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Resolution Procedure for Allegations of Harassment, Sexual Misconduct, and Other Forms of Discrimination (Equity Resolution Process)

Gateway Technical College will act on any formal or informal allegation or notice of violation of policy H-110, Equal Opportunity, Civil Rights, and Sexual Misconduct, that is received by the Office for Equal Opportunity and Civil Rights or a member of the administration, faculty, or other employee required to make a report under policy H-110.

The procedures described below apply to all allegations of harassment, sexual misconduct, or discrimination on the basis of protected class and retaliation involving students, staff or faculty members. When the responding party (the person who is alleged to have violated this policy) is a member of the College community, such as a student or employee, the Equity Resolution Policy (ERP) is applicable regardless of the status of the reporting party (the person(s) making the allegations) who may be a member or non-member of the campus community, such as a student, student organization, employee, guest, visitor, etc. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing, discriminatory or retaliatory conduct (e.g.: vandalism, physical abuse of another, etc.).

1. Overview

Upon notice to the Director of Compliance/Title IX Coordinator, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the College will initiate a private investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determines whether policy H-110 has been violated. If so, the College will promptly implement effective remedies designed to end the discrimination, prevent its recurrence and address its effects.

2. Equity Resolution Process (ERP)

Allegations under the policy on nondiscrimination are resolved using the ERP. Civil rights investigators are trained to investigate violations of discrimination and sexual misconduct, at the direction of the Director of Compliance/Title IX Coordinator:

- a. To provide sensitive intake for and initial advice pertaining to the allegations,
- b. To investigate allegations, and
- c. To act as process advisors to those involved in the Equity Resolution Process.

Investigators receive training at least annually, organized by the Director of Compliance/Title IX Coordinator, which includes a review of College policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety and promote accountability. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings and recommend appropriate sanctions in reference to all forms of harassment and discrimination allegations; Gateway's Equal Opportunity, Civil Rights, and Sexual Misconduct policy; confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance; interviewing techniques; and understanding trauma. All investigators are required to attend this training to be eligible to serve.

3. Preliminary Inquiry

Following receipt of notice or a report of misconduct, the Director of Compliance/Title IX Coordinator engages in a preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy could have been violated. In addition, all parties are emailed a copy of their rights, information about the equity resolution process, and available support services offered on and off campus. This inquiry may also serve to help the Director of Compliance/Title IX Coordinator to determine if the allegations evidence violence, threat, pattern, predation and/or weapon, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not evidenced, the Director of Compliance/Title IX Coordinator may respect a reporting party's request for no action, and will investigate only so far as necessary to determine appropriate remedies. As necessary, the College reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party. In cases where the reporting party wishes to proceed or the College determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Director of Compliance/Title IX Coordinator will direct a formal investigation to commence and the allegation will be resolved through one of the processes discussed briefly here and in greater detail below:

- **Informal Resolution (mediation)** – used for less serious offenses and only when both parties agree to mediation. If informal resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.
- **Administrative Resolution (investigation)** – resolution by a trained administrator. The process followed considers the preference of the parties, but is ultimately determined at the discretion of the Director of Compliance/Title IX Coordinator.

Once a formal investigation is commenced, the Director of Compliance/Title IX Coordinator will provide written notification of the investigation to the responding party at the onset of a formal investigation. The College aims to complete all formal investigations within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Director of Compliance/Title IX Coordinator with written notice to the parties of the delay, the reason for the delay, and the anticipated timeframe for completion.

If, during the preliminary inquiry or at any point during the formal investigation, the Director of Compliance/Title IX Coordinator determines that there is no reasonable cause to believe that policy H-110 has been violated, the process will end unless the reporting party requests that the Title IX Officer makes an extraordinary determination to re-open the investigation. Such a determination may be appropriate where the reporting party identifies new evidence or information not previously available. This decision lies in the sole discretion of the Equal Opportunity Officer.

