



## GENDER-BASED CONDUCT POLICY AND GRIEVANCE PROCEDURE

### Introduction

Tougaloo College is committed to providing a learning, working, and living environment that reflects and promotes personal integrity, civility, and mutual respect. Tougaloo College does not tolerate discrimination based on gender, in any form. Members of the Tougaloo College campus community, guest and visitors have the right to be free from all forms of gender-based misconduct.

*Gender-based misconduct* includes, but is not limited to: 1. Acts of sexual violence; 2. Sexual Harassment; 3. Domestic Violence; 4. Dating Violence; 5. Stalking and 6. Rape/Sexual assault

### Reporting

All members of the College community (students, faculty and staff) are expected to report violations of the *Gender-Based Conduct Policy* to appropriate officials. Below are the methods of reporting incidents of *gender-based misconduct* at Tougaloo College:

#### (1) Confidential Reporting

The *reporting party* – the person who is reporting the incident, i.e. victim can report to designated school administrators who will maintain *confidentiality* – meaning they are not required to report actual or suspected incidents to the Title IX Coordinator - thereby offering options and advice without any obligation to inform anyone else.

If the *reporting party* would like the incident to be kept confidential, report to:

- Chaplain for the College at 601-977-7758 [ljohnson@tougaloo.edu](mailto:ljohnson@tougaloo.edu)
- Counseling Center at 601-977-7818 [rharper@tougaloo.edu](mailto:rharper@tougaloo.edu)
- Campus Medical Clinic at 601-957-6776, press “0” for emergency assistance.
- Off-campus confidential resources:
  - Domestic Violence Center (24 hrs) 800-898-3234
  - Crisis Intervention Services (24 hrs) 800-270-1620
  - Sexual Assault Crisis Line 800-270-1620

- Emergency House Crisis Line 844-673-5499

All of the above resources will maintain *confidentiality* **except in extreme cases of immediacy of threat and/or danger to the college community.**

## (2) Non-confidential Reporting

Reports to *Tougaloo College's Title IX Coordinator or Deputy Coordinator*, please contact via email or in person to anyone of the contact below:



The graphic features a red rounded rectangle on the left containing the text "Title IX Coordinator". To its right is a large, light-colored arrow pointing to the right, which contains a bulleted list of contact information for Yasmin J. Gabriel, Esq., the Title IX Coordinator.

**Title IX Coordinator**

- Yasmin J. Gabriel, Esq.
- Title IX Coordinator
- Blackmon Building 2nd Floor
- 601-977-7718  
titleIX@tougaloo.edu or ygabriel@tougaloo.edu



The graphic displays contact information for four Deputy Coordinators in a grid layout. A central light-colored rounded rectangle is labeled "Deputy Coordinators". The four surrounding colored boxes (red, green, purple, and blue) contain the names and contact details for Ms. Whitney McDowell, Mr. Gary Anderson, Mr. Thomas "Tony" King, and Ms. Dutchie Presley.

**Deputy Coordinators**

**Ms. Whitney McDowell**  
Career Services Coordinator  
Jamerson Building  
1st Floor  
601-977-7815  
wmcdowell@tougaloo.edu

**Mr. Gary Anderson**  
Assistant Director of Owens Health & Wellness & Assistant Baseball Coach  
Owens Health & Wellness Room 402  
601-977-6177  
ganderson@tougaloo.edu

**Mr. Thomas "Tony" King**  
Executive Assistant to the Provost  
Blackmon Administration Building 2nd Floor  
601-977-7737 tking@tougaloo.edu

**Ms. Dutchie Presley**  
OFFICE of Human Resources  
Blackmon Administration Building  
1st Floor  
601-977-4461 hrtitleIX@tougaloo.edu

Also, written [complaints](#) can be filed with the Department of Education's Office for Civil Rights regarding an alleged violation of Title IX or by calling 1-800-421-3481.

If you have questions about whether or how to report, please contact the Title IX Coordinator via phone at 601-977-7718 and via email at [titleIX@tougaloo.edu](mailto:titleIX@tougaloo.edu).

## Scope and Jurisdiction

All members of the Tougaloo College campus community are subject to all city, state, and federal laws for violations of the College's Gender-Based conduct policy. In the event the reported incident is also criminal, the College may proceed with an investigation under this policy independent of any criminal proceeding and the College may impose sanctions for violation of the College's gender-based conduct policy.

