



Guam Community College

Sexual Misconduct Complaint Procedures

Note: Items highlighted in blue indicate procedural forms being drafted (e.g. "GCC employee informs complainant of mandatory requirement of duty to inform... - GCC will have the complainant sign a document acknowledging the GCC requirement for mandatory reporting of an incident to College officials.")

The following Sexual Misconduct Complaint Procedures have been set forth by Guam Community College (GCC) in accordance with the GCC Board of Trustees Policy 185 – Sexual Harassment and Sexual Discrimination Prevention. This policy sets forth GCC's commitment to maintaining a safe, comfortable and nondiscriminatory learning and working environment for all members of the College community – students, employees, visitors, applicants, and third-party vendors. Per BOT Policy 185, GCC is committed to ZERO TOLERANCE toward sexual harassment, sexual assault and fraternization in any part of the College's programs, services, and activities. Zero tolerance means any sexual harassment, sexual assault or fraternization will result in immediate and appropriate action to stop such action and prevent its recurrence.

Glossary of Terms

The following definitions apply to these procedures:

Non-urgent or non-emergency complaint: a form of sexual misconduct that is inappropriate and that causes a person to feel uncomfortable or become angry, but that does not immediately threaten a person or cause her or him extreme psychological or emotional distress.

Urgent complaint or emergency complaint: an alleged rape, physical assault, extreme psychological or emotional distress or other occurrence that is sexual in nature threatening the health and safety of the person, and that has occurred on campus or at a designated GCC event.

Point(s) of Contact (POC) (non-urgent or non-emergency complaint): The following persons are identified as Points of Contact with regard to the reporting of a non-urgent (non-emergency) complaint of sexual misconduct at GCC or at a GCC event: 1. Administrator of Student Support Services; 2. Title IX Coordinator(s); 3. Center for Student Involvement Program Specialist; 4. Human Resource Administrator; 5. Environmental Health & Safety Administrator.

Sexual Assault Response Team* (SART) Point(s) of Contact (POC) (URGENT or EMERGENCY complaint): The following persons are identified as Points of Contact

within the GCC Sexual Assault Response Team (SART) with regard to the reporting of an urgent or emergency complaint of sexual misconduct at Guam Community College or at a GCC-sanctioned event: 1. Administrator Student Support Services; 2. Environmental Health & Safety Administrator; and 3. Student Health Services nurse. The SART shall be called in all cases where the victim or the reporting party feels the victim needs emergency attention.

* See Appendix for list of current SART contacts.

How to File a Non-Urgent, or Non-Emergency Complaint of Sexual Misconduct at GCC

A. Complaints Against Students

Non-emergency complaints of sexual misconduct against students may be filed with the Associate Dean of Technology & Student Services. Adjudication shall be in accordance with the grievance and complaint procedures outlined in the GCC Student Handbook.

B. Complaints Against Employees

Non-emergency complaints of sexual misconduct against faculty, staff, administrators or adjunct employees may be filed with the Human Resources Administrator. Adjudication shall be in accordance with the GCC Personnel Rules and Regulations, and the Faculty Union and BOT Agreement.

C. Complaints Against Visitors, Contractors, and Others

Non-emergency complaints of sexual misconduct against visitors, contractors and others may be filed with the Student Support Services Office (Building B - 735-5555), or with the Environmental Health & Safety Administrator, Room 2219, 2nd floor, Student Services & Administration Building, or call 788-2223.

Important: ALL complaints of alleged sexual misconduct received by GCC employees must be reported to the GCC Title IX Coordinator(s).

URGENT COMPLAINTS OF SEXUAL HARASSMENT OR SEXUAL ASSAULT AT GCC, BOTH ON AND OFF-CAMPUS

THE PROCESS: INITIAL STEPS

1.0 INITIAL REPORT AND NOTIFICATION

- 1.1 An urgent complaint of sexual harassment or sexual assault is defined as an alleged rape, physical assault, extreme psychological or emotional distress or other occurrence that is sexual in nature threatening the health and safety of the person, and that has occurred on campus or at a designated GCC event.
- 1.2 Any GCC employee who is approached by an individual or who discovers an individual and it appears that an alleged rape, physical assault, extreme psychological or emotional distress or other occurrence that is sexual in nature threatening the health and safety of the person has occurred on campus or at a designated GCC event; the employee shall immediately contact the Guam Police Department (GPD). The employee shall then stay with the individual until GPD officials arrive AND call a GCC SART Point of Contact. GCC employee informs complainant of assistance and GCC resources available, and that the college regards the complainant's safety as priority. The POC must notify the Title IX Coordinator(s) immediately in all cases.
- 1.3 GCC employee informs complainant of mandatory requirement of duty to inform college officials.
- 1.4 GCC employee obtains the complainant's name and current contact information.