4. Interim Remedies/Actions

The Director of Compliance/Title IX Coordinator may provide interim remedies intended to address the short-term effects of discrimination, harassment, sexual misconduct and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations. These remedies may include, but are not limited to:

- Referral to counseling and health services

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- Referral to the Employee Assistance Program
- Education to the college community through prevention and remedial programming
- Altering work arrangements for employees
- Providing campus escorts
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines and course schedules

The College may interim suspend an employee, student, or organization pending the completion of the ERP investigation and procedures, particularly when in the judgment of the Director of Compliance/Title IX Coordinator, after conducting a preliminary assessment which includes an interview of the responding party, the individual poses a threat to the safety or well-being of any member(s) of the campus community. In all cases in which an interim suspension is imposed, the employee, student, or student organization will be given the option to meet with the Director of Compliance/Title IX Coordinator and the dean or director of employee and labor relations, prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Director of Compliance/Title IX Coordinator will coordinate with the campus dean (in regard to students) or director of employee and labor relations (in regard to employees) to implement or stay an interim suspension and to determine its conditions and duration. Violation of the terms of an interim suspension under this policy will be grounds for expulsion or termination. During an interim suspension or administrative leave, a student or employee may be denied access to College campus/facilities/events. As determined by the Director of Compliance/Title IX Coordinator, this restriction can include classes and/or all other College activities or privileges for which the student might otherwise be eligible. At the discretion of the Director of Compliance/Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

The institution will maintain as private any interim actions or protective measures, provided privacy does not impair the institution's ability to provide the interim actions or protective measures.

5. Investigation

Once the decision is made to commence a formal investigation, the Director of Compliance/Title IX Coordinator appoints at least one investigator to conduct the investigation, usually within two (2) days of determining that an investigation should proceed.

Investigations are completed expeditiously though some investigations take weeks or even months, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc.

The College may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The College will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete or as soon as the College believes this to be the case. College action will not typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

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All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary. The investigators and/or Director of Compliance/Title IX Coordinator will provide regular updates to the reporting and responding party throughout the investigation, as appropriate.

The investigators will typically take the following steps, if not already completed (not necessarily in order). The nature and type of investigation will ultimately determine the steps and order of these steps.

- In coordination with campus partners (e.g.: the Campus or Academic Dean), initiate or assist with any necessary interim remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;
- In cases where there is reasonable cause to believe other college policies were violated the complaint will be referred to the appropriate office unless investigated as a collateral allegation as described in the Administrative Resolution section, below;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews for all witnesses and the responding party, who will be given notice prior to interview;
- The Director of Compliance/Title IX Coordinator (or designee) will prepare the notice of allegation on the basis of the preliminary inquiry that includes the rights of all parties, on and off campus support services, information about the equity resolution process;
- Meet with the reporting party to finalize their statement, if necessary;
- Provide written notification to the parties prior to their interviews that they may have the assistance of an advisor of their choosing present for all meetings attended by the advisee;
- Provide reporting party and responding party with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions/responsive actions that could result;
- Allow each party the opportunity to suggest questions they wish the investigators to ask of the other party and witnesses.
- Provide parties with all relevant evidence to be used in rendering a determination and provide each with a full and fair opportunity to address that evidence prior to a finding being rendered;
- Make a finding, based on a preponderance of the evidence (which means whether a policy violation is more likely than not to have occurred);
- Once the report is complete, the report is shared with the parties for their review and comment. Both parties have five days to review the report and all material evidence collected during the investigation and which was used to make a determination. The investigator(s) may conduct additional investigation based on the feedback and incorporate feedback from the parties as appropriate;

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- The Director of Compliance/Title IX Coordinator will make recommendations for sanctions if the policy was violated;
- The Title IX Officer will review and approve the report, findings, and sanctions, if applicable;
- The investigator will finalize and present the findings to the parties in writing.

At any point during the investigation, if it is determined there is no reasonable cause to believe that College policy has been violated, the Director of Compliance/Title IX Coordinator has authority to terminate the investigation and end resolution proceedings.

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the College's investigation and the Equity Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or Equity Resolution Process constitutes a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone or Skype (or similar technology), if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation do not have the ability to offer evidence later during the appeal if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.

No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Equity Resolution Process proceedings.

6. Advisors

Each party is allowed to have an advisor of their choice present with them for all ERP meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is available, and usually otherwise not involved in the resolution process (such as serving as a witness). The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is available. The parties may choose advisors from inside or outside the campus community. The parties may also choose to proceed without an advisor.

The role of the Advisor is to help their advisees prepare for each meeting. All Advisors are expected to advise ethically, with integrity and in good faith.

The College cannot guarantee equal advisory rights. If one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one.

All advisors are subject to the same campus rules. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor.

Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or

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meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows the College an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Director of Compliance/Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The College expects that the parties will wish to share documentation related to the allegations with their advisors. The College provides a consent form that authorizes such sharing. The parties must complete this form before the College is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College.

The College may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

The College expects an advisor to adjust their schedule to allow them to attend Gateway meetings when scheduled. The College does not typically change scheduled meetings to accommodate an advisor's inability to attend. The College will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available. A party may elect to change advisors during the process, and is not locked into using the same advisor throughout.

The parties must advise the investigators of the identity of their advisor at least one day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

7. Resolution

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with College policy. While the contents of the meetings are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.

a. Informal Resolution

Informal Resolution, also called mediation, is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal resolution process to resolve conflicts. The Director of Compliance/Title IX Coordinator will determine if mediation is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to mediation. In a mediation meeting, a trained administrator will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a mediation process, though the parties may agree to appropriate remedies. The

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Director of Compliance/Title IX Coordinator will keep records of any resolution that is reached, and failure to abide by the agreement can result in appropriate responsive actions.

Informal resolution will not be the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Director of Compliance/Title IX Coordinator believe that it could be beneficial. Mediation will not be used in cases of sexual violence. It is not necessary to pursue informal resolution first in order to pursue Administrative Resolution, and any party participating in mediation can stop that process at any time and request a shift to Administrative Resolution.

b. Administrative Resolution

Administrative Resolution, also referred to as an investigation, can be pursued for any behavior that falls within the policy on Equal Opportunity, Civil Rights, and Sexual Misconduct, at any time during the process. In addition, the College has the authority to address all collateral misconduct (i.e., any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation) during the Administrative Resolution even though those collateral allegations may not specifically fall within the policy on Equal Opportunity, Civil Rights, and Sexual Misconduct. Accordingly, investigations should be conducted with as wide a scope as necessary.

Administrative Resolution relies on the evidence, information and recommended findings within the investigation report to render a determination. Upon completion of the investigation, the investigator will provide the Director of Compliance/Title IX Coordinator with a written report summarizing the evidence gathered and examined, including an assessment of credibility of the parties and witnesses, an analysis of the information and a recommended finding and sanction (if applicable). The Director of Compliance/Title IX Coordinator will request that the investigator(s) conduct any additional necessary inquiry, and will then finalize a determination in accordance with the procedures below. The Title IX Officer will consider, but is not bound by, recommendations of the investigation.

In making his recommended determination to the Equal Opportunity Officer, who conducts the final review of the investigation report, the Director of Compliance/Title IX Coordinator may consider all evidence that he believes is relevant and credible, including history and pattern evidence. The Director of Compliance/Title IX Coordinator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

Unless the Director of Compliance/Title IX Coordinator determines it is appropriate, the investigation and the finding will not consider: (1) incidents not directly related to the possible violation, unless they show a pattern, (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators will supply the Director of Compliance/Title IX Coordinator with information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

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Neither the Director of Compliance/Title IX Coordinator nor the investigators will meet with character witnesses, but investigators will accept up to two (2) letters supporting the character of each of the parties when considering sanctions.

The Director of Compliance/Title IX Coordinator will base the determination(s) on the preponderance of the evidence (whether it is more likely than not that the responding party violated policy as alleged).

The responding party may choose to admit responsibility for all or part of the alleged policy violations at any point during the Administrative Resolution process. If the responding party admits responsibility, the Director of Compliance/Title IX Coordinator may render a determination that the individual is in violation of College policy.

If the responding party admits the violation, or is found in violation by a preponderance of the evidence, the Director of Compliance/Title IX Coordinator, in consultation with the Equal Opportunity Officer, and others as appropriate, will determine an appropriate sanction or responsive action, will implement it, and will act promptly and effectively to stop the harassment or discrimination, prevent its recurrence and remedy the effects of the discriminatory conduct.

The Director of Compliance/Title IX Coordinator will inform the parties of the final determination within three (3) days of the resolution, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official College records; or emailed to the parties' College issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the College is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the College is permitted to share under state or federal law. The notice will also include information on when the results are considered by the College to be final, any changes that occur prior to finalization, and any appeals options that are available.

c. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the reporting party and the community

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- Any other information deemed relevant by the Director of Compliance/Title IX Coordinator

These factors can modify the typical sanction range.

The following are the usual sanctions that may be imposed upon students or student organizations singly or in combination.