**The College has jurisdiction over any incidents of gender-based misconduct that occur:**

- 1. on-campus, and**
- 2. off-campus at College-sponsored events and programs.**

The College reserves the right to proceed even if the reporting party does not wish to move forward, or is no longer enrolled in classes/employed. If the responding party is unknown or is not a member of the College community, the Chief of Public Safety will assist individuals in identifying local reporting authorities (i.e. Police Department), if the individual would like to file a criminal report.

## Notice of Offense/Interim Measures

When Tougaloo College receives a notice of a violation of Title IX, also known as *Tougaloo College's Gender-Based Conduct policy*; the Chief of Public Safety will conduct an initial assessment to address any risk to individuals or to the campus community and will work with the Title IX Coordinator to take any necessary steps to address those risks. Also during this assessment, the College will provide appropriate interim measures before the final outcome of the investigation and hearings to protect the parties involved and to protect the entire College community. Interim measures include, but are not limited to, no-contact directive, administrative leave, interim suspension, campus escorts, academic, employment or housing modifications.

## Non-retaliation Policy

It is a violation of College policy to retaliate in any way against a student or employee because he/she raised allegations or was accused of alleged gender-based conduct.

## False Reports

The College will not tolerate intentional false reporting.

## Rights of Those Involved

Tougaloo College is an intentional learning environment, emphasizing mutual respect for all members and guests. When an alleged gender-based misconduct occurs that is detrimental to upholding our values, the College will seek to restore an atmosphere that is conducive to learning and personal growth. Tougaloo College has a responsibility to protect the rights of all parties involved in any allegation of improper behavior.

*Reporting party* has the right to: 1) be treated with dignity and respect; 2) have allegations treated seriously; 3) notify or not notify Public Safety; 4) be assisted by campus authorities in notifying law enforcement; 5) have their cases referred for campus investigation; 6) have campus personnel take reasonable and necessary actions to prevent further unwanted contact by the named responding party.

*Reporting party* and *Responding party* both have the right to: 1) be treated with respect by College officials; 2) have access to information for on- and off-campus support resources; 3) have grievances reviewed through the procedures outlined in this policy; 4) be accompanied by a support person of their choice during the administrative hearing process, please note support persons may not participate in the process; unless the circumstances require their input 5) be informed of any campus disciplinary outcome; and 6) be free from retaliatory actions by other members of the College community.

## THE INVESTIGATION

The College will start all investigations no later than 10 days after the College has notice of an allegation of Gender-based Conduct. The Chief of Public Safety will appoint a trained investigator to complete the investigation. The investigation will be conducted with no predisposition towards any particular finding or result. It will be a thorough, reliable and impartial inquiry into the allegations of the complaint, the responses and defenses raised by the responding party, and other relevant issues. The investigator will interview witness, the reporting and responding parties. Investigators will prepare a summary report with findings to the Title IX Coordinator that will be used in the administrative hearing.

## Support Person

During an investigation, either party may ask a support person to accompany him or her throughout the hearing proceedings. The support person can be someone of that each party chooses, but cannot be a potential witness in the matter, or another party in the same or a related matter. The support person does not serve as an advocate and must agree to maintain the confidentiality of the administrative process. Please note: A hearing will not be cancelled or postponed in the event a Support Person cannot attend, but may be postponed if legal representation cannot attend- however the College requires at least a 24-hour notice to the Title IX Coordinator, by the legal representative.

## RESULTS OF INVESTIGATION

The Title IX Coordinator will review the results of the investigation to confirm that the investigation has been fair, objective, impartial, and thorough and that College policies have been followed. The investigator's summary report must be sufficiently detailed and thorough to support the sanctioning process and to provide fairness to all participants.

## THE HEARING

The *standard of evidence* in determining whether a Responding party is in violation of the College's Gender-based conduct policy is *preponderance of evidence*, which simply means "more likely than not" that a policy violation occurred. The Title IX Coordinator shall assemble the *Gender-based Conduct Hearing Board (three members of Tougaloo College's faculty/staff if the responding individual is a student)* to hear Gender-based conduct case. Gender diversity will be considered in Board composition.

## SANCTIONS

The following sanctions may be imposed upon any member of the College community found to have violated the Gender-based Conduct Policy.

### RANGE OF SANCTIONS

#### Student Sanctions

- Warning
- Reprimand
- Deferred Suspension
- Probation
- Suspension
- Expulsion
- Withholding Diploma
- Revocation of Degree
- Organizational Sanctions
- Other Actions determined by the Gender-Based Conduct Hearing Board

#### Employee Sanctions

- Warning
- Probation
- Suspension
- Administrative Leave
- Removal from employment

- Other actions determined by supervisor and the Office of Human Resources (i.e. expulsion from campus)

## APPEAL

The Reporting party and Responding party each have the right to appeal an outcome. Any sanction will remain in force while an appeal is considered and a final decision is determined. Each party is limited to one appeal and the decision of the appeal is final.