2.0 INITIAL ASSESSMENT AND COURSE OF ACTION

- 2.1 The SART POC will conduct an initial assessment, gathering facts from the complainant.
- 2.2 Based on the assessment and discussion with the complainant, the POC shall provide all information and documentation to the Title IX Coordinator(s) for appropriate action.

3.0 INTERIM ACTION (Action taken after initial notification and initial assessment/course of action.)

- 3.1 Based upon initial assessment, appropriate Interim Action may be taken by the Title IX Coordinator(s), and may be adjusted during the course of the process.
- 3.2 Working with the Title IX Coordinator(s), the Associate Dean responsible for Student Support Services, the Human Resource Administrator or the Environmental Health & Safety Administrator may impose a "no-contact" order, which typically will

include a directive that the parties refrain from having contact with one another, directly or through proxies, whether in person or via electronic means, pending any investigation. Associate Dean responsible for Student Support Services, Human Resource Administrator or Environmental Health & Safety Administrator will document confirmation of receipt of no-contact order to all parties involved.

3.3 Based on Title IX Coordinator(s) actions, Associate Dean responsible for Student Support Services, Human Resource Administrator or Environmental Health & Safety Administrator may take any further protective action deemed necessary concerning the interaction of the parties pending the investigation, provided, however, that every reasonable effort will be made to allow the complainant to continue in his or her academic and/or College employment arrangements.

3.4 Violation(s) of the directive and/or protective actions may lead to further disciplinary action.

4.0 RESOLUTION TERMS AND DESCRIPTIONS

4.1 **Documented Incident:** Complainant chooses not to pursue resolution or requests confidentiality. The College will execute its due diligence to investigate, document findings and take reasonable action in response to the complainant's information. The College, with the preponderance of evidence (probable truth or accuracy of evidence available) of sexual misconduct against the accused, may elect to proceed with disciplinary procedures.

4.2 **Informal Resolution:** Documented administrative action that involves either face-to-face meeting with complainant and respondent, or official meeting with respondent only (depending on request of complainant), wherein respondent is told to stop the offending action against the complainant.

4.3 **Formal Resolution:** Formal resolution involves the investigation of the incident by the Title IX investigators. Based upon applicable GCC rules, regulations, and procedures covering employees and students, recommendations will be made by the investigators to the Title IX Coordinator(s) and, in consultation with the Title IX Coordinator(s), final resolution will be reached by the GCC President.

5.0 COURSE OF ACTION: Documented Incident

5.1 Timeline: Five (5) work days (except under circumstances beyond GCC control)

5.2 Complainant chooses not to pursue resolution or requests confidentiality. The College will execute its due diligence to investigate, document findings and take reasonable action in response to the complainant's information, in accordance with the GCC Sexual Misconduct Complaint procedures.

6.0 COURSE OF ACTION: Informal Resolution

6.1 Timeline: Five (5) work days (except under circumstances beyond GCC control)

6.2 After the initial assessment, the complainant chooses to pursue an Informal

- Resolution, indicating whether the format of the informal resolution process will be “face to face” meeting, or an alternative means of communication (ie. respondent is informed by Title IX Coordinator(s) or appropriate administrator).
- 6.3 Title IX Coordinator(s) or appropriate administrator calls in respondent for appropriate action. If face-to-face communication is chosen by complainant, complainant is present for discussion.
 - 6.4 Before the Informal Resolution session begins, both complainant and respondent are informed of the objective of the Informal Resolution session:
 - 6.4.1 to provide an opportunity for the complainant to confront the respondent without Interruption;
 - 6.4.2 session is not mediation;
 - 6.4.3 provides complainant the opportunity to communicate his or her feelings and perceptions regarding the incident, the impact of the incident, and his or her wishes and expectations regarding protection in the future and;
 - 6.4.4 The respondent will have an opportunity to respond, but is not required to Respond.
 - 6.5 Respective administrator will follow applicable existing institutional policies, procedures, rules and regulations with regard to Informal resolutions.
 - 6.6 If inappropriate action on part of respondent continues, case will be referred to Formal Resolution.