- **Warning:** verbal or written notice to a student that serves to remind the student of the policy and prohibited behaviors, and that continued behavior may result in more significant sanctions.
- **Restriction:** a limitation on the student's access to identified services, locations, education, community activities or persons. Issued for a specified time frame.
- **Restitution:** Issued to a student who has committed a violation of this policy that resulted in staff, institutional or another student's financial loss. May be issued as a condition of return or continued attendance in the college.
- **Referral:** Issued to a student who has committed a violation of this policy and it is determined that continued participation at the college is contingent upon the student attending designated services (college or private vendor) or programs. May be issued for a specified time frame or as permanent and may be issued as a condition of return to or continued attendance at the College.
- **Loss of Privileges:** Issued to a student who has committed a violation of this policy and it is determined that the student may continue attendance at the College with permanent or temporary limitations on the student's access to identified services, locations, or educational community activities.
- **No Contact:** Issued to a student who has committed a violation of this policy and it is determined that the student may continue attendance at the College with permanent or temporary limitations on the student's access to or contact with an identified individual or group(s) of student and/or staff.
- **Disciplinary Probation:** Issued to a student who has committed a violation of this policy and will face additional sanctions if any additional violations occur during a specified time frame.
- **Suspension:** Issued to a student, for a specified time frame, who has committed a major, egregious or continued violation(s) of this policy.
- **Expulsion/Dismissal:** Permanent removal, issued to a student who has committed a major, egregious or continued violation(s) of this policy.
- **Other Actions:** In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

Sex discrimination: verbal warning to expulsion/dismissal

Hostile environment sexual harassment: verbal warning to expulsion/dismissal

Intimate Partner Violence: verbal warning to expulsion/dismissal

Sexual exploitation: verbal warning to expulsion/dismissal

Stalking: verbal warning to expulsion/dismissal

Non-consensual sexual contact: verbal warning to expulsion/dismissal

Non-consensual sexual intercourse: verbal warning to expulsion/dismissal

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Retaliation: verbal warning to expulsion/dismissal

Sanctions range from a verbal warning to expulsion from the college, based on the offense and the factors noted above in addition to any mitigating, aggravating, and/or compounding factors.

Responsive actions for an employee who has engaged in discrimination, harassment, sexual misconduct and/or retaliation include

- Warning: verbal or written notice to an employee that serves to remind the employee of the policy and prohibited behaviors, and that continued behavior may result in more significant sanctions,
- Restriction: a limitation on the employee's access to identified services, locations, or persons. Issued for a specified time frame.
- Restitution: Issued to an employee who has committed a violation of this policy that resulted in staff, institutional or student's financial loss. May be issued as a condition of return or continued employment in the College.
- Referral: Issued to an employee who has committed a violation of this policy and it is determined that continued employment at the College is contingent upon the employee attending designated services or programs. May be issued for a specified time frame or as permanent and may be issued as a condition of return or continued employment at the College.
- Loss of Privileges: Issued to an employee who has committed a violation of this policy and it is determined that the employee may continue employment at the College with permanent or temporary limitations on the employee's access to identified services, locations, or College activities.
- No Contact: Issued to an employee who has committed a violation of this policy and it is determined that the employee may continue employment at the college with permanent or temporary limitations on the employees access to or contact with an identified individual(s) or groups of student and/or staff.
- Disciplinary Probation: Issued to an employee who has committed a violation of this policy and will face additional sanctions if any additional violations occur during a specified time frame.
- Suspension: Issued to an employee, for a specified time frame, who has committed a major, egregious or continued violation(s) of this policy. Suspension may be unpaid depending on applicable College policy.
- Termination of employment: Permanent termination of employment for an employee who has committed a major, egregious or continued violation(s) of this policy.
- Other Actions: In addition to or in place of the above sanctions, the College may assign any other sanctions as deemed appropriate.

Sex discrimination: verbal warning to expulsion/dismissal

Hostile environment sexual harassment: verbal warning to expulsion/dismissal

Intimate Partner Violence: verbal warning to expulsion/dismissal

Sexual exploitation: verbal warning to expulsion/dismissal

Stalking: verbal warning to expulsion/dismissal

Non-consensual sexual contact: verbal warning to expulsion/dismissal

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Non-consensual sexual intercourse: verbal warning to expulsion/dismissal

Retaliation: verbal warning to expulsion/dismissal

Sanctions range from a verbal warning to expulsion from the college, based on the offense and the factors noted above in addition to any mitigating, aggravating, and/or compounding factors. The college retains the rights to issues sanctions outside the identified range depending on the individual circumstances.