The request for an appeal should be submitted in writing to the Title IX Coordinator within seven (7) business days following the receipt of the decision letter. Please note: disagreement with the finding or corrective action is not, by itself, grounds for appeals.

The College has established three grounds upon which the Provost will review an appeal:

1. The party believes a procedural error occurred, which the party feels may change or affect the outcome of the decision;
2. The party has substantive new evidence that was not available to the investigator or the parties at the time of the hearing and that may change the outcome of the decision;
3. The party feels that the severity of the sanction is inappropriate, given the details of the case.

The appeal decision will be reviewed and determined by the Provost of the College and will be issued within a reasonable period of time, generally no longer than ninety (90) days after receipt of the appeal.

Policy Approved by:



President Beverly Wade Hogan

May 5, 2017

Date

## **GENDER-BASED CONDUCT GRIEVANCE PROCEDURE**

### *Step 1: Reporting of alleged Gender-Based Misconduct*

The incident is reported to a responsible employee of the College, the Title IX Coordinator, a Deputy Coordinator or Department of Public Safety.

### *Step 2: Initial Assessment*

The College will undertake an appropriate inquiry and take equitable, prompt and effective action to: 1) support and protect the parties involved and 2) protect the College community. In every report of alleged Gender-based conduct, the Chief of Public Safety will make an immediate assessment of any risk to the parties involved or to the campus community and will take steps necessary to address those risks.

### *Step 3: Investigation*

The Office of Public Safety will initiate an investigation and start no later than 10 (ten) business days following the receipt of the reporting document, but this time frame may be extended depending on the complexity of the circumstances of each case.

The investigator(s) will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the reporting individual, the responding individual, and any witnesses. As part of the investigation, the officer will provide an opportunity for the parties to present statements, witnesses, and other evidence. Officers will gather any physical, documentary, or other evidence. The investigation is designed to provide a fair, equitable and reliable gathering of the facts. The investigation will be thorough, impartial, and fair, and all individuals will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns. All people involved in the investigation are expected to cooperate and provide truthful information throughout the investigation process.

Any participant in an investigation who has a complaint regarding the conduct of the investigator or who believes the investigator has a conflict of interest should contact the Title IX coordinator. The Title IX Coordinator will address all issues in a prompt and equitable manner.

At the conclusion of the investigation, the investigator will prepare a report setting forth the facts gathered, which will be forwarded to the Title IX coordinator. Upon receipt of the Public Safety officer's report, the Title IX coordinator will notify all parties that the investigation is complete and provide information about next steps in the process. The Title IX coordinator will review and retain copies of all reports generated as a result of investigations.

### *Step 4: Resolution*

The Title IX Coordinator shall assemble the *Gender-based Misconduct Hearing Board (three members of Tougaloo College's faculty/staff)* to hear the Gender-based Conduct case. Gender diversity will be considered in Board composition. All hearings shall be closed to the public.

Each Board member must indicate to the Title IX Coordinator within 3 days prior to the hearing, whether they have knowledge of the parties in the case that may impair – or may be perceived to impair – their ability to hear and determine a case impartially, and to remove themselves if their participation might compromise the integrity of the hearing process.

- All hearings will be audio-recorded.
- The Hearing Board shall be provided with access to written information and evidence at least 24 hours prior to the hearing.
- The Responding and Reporting individual may be accompanied by their support person and/or an attorney. A hearing will not be cancelled or postponed in the event any person cannot attend, but may be postponed, however the College requires at least a 24-hour notice to the Title IX Coordinator.
- Witnesses may be present at the hearing only at the time they are called to testify.
- Written statements of witnesses not in attendance due to extraordinary circumstances shall be considered by the Hearing Board if given prior to the hearing by either party to the Title IX Coordinator.

1. At the start of the hearing, the Title IX Coordinator shall ask the Responding Individual if they have received the formal complaint, and if they understand the nature of the complaint.
2. The Public Safety officer who conducted the investigation will present the formal complaint along with the information obtained through the investigative process to the Gender-based Misconduct Hearing Board. The Gender-based Misconduct Hearing Board shall consider only the information and evidence related to the alleged conduct set forth in the formal complaint and the investigative report.
3. The Board will ask the Reporting/Responding Individual if they have any information to add.
4. Either party may request that the Title IX Coordinator pose questions to the other party or any witnesses. The Title IX Coordinator will determine the appropriateness and wording of the question
5. Board will ask either the Reporting Individual and/or Responding Student any clarifying questions.
6. Board will deliberate in private to decide if the responding party is in violation or no violation of the College's Gender-based Conduct Policy.
7. The *Gender-based Misconduct Board* will determine whether or not the Responding individual violated Tougaloo College's Gender-based Misconduct Policy as alleged in the formal complaint by finding either: "in violation" or "no violation" of the Gender-based Misconduct Policy. The Board's determination shall be based on a "Preponderance of the Evidence" standard which means "It is More Likely than Not" that a violation of the Gender-based conduct Policy occurred. If the Board renders a determination of "in violation", the Board will recommend a sanction.