7.0 COURSE OF ACTION: Formal Resolution

- 7.1 Timeline: Twenty-one (21) working days.
- 7.2 Formal resolution involves an investigation of the incident by the Title IX investigators. Based upon applicable GCC rules, regulations, and procedures covering employees and students, recommendations will be made by the investigators to the Title IX Coordinator(s) and, in consultation with the Title IX Coordinator(s), final resolution will be reached by the GCC President.
- 7.3 **Formal Resolution Investigation Findings and Recommendations.** The Title IX Coordinator(s) submits “**Final Investigative Findings and Recommendations.**”
 - 7.3.1 Final Investigative Findings and Recommendations. Upon completion of an investigation, the Title IX Coordinator(s) shall determine whether a violation has occurred and recommend a course of action to the GCC President, who shall make the final decision for the action within five (5) working days.
 - 7.3.2 The decision of the President will be announced to both parties, concurrently. In addition, the Title IX Coordinator(s) will provide a copy of the **Formal Resolution Decision** to both parties, concurrently, and to the Associate Dean responsible for Student Support Services, the Human Resource Administrator or Environmental Health & Safety Administrator, within five (5) calendar days following the decision of the President. The decision of the President is FINAL.
 - 7.3.3 Formal decisions that result in employee adverse action may be appealed

in accordance with the applicable GCC personnel rules, regulations, and procedures. Formal decisions that result in student academic discipline may be appealed in accordance with the applicable rules, regulations, and procedures outlined in the GCC Student Handbook.

8.0 FAILURE TO REPORT INCIDENT

- 8.1 If a complainant reports either a non-urgent or an emergency initial incident, but no action is taken, and the complainant tells another GCC employee, that employee shall inform a POC of the complaint *and* the failure on the part of the initial employee to report the incident.
- 8.2 POC shall immediately report any suspected “failure to report” cases to the Human Resource Administrator.
- 8.3 Human Resource Administrator will follow the GCC Personnel Rules and Regulations, and the BOT and Faculty Union agreement concerning grievances and adverse action.

9.0 GENERAL PROVISIONS

- 9.1 All student information is maintained by the College as an education record under FERPA. Student records are secured with the Title IX Coordinator(s) Office. Employee records are secured with the Human Resources Office. Vendor records are secured with the Office of Environmental Health & Safety.
- 9.2 Time frames identified in these procedures may be adjusted due to emergency situations, unforeseen circumstances, or acts of God.

Mary A.Y. Okada, Ed.D
GCC President

Date

GCC Sexual Misconduct Procedures

QUESTIONS AND ANSWERS

Here are some of the most commonly asked questions regarding Guam Community College's Sexual Misconduct Policy and Procedures.

1. *What if I'm not sure it was sexual harassment or assault?*

If the activity in question makes you feel bad or uncomfortable, it may be harassment. GCC has adopted a policy (GCC Board of Trustees Policy 185) that affirmative consent must be given in order for sexual activity to take place between two people. Affirmative consent is defined as "an understandable exchange of affirmative words that indicate a willingness to participate in mutually agreed upon sexual activity. Consent must be informed, freely and actively given." If you did not give consent, or if at any time during any sexual activity, you told the other person to "stop," and the other person does not stop and forces you, then it is sexual assault. If you were drunk, or under the influence of medication or other drugs, and another person engages in sexual contact with you, it may be sexual assault. If the alleged perpetrator was drunk or under the influence of any type of drug, and engages in unwanted sexual contact with you, it is not an excuse. It is still sexual assault. If you believe you were sexually harassed or assaulted, speak with a GCC counselor, a nurse at the GCC Student Health Center, the Title IX Coordinator, Environmental Health & Safety Administrator, or the Human Resources Administrator or another trusted professional at the college.

2. *Does information about a complaint remain private?*

The privacy of all parties to a complaint of sexual misconduct must be respected, except insofar as it interferes with the College's obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis.

Dissemination of information and /or written materials to persons not involved in the complaint procedures is not permitted. Violations of the privacy of the complainant or the accused student may lead to action by the College.