Restrictions, loss of privileges, no contact orders, disciplinary probation, suspension, and expulsion generally range from one day to five years. Students and employees must satisfy any and all requirements imposed at the time of the sanction to remove the sanction(s).

8. Withdrawal or Resignation While an Investigation is Pending

Students: The College does not permit a student to withdraw if that student has an allegation pending for violation of the policy on Equal Opportunity, Harassment and Nondiscrimination. Should a student decide to leave and/or not participate in the ERP, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to College unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

Employees: Should an employee resign with unresolved allegations pending, the records of the Office for Equal Opportunity and Civil Rights and Human Resources will reflect that status. Employees who resign during the Equity Resolution Process may be deemed ineligible for rehire.

9. Appeals

All requests for appeal consideration must be submitted in writing to the Title IX Officer within five (5) calendar days of the delivery of the written finding (outcome letter) of the Director of Compliance/Title IX Coordinator. Any party may appeal the findings and/or sanctions only under the following grounds.

- To determine whether a procedural error or omission occurred that significantly impacted the outcome (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.
- The sanctions imposed are not proportionate to the violation(s) and the cumulative record of the responding party.

The Title IX Officer will review the appeal request(s) to determine if it meets one of the three criteria above. The Vice President of Institutional Effectiveness and Student Success, Senior Vice President of Operations, and Executive Vice President and Provost serve as appeals officers. The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately. When any party requests an appeal, the Title IX Officer will

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share the appeal request with the other party(ies), who may file a response within three days and/or bring their own appeal on separate grounds. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three (3) days. These responses or appeal requests will be shared with each party.

- Decisions by the appeals officer are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so. In most cases, appeals are confined to a review of the written documentation or record of the investigation, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for the appeals officer to substitute their judgment for that of the original investigator(s) or Director of Compliance/Title IX Coordinator merely because they disagree with its finding and/or sanctions.
- Appeals granted based on new evidence should normally be sent back (remanded) to the investigator(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Officer or, in limited circumstances, heard by the appeals officer.
- Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Title IX Officer or designee stays (puts a hold on) their implementation in extraordinary circumstances, pending the outcome of the appeal.
 - For students: Graduation, study abroad, internships/ externships, etc. do NOT in and of themselves constitute extraordinary circumstances, and students may not be able to participate in those activities during their appeal.
- In rare cases where a procedural or substantive error cannot be cured by the original investigator(s) and/or Director of Compliance/Title IX Coordinator (as in cases of bias), the appeals officer may recommend a new investigation and/or Administrative Resolution process. The results of a remand cannot be appealed. The results of a new Administrative Resolution process can be appealed on any of the applicable grounds for appeals.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand.
- The Director of Compliance/Title IX Coordinator will consult with the appeals officer, incorporate the results of any remanded grounds, and render a written decision on the appeal to all parties within three (3) days of the resolution of the appeal or remand.
- All parties will be informed in writing within three (3) days of the outcome of the Appeals Officer, without significant time delay between notifications, and in accordance with the standards for notice of outcome as defined above.
- In cases where the appeal results in reinstatement to the College or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be unable to be restored in the short term.

Principles governing appeals involving a student suspension or expulsion will include the following:

- Where the Administrative Resolution Process has resulted in a finding that a student responding party violated policy H-110 and the recommended sanction includes

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suspension or expulsion, prior to the implementation of the suspension or expulsion, the student may file an appeal. Under such circumstances, the matter will proceed to a hearing on the issue of whether a preponderance of the evidence demonstrates that the responding party violated Policy H-110, and if so, what sanctions shall be implemented.