#### **Step 5: Appeals**

The Reporting party and Responding party both have the right to appeal any outcome rendered by the Board. The appeal is not intended to re-hear the same case and is limited to the specific grounds outlined in the policy. Any resolution or sanction will remain in force while an appeal is considered and a final decision is determined. Each party is limited to one appeal and the decision of the appeal is final. The request for an appeal should be submitted in writing to the Title IX Coordinator within seven (7) business days following the receipt of the decision letter.



The College has established three grounds upon which the Provost will review an appeal:

1. The party believes a procedural error occurred, which the party feels may change or affect the outcome of the decision;
2. The party has substantive new evidence that was not available to the investigator or the parties at the time of the hearing and that may change the outcome of the decision;
3. The party feels that the severity of the sanction is inappropriate, given the details of the case.

The appeal decision will be reviewed and determined by the Provost of the College and will be issued within a reasonable period of time, generally no longer than ninety (90) days after receipt of the appeal

## Gender-Based Conduct Definitions

Gender-Based Conduct is defined *as unequal, adverse treatment of an individual because of his/her gender, which unreasonably interferes with, denies, or limits someone's employment access, benefits or opportunities, and/or the ability to participate in or benefit from the college's educational program and/or activities.*

### 1. **Misconduct/Harassment** is:

- *any unwelcome verbal, written, or physical conduct that is*
- *sufficiently severe, pervasive or persistent that it creates an intimidating, hostile, degrading, humiliating, or offensive environment and*
- *interferes with, denies, or limits one's access to or benefits of the employment and/or educational environment.*

**Examples of misconduct based on gender include but not limited to:** 1. Acts of sexual violence; 2. Sexual Harassment; 3. Domestic Violence; 4. Dating Violence; 5. Stalking and 6. Rape/Sexual assault

2. **Consent:** is permission for something to happen or agreement to do something.

### 3. **Non-Consensual Sexual Contact** is:

- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force.

Non-consensual sexual contact includes but is not limited to: contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth, or other orifice.

### 4. **Non-Consensual Sexual Intercourse** is:

- any sexual intercourse
- however slight
- by a person upon another person
- with any object
- that is without consent and/or by force.

***Intercourse includes:*** vaginal or anal penetration by a penis, object, tongue or finger and oral copulation (mouth to genital contact or genital to mouth contact) no matter how slight the penetration.

5. **Sexual Exploitation** occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the

one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

**Examples of sexual exploitation include:** invasion of sexual privacy; prostituting another person; non-consensual video or audio-taping of sexual activity; going beyond the boundaries of consent (such as letting someone hide in a closet to watch consensual sex); engaging in voyeurism; knowingly transmitting an STI or HIV; exposing one's genitals in non-consensual circumstances or inducing another to expose their genitals; sexually based stalking and/or bullying may also be forms of sexual exploitation.

**6. Relationship Violence** is violence between those in an intimate relationship (this includes romantic, dating, or domestic relationships).

**Examples include, but are not limited to:**

- Physical assault between two people in a current or prior intimate relationship who do not live together (Dating Violence)
- Physical assault between two people in an intimate relationship who live together (Domestic Violence)

**7. Stalking** refers to a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress. Tougaloo College also prohibits cyber stalking which occurs when a person, through a pattern of conduct which includes the use of electronic communication, causes another person physical or mental distress. Stalking is defined as a course of conduct involving more than one instance of unwanted attention, harassment, unwanted physical or verbal contact, use of threatening words and/or conduct, or any other course of conduct directed at an individual that could be reasonably regarded as alarming or likely to place that individual in fear of harm or injury, including physical, emotional, or psychological harm.

Stalking can take many forms. Examples include, but are not limited to, more than one instance of the following behaviors that could reasonably be regarded as alarming or likely to place the recipient in fear of harm or injury: following a person; appearing at a person's home, class, or work; continuing to contact a person after receiving requests not to; leaving written messages, objects, or unwanted gifts; vandalizing a person's property; photographing a person; and other threatening, intimidating, or intrusive behavior.