In all complaints of sexual misconduct, all parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information of the alleged victim. Certain Guam Community College administrators are informed of the outcome within the bounds of student privacy (e. g., the President of GCC, the Deans of the students involved, and the Associate Dean of Student Support Services). If there is a report of an act of alleged sexual misconduct to an official of the College and there is evidence that a felony has occurred, Guam Police Department will be notified. This does not mean charges will be automatically filed or that the victim must speak to the police, but the College is legally required to notify law enforcement authorities. The College also must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an annual report of campus crime statistics. This statistical report does not include personally identifiable information.

3. Will my parents be told?

If you are a minor under the age of 18, then yes, your parents must be contacted. If you are age 18 or over, then no. Whether you are the complainant or the accused student, Guam Community College's primary relationship is to the student and not to the parent(s). In the event of major medical, disciplinary, or academic jeopardy, however; students are strongly encouraged to inform their parents. College officials will directly inform parents when requested to do so by a student in a life-threatening situation.

4. Will the accused student or employee know my identity?

Yes, if you file a formal complaint. Sexual misconduct is a serious offense and the accused student has the right to know the identity of the complainant/alleged victim. If there is a hearing, the College does provide options for questioning without confrontation, including closed-circuit testimony, Skype, using a divider or using separate hearing rooms.

5. Do I have to name the perpetrator?

Yes, if you want formal disciplinary action to be taken against the alleged perpetrator. No, if you choose to respond informally and do not file a formal complaint (but you should consult the complete confidentiality point above to better understand Guam Community College's legal obligations depending on what information you share with different college officials). Victims should be aware that not identifying the perpetrator may limit the College's ability to respond comprehensively.

6. What do I do if I am accused of sexual misconduct?

DO NOT contact the victim. You may immediately want to contact someone in the campus community who can act as your advisor. You may also contact the Student Support Services Office, which can explain the College's procedures for addressing sexual misconduct complaints. You may also want to talk to a College counselor or seek other community assistance.

7. What about legal advice?

Victims of criminal sexual assault need not retain a private attorney to pursue prosecution because representation will be handled by the Attorney General's Office. You may want to retain an attorney if you are the accused student or are considering filing a civil action. The accused student may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution and/or the campus conduct proceeding.

8. What should I do about preserving evidence of a sexual assault?

Police are in the best position to secure evidence of a crime. Physical evidence of a criminal sexual assault must be collected from the alleged victim's person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the Hospital Emergency Room, before washing yourself or your clothing. You may also contact the Sexual Assault Nurse Examiner of the Healing Heart Rape Crisis Center of the Guam Behavioral Health and Wellness Center. The Sexual Assault Nurse Examiner is a specially trained nurse who examines you for evidence of a sexual assault. The Sexual Assault Nurse Examiner will use a Rape Kit that is provided by the police for gathering and storing evidence of a sexual assault. The Sexual Assault Nurse Examiner is usually on call 24 hours a

day, 7 days a week. Sexual assault examinations are conducted at the Healing Hearts Center. A victim advocate will be assigned to you from Victims' Advocates Reaching Out (VARO). Contact can be made through the Crisis Hotline. If a victim goes to the hospital, local police will be called, but a victim is not obligated to talk to the police or to pursue prosecution. Having the evidence gathered in this manner will help to keep all options available to a victim, but will not oblige him or her to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges, should the victim decide later to exercise it. The Healing Hearts nurse will collect evidence from the victim, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the Rape Crisis Center in a clean, sanitary container such as a clean grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes you were wearing at the time of the alleged assault, bring a change of clothes with you, if possible, as they will likely keep the clothes you are wearing as evidence. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear evidence for the police to collect.

9. Will a victim be sanctioned when reporting a sexual misconduct policy violation if he/she has illegally used drugs or alcohol?

No. The severity of the infraction will determine the nature of the College's response, but whenever possible the college will respond educationally rather than punitively to the illegal use of drugs and/or alcohol. The seriousness of sexual misconduct is a major concern and the College does not want any of the circumstances (e, g., drug or alcohol use) to inhibit the reporting of sexual misconduct.

10. Will the use of drugs or alcohol affect the outcome of a sexual misconduct complaint?

The use of alcohol and/drugs by either party will not diminish the accused student's responsibility. On the other hand, alcohol and/or drug use is likely to affect the complainant's memory and, therefore, may affect the outcome of the complaint. A person bringing a complaint of sexual misconduct must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to prove his/her complaint. If the complainant does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the accused without further corroborating information. Use of alcohol and/or drugs will never excuse a violation by an accused student.

