



Campus Policy on Sexual Misconduct & Definitions

Toccoa Falls College is committed to maintaining a Christ-centered community, free of discrimination, including sexual harassment, sexual violence, dating and domestic violence, and sexual misconduct in all of its forms. TFC will not tolerate sexual misconduct by or against its students, faculty, or staff. In addition, visitors, volunteers, vendors, consultants, third parties, or any person that provides services to TFC are required to comply with the provisions of this policy. All community members must comply with this policy, whether on campus or off campus, when engaged in activities sponsored by TFC or otherwise related to TFC or its business. Such activities include, but are not limited to classes, seminars, meetings, and study abroad programs.

The purposes of this policy include:

1. Prohibiting all forms of sexual misconduct. Sexual misconduct policies are defined below.
2. Creating a work environment that is free from sexual misconduct.
3. Encouraging reports and complaints when sexual misconduct has occurred.
4. Providing options for addressing and resolving complaints of sexual misconduct.

Persons who believe that they have experienced sexual misconduct or have witnessed sexual misconduct of another community member are encouraged to bring the conduct to the attention of appropriate individuals so that TFC can take prompt corrective action. TFC will take prompt corrective action against any sexual misconduct by or against its community members. All TFC community members are directed to implement and abide by the procedures outlined in this policy.

All complaints will be taken seriously and no one who acts in good faith to report sexual misconduct, including third parties (e.g., vendors), will suffer actual or threatened retaliation or reprisal. TFC will strive to protect the privacy of all individuals involved in complaints of sexual misconduct to the extent feasible consistent with the college's legal obligations. If it is determined through an appropriate and prompt investigation that sexual misconduct has occurred, effective corrective action will be taken to eliminate the sexual misconduct, attempt to ensure that it does not recur, and appropriately care for those who may have been harmed.

If you have personally experienced any form of sexual misconduct, tell someone as soon as possible. Immediate notification, ideally within the first 24 hours after any sexual misconduct occurs, helps assure the preservation of evidence. Preserving evidence may be necessary for the proof of criminal sexual misconduct or to obtain a protection order. In an emergency, call 911 (if on campus, dial 9 for an outside line) or call the Office of Campus Security at 706-886-6831 x5299. In order to initiate TFC's response and resolution process under this policy, you or another person must notify the Title IX Coordinator or a Title IX Investigator.



DEFINITIONS

Sexual misconduct involves the following forms of sex discrimination and other misconduct: dating violence, domestic violence, nonconsensual sexual contact, nonconsensual sexual intercourse, sexual assault, sexual exploitation, sexual harassment, and stalking.

Dating Violence

Dating violence is defined as violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of the following factors: length of the relationship; type of relationship; and the frequency of interaction between the persons involved in the relationship.

Dating Violence includes, but is not limited to, sexual or physical abuse, such as physical harm, bodily injury, criminal assault, or Sexual Assault, or the threat of such abuse. For purposes of this Dating Violence definition, consent will not be a defense to a complaint of physical abuse. Dating Violence does not include acts covered under the definition of Domestic Violence.

While Title IX requires that the alleged conduct occur in a College program or activity against a person in the United States, the College also prohibits Dating Violence that did not occur in the College's education program or activity or against a person in the United States, but may nevertheless:

1. have continuing adverse effects on campus, College property, or in a College program or activity,
2. substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a College program or activity, or
3. create a hostile environment for community members on campus, College property, or in a College program or activity.

DOMESTIC VIOLENCE

Domestic violence is a felony or misdemeanor crime committed by a current or former spouse or intimate partner of the victim under the Georgia family or Domestic Violence laws (or if the crime occurred outside of Georgia, the jurisdiction in which the crime occurred).

Georgia family/domestic violence laws apply to any felony or commission of offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass. For purposes of this Domestic Violence definition, consent will not be a defense to a complaint of physical abuse.



While Title IX requires that the alleged conduct occur in a College program or activity against a person in the United States, the College also prohibits Domestic Violence that did not occur in the College's education program or activity or against a person in the United States, but may nevertheless:

1. have continuing adverse effects on campus, College property, or in a College program or activity,
2. substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a College program or activity, or
3. create a hostile environment for community members on campus, College property, or in a College program or activity.

SEXUAL ASSAULT

Any actual or attempted sexual contact, including contact with an object, with another person without that person's consent. Sexual Assault includes:

Nonconsensual Sexual Contact

Intentional contact, however slight and with any object or part of one's body, of another's private areas (clothed or unclothed) or of one's private areas with the part of another's body (clothed or unclothed), without consent.

Private areas include inner thighs, buttocks, breasts, genitals, and groin area.

Nonconsensual Sexual Penetration

Sexual penetration, however slight and with any object, without consent. Penetration can be oral (when penetration is with a private area), anal, or vaginal.