- At least fourteen (14) calendar days prior to the hearing, or as far in advance as is reasonably possible if an accelerated resolution process is scheduled with the consent of the parties, the Appeals Officer (or designee) will send a letter by at least one of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official College records; or emailed to the parties' College issued email account. The letter will include the following: (1) an indication that the parties may have the assistance of an Advisor of their choosing, at the hearing, though the Advisor's attendance at the hearing is the responsibility of the respective parties; (2) the time, date and location of the hearing; and (3) a copy of the investigation determination. For good cause, the Appeals Officer may grant requests to reschedule the hearing date.
- At least seven (7) calendar days prior to the hearing, the parties provide the Appeals Officer a list of the names of the proposed witnesses and copies of all proposed documentary evidence. At least five (5) business days prior to the hearing, the Appeals Officer (or designee) will have the names of proposed witnesses and copies of all applicable documentary evidence available for the parties.
- The Appeals Officer in consultation with the parties, the Director of Compliance/Title IX Coordinator, and the Investigator(s), may decide in advance of the hearing that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the Investigator in the investigation report or during the hearing. All parties will have ample opportunity to present facts and arguments in full and question all present witnesses during the hearing, though formal cross-examination is not used between the parties. If alternative attendance or questioning methods are desired, the parties should request them from the Appeals Officer at least two (2) business days prior to the hearing. Gateway will make reasonable accommodations for both parties in keeping with the principles of equity and fairness.
- Conduct of Hearing

The Appeals Officer shall preside over the hearing, call the hearing to order, ascertain the presence or absence of the Director of Compliance/Title IX Coordinator, Investigator, and the parties, confirm receipt of the notice of hearing, report any extensions requested or granted, and establish the presence of any Advisors. Formal rules of evidence shall not apply during the hearing.

- *Investigator's Report and Testimony* - The Investigator will first present the written investigative report and may give a narrative report of the investigation, and then be subject to questioning by the reporting party, the responding party, and the Appeals Officer. The Investigator may also call witnesses who will be subject to questioning by the Investigator, the reporting party, the responding party and the Appeals Officer. The Investigator may also submit documentary evidence. The Investigator(s) will remain present during the entire hearing process.
- *Reporting Party's Evidence* - The reporting party may give testimony and be subject to questioning by the Investigator, the responding party (through the Appeals Officer) and the Appeals Officer. The reporting party may also call and question witnesses who may also then be questioned by the responding party,

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the Investigator and the Appeals Officer. The Complainant may also submit documentary evidence.

- *Responding Party's Evidence* - The responding party may give testimony and be subject to questioning by the Investigator, the reporting party (through the Appeals Officer) and the Appeals Officer. The responding party may also call and question witnesses who may also then be questioned by the reporting party, the Investigator and the Appeals Officer. The responding party may also submit documentary evidence.
- *Additional Rights of the Appeals Officer* - The Appeals Officer shall:
 - Determine the relevancy and admissibility of any evidence offered at the hearing;
 - Have the authority to exclude a witness proposed by the Investigator or the parties if it is determined that his/her testimony would be redundant or not relevant;
 - Have the authority to dismiss any person from the hearing who interferes with or obstructs the hearing or fails to abide by the Appeals Officer's rulings.
- *Findings and Sanctions* - Following the hearing, the Appeals Officer shall determine whether a preponderance of the evidence demonstrates that the responding party is responsible for the policy violations in question. If the responding party is found responsible, the Appeals Officer shall determine appropriate sanctions. The Appeals Officer will prepare a written report detailing the finding and information supporting the finding. If the responding party is found responsible, the report will conclude with the recommended sanctions.

The report shall be delivered to the Investigator and Director of Compliance/Title IX Coordinator within ten (10) calendar days of the hearing. Deviation from this timeline will be communicated to the Investigator, Director of Compliance/Title IX Coordinator, and the parties. The Director of Compliance/Title IX Coordinator will inform the parties of the determination within five (5) calendar days of receipt of the report, without significant time delay between notifications. Notification will be made by at least one of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official College records; or emailed to the parties' College issued email account.

- *Appeal of Hearing Findings and Sanctions* - All requests for appeal consideration must be submitted in writing to the Title IX Officer within ten (10) calendar days of the delivery of the written findings to the appealing party. Any party may appeal the findings and/or sanctions under the grounds described below:
 - To determine whether a procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
 - To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included. If additional information is offered or provided, the Title IX Officer may refer the matter back to the Appeals Officer to consider the new information, provide either

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party with an opportunity to respond to such new information, and to determine whether the findings and sanctions should be changed.

The appeal will proceed consistent with the procedures outlined above and will be conducted by the Provost or designee.

10. Long-Term Remedies/Actions

Following the conclusion of the Equity Resolution Process and in addition to any sanctions implemented, the Director of Compliance/Title IX Coordinator may utilize long-term remedies or actions to stop discrimination, harassment, sexual misconduct or retaliation, remedy their effects and prevent their reoccurrence. These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanently altering work arrangements for employees
- Providing campus escorts
- Policy modification
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Director of Compliance/Title IX Coordinator, long-term remedies may also be provided even when the responding party is found not responsible.