11. Will either party's prior use of drugs/alcohol be a factor when reporting sexual misconduct?

Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present complaint.

12. What should I do if I am uncertain about what happened?

If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of Guam Community College's student conduct policy, you should contact the college's Student Support Services Office or the Title IX Coordinator's office. Guam Community College provides advisors who can help you to define and clarify the event(s), and advise you of your options.

GCC CAMPUS RESOURCES

Updated August 2017

GCC Sexual Assault Response Team (SART) (URGENT & EMERGENCY Sexual Assault)

- **Greg Manglona, Environmental Health & Safety Administrator**
Location: Building 2000, Room 2219
Cellular Number: 671-788-2223
- **Huan Hosei, Student Support Services Night Administrator**
Building B
Office Number: 671-735-5555/6
Cellular Number:
- **Emma Bataclan, Registered Nurse**
Location: Student Health Services, Building 5000, Rm. 5116
Office Number: 671-735-8889
Cellular Number:
- **Eva Marie Mui, Licensed Practical Nurse I**
Location: Student Health Services, Building 5000, Rm. 5116
Office Number: 671-735-5644
Cellular Number:
- **John Diaz, Safety Inspector I**
Location: Building 2000, Room 2215
Office Number: 671-735-5554
Cellular Number:

Title IX Coordinator

Dennis Santo Tomas, Program Specialist
Location: Building 2000, Room
Office Number: 671-735-5611
Cellular Number:

Title IX Vice Coordinator

John Payne, Program Specialist
Location: Building 2000, Room 2138
Office Number: 671-735-5597
Cellular Number:

Student Support Service & Night Administrators: 735-5555/56/58
Campus security (contracted private company)
Location: B Bldg. near Gate 3

Associate Dean of Student Support Services: 671-735-5573

Location: Building 2000, Room 2222

Student Health Center: 735-8889/5586

Nurses & Administrative Aide

Location: Building 5000, Room 5119

Environmental Health & Safety Office: 788-2223/488-5826

Environmental Health & Safety Administrator

Safety Inspector

Location: Building 2000, Room 2219 & Room 2215

2nd Floor of Building 2000

Human Resources Administrator: 735-5539

Location: Building 2000, Room 2109

Dean of Technology and Student Services: 735-5530

Location: Building 2000, Room 2229

Dean of Trades and Professional Services: 735-5590

Location: Building 2000, Room 2233

Center for Student Involvement: 735-5519/5518

Program Specialist & Staff

Location: Building 5000, Room 5101

Assessment & Counseling: 735-5562/63 or 5582

Associate Professors

Location: Building 2000. Rooms 2133-2135

OFF-CAMPUS RESOURCES

Emergency Call Only: 911

Location: Guam Fire Department, DNA Bldg., Hagatna

Crisis Hotline: 647-8833

Location: Guam Behavioral Health and Wellness Center, Tamuning

Victims' Advocates Reaching Out (VARO)

24/7 Hotline: 477-5552

Office number 477-8276

Healing Hearts Rape Crisis Center: 647-5351

Forensic Nurse Examiner & Social Workers

Location: Tamuning, near Guam Memorial Hospital

Guam Behavioral Health and Wellness Center

Clinical Services: 647-5325

Counselors/Psychologists

Location: Tamuning

Guam Memorial Hospital

Emergency Room: 647-2324/2281

Location: Tamuning

Guam Coalition Against Sexual Assault & Family Violence

Ada Plaza Center, Building B – 206B/207B

173 Aspinall Avenue, Hagatna, Guam 96910

Phone: 479-2277

Email: info@guamcoalition.org

Website: www.GuamCoalition.org

Alee Shelter: 648-4673

Erica's House: 642-4020/22 (children's visitation house)

Guam Legal Services Corp.: 477-9811

Public Defender's Office: 475-3100

Sanctuary: 475-7100

Child Protective Services: 475-2653/72

Adult Protective Services: 735-7421/15

Oasis Empowerment Center (for women): 646-4601

Domestic Assault Response Team: 475-8620

Community Resource Directory – Online

GuamServices.org

www.GuamServices.org

OFF-ISLAND RESOURCES

Office of Civil Rights—San Francisco Office

50 Beale Street, Suite 7200

San Francisco, CA 94105

Links:

www2.ed.gov/about/contacts/gem/regions.html

<http://www.ed.gov/about/offices/list/ocr/complaintintro.html>