Stalking may also involve the use of electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices (often referred to as cyber-stalking). Such behaviors may include, but are not limited to, non-consensual communication, telephone calls, voice messages, emails, texts, letters, notes, gifts, or any other communication that are repeated, undesired, and place another person in fear.

**8. Romantic/Sexual Consensual Relationships between People with Unequal Power** there are inherent risks in any romantic or sexual relationship between individuals in unequal positions (e.g., faculty and student, supervisor and employee). The unequal power inherent in such relationships, even if consensual, heightens the vulnerability of the person with less power and heightens the potential for coercion and abuse. In addition, these relationships may be less consensual than perceived by the individual whose position confers power. The relationship also

may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of applicable sections of this policy. Such relationships can also create a hostile learning and work environment for others.

***Examples of the kinds of relationships prohibited by this policy include:***

- Faculty and students. The decision to become a faculty member at the college presumes an educational and mentoring relationship with any student and precludes engaging in such a romantic relationship with any student.
- Staff or volunteers who have mentoring or supervisory relationships with students. The decision to become a staff member or a volunteer in a position that is defined by mentoring or supervision precludes engaging in such a romantic relationship with any student.
- Supervisors and subordinates. Romantic relationships are not allowed between employees of Tougaloo College when a supervisory relationship is involved. This applies to all employees, including student employees, and their supervisors. The power differential makes such relationships open to abuse and to charges of sexual harassment or unprofessional conduct. Such relationships can also create a hostile work environment for others. Should romantic relationships develop, the supervisor should inform his/her supervisor so that appropriate actions can be made to remove the involved supervisor from direct supervision of the employee.

9. **Retaliation** is any action, statement, or behavior that is designed to punish an individual for filing a report, cooperating with an investigation, seeking guidance regarding a concern or to deter someone from taking such action. Retaliation in any form will not be tolerated by any participant or third-party to a discrimination, harassment or sexual misconduct policy violation or suspected violation. Acts of retaliation will be investigated and addressed according to this policy.

10. **Off-campus at College Sponsored events and programs** are events, program and activities that are convened off-campus but are required as part of an educational program; travel related to the instructional program, which includes, but is not limited to student leadership, athletics, speech and debate, journalism and dramatic/performing arts; voluntary activities: activities or events off premises of the College which are not an integral part of educational programs that are approved and sponsored by the College; and international travel.

11. **Standard of evidence**- the level of certainty and the degree of evidence necessary to establish proof in a criminal or civil proceeding. For example, the standard of proof to be convicted of a crime is *proof beyond a reasonable doubt*.

12. **Preponderance of the evidence**- This preponderance is based on the more convincing evidence and its probable truth or accuracy, and not on the amount of evidence.

13. **Reporting Party**- person filing the incident report, but will not necessary always is the victim of an incident. If you see something, say something.

14. **Responding Party** – person responding to the filed incident report.

- 15. Reprimand:** A reprimand is a written notice that a student has violated the College's Gender-Based Conduct policy and that another violation will likely result in a more severe sanction.
- 16. Probation:** Probation is a designated period of time during which the student is given the opportunity to demonstrate the ability to abide by the community's expectations of behavior articulated in the College's Gender-Based Conduct policy. Restrictions and/or conditions regarding participation in College-sponsored activities may be imposed. Another violation will likely result in a more severe sanction.
- 17. Deferred Suspension:** Deferred suspension is used for offenses found serious enough to warrant suspension, but where the specific circumstances of the case mitigate the offense or for repeated offenses of a less serious nature. Deferred suspension is a designated period of time during which a "community member" (student, staff or Faculty) is given the opportunity to demonstrate the ability to abide by the community's expectations of behavior articulated in the College's Gender-Based Conduct policy.
- a. A student on deferred suspension shall not represent the College as an official delegate or representative, hold an office (elected or appointed) in College groups of any kind, or participate in College-sponsored travel or study abroad. If the student is found responsible for violating any additional College code or regulation during the period of Deferred Suspension, the student may be immediately suspended from the College and may be subject to additional sanctions for the subsequent violation. Another violation will likely result in a more severe sanction.
- 18. Suspension:** separation from College for a designated period of time after which the suspended community member may petition the College for readmission to the College. The petition must demonstrate that the student has satisfied any accompanying terms of the suspension.
- a. A student who has been suspended may not be on College property without the prior approval of the Dean of Students. A suspended student or employee is prohibited from participating in any College activity or program.
- 19. Expulsion-** separation from the College permanently.