The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

11. Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions

All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Director of Compliance/Title IX Coordinator. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions (including suspension, expulsion, or termination from the College) or responsive or corrective actions and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Director of Compliance/Title IX Coordinator.

12. Records policy

Records, both physical and electronic, of incidents or complaints and those produced during a Title IX or other civil rights inquiry or investigation are maintained indefinitely by the Office for Equal Opportunity and Civil Rights. Records that pertain to students are part of their student record and subject to FERPA. Drafts and "working files" are not considered records that must be maintained by the College and are destroyed at the conclusion of an inquiry or

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investigation. Students and employees may access these records in accordance with applicable College policies on access to records.

13. Statement of the Rights of the Parties

Both the reporting and the responding party shall have the right to:

- Investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to College officials;
- Bring an advisor of their choosing to all phases of the investigation and resolution proceeding*;
- Ask the investigators to identify and question relevant witnesses, including expert witnesses;
- Be informed in advance, when possible, of any public release of information regarding the incident;
- Be treated with respect by College officials;
- Have College policies and procedures followed without material deviation and transparent to all parties;
- Have reports of sexual misconduct/discrimination responded to promptly and with sensitivity by campus officials;
- Be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
- A campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the party or others;
- Notification of and options for, and available assistance in, changing academic situations after an alleged incidents covered under policy H-110, if so requested and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
 - Exam (paper, assignment) rescheduling;
 - Taking an incomplete in a class;
 - Transferring class sections;
 - Temporary withdrawal;
 - Alternative course completion options.
- Have the College maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the institution's ability to provide the accommodations or protective measures;
- Be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- Be informed of the names of all witnesses whose information will be used to render a finding, in advance of that finding, except in cases where a witness's identity will not be revealed to a party for compelling safety reasons (this does not include the name of the reporting party, which will always be revealed);

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- Not have irrelevant prior sexual history admitted as evidence;
- Regular updates on the status of the investigation and/or resolution;
- Have reports addressed by investigators and Director of Compliance/Title IX Coordinator who have received annual training;
- Preservation of privacy, to the extent possible and permitted by law;
- Meetings and/or interviews that are closed to the public;
- Petition that any College representative in the process be recused (removed) on the basis of demonstrated bias or conflict-of-interest;
- Have the College compel the participation of faculty and staff witnesses, and the opportunity (if desired) to provide the investigators with a list of potential questions to ask of witnesses, and the right to challenge documentary evidence;
- Submit a written statement describing the impact of the alleged discrimination/misconduct to the Title IX investigator following determination of responsibility, but prior to sanctioning;
- Be promptly and simultaneously informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- Be informed simultaneously in writing of when a decision by the College is considered final, any changes to the sanction to occur before the decision is finalized, to be informed of the right to appeal the finding and result of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the College.

In addition, the reporting party shall have the right to:

- Not have any personally identifiable information released to the public, without their consent;
- Not be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- Not be discouraged by College officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- Be informed by College officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, as well.

14. Disabilities Accommodation in the Equity Resolution Process

Gateway is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the Equity Resolution Process at the College. Students needing such accommodations or support should contact the Director of Disability Support Services, and employees should contact the Director of Compliance/Title IX Coordinator, who will review the request and, in consultation with the person requesting the accommodation, and the Director of Compliance/Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation.

15. Revision

These policies and procedures will be reviewed and updated regularly by the Director of Compliance/Title IX Coordinator. The College reserves the right to make changes to this document as necessary and once those changes are posted online at gtc.edu/TitleIX, they are in effect. The Director of Compliance/Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Director of Compliance/Title IX Coordinator may also vary procedures materially with notice (on the institutional web site, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. The policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

Adopted: August 20, 2018 Supersedes: June 29, 2015, October 12, 2009; August 24, 2005, November 2002
Reaffirmed &/or Updated: August 20, 2019 (Added sexual misconduct as an area covered by the policy and added applicability details in intro, added information on rights and support services under bullet #3, updated language in rights of parties) August 15, 2019 (Updated role and designation of Title IX Officer, updated formal title of Title IX Coordinator). March 22, 2011 (Clarified EEO Officer and AA Officer positions & eliminated evaluation form which is not used.)