See the **Statement on Consent** below for more information.

Rape

The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Fondling

The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Incest

Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape

Nonforcible sexual intercourse with a person who is under the statutory age of consent. In Georgia, the age of consent is 16.



While Title IX requires that the alleged conduct occur in a College program or activity against a person in the United States, the College also prohibits Sexual Assault that did not occur in the College's education program or activity or against a person in the United States, but may nevertheless:

1. have continuing adverse effects on campus, College property, or in a College program or activity,
2. substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a College program or activity, or
3. create a hostile environment for community members on campus, College property, or in a College program or activity.

SEXUAL HARASSMENT

As used in this Policy, Title IX Sexual Harassment includes conduct on the basis of sex that satisfies one or more of the following definitions, when the conduct occurs (1) in the College's education program or activity and (2) against a person in the United States.

Title IX Quid Pro Quo Harassment

Title IX Quid Pro Quo Harassment occurs when an employee of the College, including a student employee, conditions the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to, sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature.

Title IX Hostile Environment Harassment

Title IX Hostile Environment Harassment is unwelcome conduct on the basis of sex determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity.

Multiple instances of the following conduct, or other unwelcome conduct on the basis of sex, may constitute Title IX Hostile Environment Harassment:

- Unwelcome sexual flirtations, attention, advances, or propositions;
- Requests for sexual favors;
- Punishing or threatening to punish a refusal to comply with a sexual-based request;
- Offering a benefit (such as a grade, promotion, or athletic participation) in exchange for sexual favors or other verbal or physical conduct of a sexual nature;
- Verbal abuse of a sexual nature or obscene language or slurs;
- Jokes and comments of a sexual nature;



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- Verbal commentary about an individual's body, sexual innuendo, or suggestive commentary about a person's clothing and appearance or references to body parts;
- Displaying derogatory or sexually suggestive pictures or other objects in an office, in a residence hall, or on a computer monitor;
- Visual conduct such as leering or making gestures;
- Unwelcome kissing;
- Unwelcome touching of a sexual nature such as patting, pinching, or brushing against another's body;
- Gossip about sexual relations;
- Cyber or electronic harassment of a sexual nature.

The circumstances that may be considered when determining whether conduct was so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity include, but are not limited to:

- The frequency of the conduct;
- The nature and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the victim's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct was merely a discourteous, rude, or insensitive statement;
- Whether the speech or conduct deserves the protection of academic freedom

NON-TITLE IX SEXUAL HARASSMENT

While Title IX requires that the alleged conduct meet a certain threshold before it is considered Title IX Sexual Harassment, the College also prohibits unwelcome conduct on the basis of sex (1) that may not rise to the level of Title IX Sexual Harassment (as defined above), (2) that did not occur in the College's education program or activity, but may nevertheless cause or threaten to cause an unacceptable disruption at the College or interfere with an individual's right to a non-discriminatory educational or work environment, or (3) that did not occur against a person in the United States.



As used in this Policy, Non-Title IX Sexual Harassment is conduct on the basis of sex that satisfies one or more of the following definitions:

Non-Title IX Quid Pro Quo Harassment

Non-Title IX Quid Pro Quo Harassment occurs when an employee of the College, including a student-employee, conditions the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct. Such unwelcome sexual conduct could include, but is not limited to, sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal, nonverbal, or physical conduct or communication of a sexual nature.

Non-Title IX Hostile Environment Harassment

Non-Title IX Hostile Environment Harassment is unwelcome conduct on the basis of sex determined by a reasonable person to be so severe or pervasive that it substantially and unreasonably interferes with an individual's employment or education, or creates an intimidating, hostile, or offensive employment or educational environment.

Examples of Non-Title IX Hostile Environment Harassment may include the same type of conduct listed above for Title IX Hostile Environment Harassment, when such conduct (1) does not rise to the level of being so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the College's education program or activity; (2) does not occur in the College's education program or activity; or (3) does not occur against a person in the United States.

Conduct cannot constitute both Title IX Sexual Harassment and Non-Title IX Sexual Harassment. Accordingly, if conduct is determined to be part of a finding of Title IX Sexual Harassment, then that conduct will not be separately analyzed as Non-Title IX Sexual Harassment.

