.



# OFF CAMPUS CONDUCT

- Conduct that occurs off campus can be the subject of a complaint or report and will be evaluated to determine whether it violates this policy, e.g. if off-campus harassment has continuing effects that create a hostile environment on campus.
- Allegations of off-campus sexual misconduct are of particular concern and should be brought to the college's attention.

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# TITLE VI, II

- Civil rights act of 1964 protects people from discrimination based on race, color or national origin in programs or activities that receive federal financial assistance.
- Title II should be considered as an extension of the law that protects individuals with disabilities from discrimination by state and local governments regardless of whether the state or local government receives federal funding. This protection applies to services, activities, and programs provided by these government entities.