SEXUAL EXPLOITATION

Taking non-consensual or abusive sexual advantage of another for anyone's advantage or benefit other than the person being exploited. Examples of Sexual Exploitation include, but are not limited to:

- Intentional and repeated invasion of sexual privacy without consent (e.g., walking into the other person's room or private space without consent);
- Prostituting another person;
- Non-consensual taking of photographs/images, video recording, and/or audio recording of a sexual or other private activity;
- Non-consensual distribution of photographs/images, video recording, audio recording, or live-streaming of a sexual activity;



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- Allowing third parties to observe sexual activities or view another's intimate body parts, in a place where that person would have a reasonable expectation of privacy, without consent;
- Engaging in non-consensual voyeurism;
- Inducing or coercing another to expose his or her intimate body parts in non-consensual circumstances;
- Intentional removal or attempted removal of clothing that exposes an individual's bra, underwear, or intimate body part, or that is otherwise sexual in nature, without consent;
- Exposing one's intimate body parts in non-consensual circumstances;
- Ejaculating on another person without consent;
- Distributing or displaying pornography to another in non-consensual or non-consensual or unwelcomed circumstances;
- Knowingly transmitting a sexually transmitted disease or sexually transmitted infection to another person without that person's knowledge and consent.

Conduct cannot constitute both (1) Sexual Exploitation and (2) Title IX Sexual Harassment or Non-Title IX Sexual Harassment. Accordingly, if conduct is determined to be part of a finding of quid pro quo or hostile environment harassment pursuant to either the Title IX Sexual Harassment or Non-Title IX Sexual Harassment definition, then that conduct will not separately be analyzed as Sexual Exploitation.

STALKING

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his or other people's safety, or to suffer substantial emotional distress.

1. **Course of Conduct:** Two or more acts, including but not limited to, acts which the stalker directly, indirectly, or through others, by any action, method, device or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person or interferes with a person's property.
2. **Substantial Emotional Distress:** Significant mental suffering or anguish that may, but does not necessarily, require medical or professional treatment or counseling.
3. **Reasonable Person:** A reasonable person under similar circumstances and with similar identities to the victim.

Stalking behavior includes, but is not limited to, a person who:

- Follows, monitors, or pursues another, whether in person or through any available technological or other means;
- Repeatedly makes telephone calls, sends text messages, or induces a victim to make telephone calls to the actor, whether or not conversation ensues;
- Makes or causes the telephone of another repeatedly or continuously to ring;



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- Repeatedly mails or delivers or causes the delivery by any means, including electronically, of letters, messages, packages, through assistive devices for people with vision impairments or hearing loss, or any communication made through any available technologies; or
- Broadcasts or publishes (electronically or otherwise) the picture, name, address or telephone number of a person protected by a restraining order knowing the person is likely to be harassed or intimidated by others;
- Following or lying in wait for the victim at places such as home, school, work, or recreational facilities;
- Making direct or indirect threats to harm the victim, or the victim's children, relatives, friends, or pets;
- Repeatedly posting information or spreading rumors about the victim on the internet, in a public place, or by word of mouth, that would cause a person to feel threatened or intimidated. For purposes of this definition, not all communication about a person will be considered to be directed at that person.

While Title IX requires that the alleged conduct occur in a College program or activity against a person in the United States, the College also prohibits Stalking that did not occur in the College's education program or activity or against a person in the United States, but may nevertheless:

1. have continuing adverse effects on campus, College property, or in a College program or activity,
2. substantially and unreasonably interfere with a community member's employment, education, or environment on campus, College property, or in a College program or activity, or
3. create a hostile environment for community members on campus, College property, or in a College program or activity.

FURTHER DEFINITIONS

Unwelcome Conduct

For the purposes of the Title IX Sexual Harassment and Non-Title IX Sexual Harassment (see above) definitions, unwelcome conduct is conduct that the individual did not request or invite and regarded as undesirable or offensive. The fact that an individual may have accepted the conduct does not mean that he or she welcomed it. On the other hand, if an individual actively participates in conduct and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the conduct was unwelcome. That a person welcomes some conduct does not necessarily mean that person welcomes other conduct. Similarly, that a person willingly participates in conduct on one occasion does not necessarily mean that the same conduct is welcome on a subsequent occasion. Whether conduct was unwelcome may be determined based on the context and circumstances of the encounter or incident, including various objective and subjective factors.

On the Basis of Sex

For the purposes of the Title IX Sexual Harassment and Non-Title IX Sexual Harassment (see above) definitions, conduct is on the basis of sex when it is sexual in nature or is referencing or aimed at a particular sex.



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Reasonable Person

For the purposes of the Title IX Hostile Environment Harassment and Non-Title IX Sexual Harassment (see above) definitions, a “reasonable person” means a reasonable person in the shoes of the complainant, considering the ages, abilities, and relative positions of authority of the individuals involved in an incident.

Education Program or Activity

At a minimum, the College’s education program or activity includes all of the operations of the College, including (1) locations on campus or otherwise owned or controlled by the College, such as residence halls and learning spaces and (2) locations, events, or circumstances over which the College exercised substantial control over both the respondent and the context in which the alleged Sexual Misconduct occurred, such as TFC athletic events and other TFC-sponsored off-campus activities. Whether alleged conduct occurred in the College’s education program or activity is a fact-specific analysis.