

# H-110: Equal Opportunity, Civil Rights, and Sexual Harassment

August 2, 2024, based on the 2020 Title IX Regulations

## 1. Office for Equal Opportunity and Civil Rights

The Office for Equal Opportunity and Civil Rights (synonymous with “Gateway” throughout this policy) is comprised of the Director of Compliance, who serves as the Title IX & ADA Coordinator and Affirmative Action Officer, and the Vice President of Diversity, Equity, and Inclusion, who serves as the Equal Opportunity Officer. The Equal Opportunity Officer’s primary role is to provide review and final approval of investigation reports, excluding those related to Title IX Sexual Harassment, that are completed by the Director of Compliance/Title IX Coordinator. The Director of Compliance is primarily responsible for managing the day-to-day operations of the Office and addressing discrimination complaints (i.e. investigation and resolution), assuring compliance with applicable civil rights and employment laws, reviewing and approving investigation reports, and prevention training and education. The Director of Compliance has the primary responsibility for coordinating Gateway’s efforts related to investigation, resolution, and implementation of corrective measures and monitoring to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this policy. In addition, the Director of Compliance maintains the college’s equal opportunity and civil rights policies and procedures.

Additional Title IX/Civil Rights team members include:

- Jason Pruitt, Career and Employment Services Manager, serves as an investigator.
- Amanda Robillard, Manager of Customer Relationship Management (CRM) Technology, serves as an investigator and as the Deputy Title IX Coordinator. The Deputy Title IX Coordinator fulfills the role of the Title IX Coordinator when the Title IX Coordinator is unavailable or designates such responsibilities.
- Jomarie Coloriano, Director of Inclusive Excellence, serves as a bilingual investigator.

The Director of Compliance, Equal Opportunity Officer, and other members of the Title IX/Civil Rights team act with independence and authority free of conflicts of interest and bias that impact the investigation or adjudication. The Director of Compliance oversees all resolutions under this policy and acts to ensure that all Institution representatives act with objectivity and impartiality and are assessed with respect to conflicts of interest and/or potential bias. When there is an identified conflict of interest, the conflicted individual will not make substantive decisions regarding the case and will delegate those decisions to another qualified member of the Title IX/Civil Rights team. To raise any concern involving a conflict of interest or bias by the Equal Opportunity Officer or Director of Compliance, contact the President of the college, Ritu Raju, at [rajur@gtc.edu](mailto:rajur@gtc.edu) or, to raise a concern

involving a conflict of interest or bias about any other member of the Title IX team, contact the Director of Compliance.

Allegations of violations of policy, or inquiries about or concerns regarding this policy and procedure, may be made internally to:

Josh Vollendorf, MS, MSE, PHR  
Director of Compliance | ADA & Title IX Coordinator  
Office for Equal Opportunity and Civil Rights  
1001 S. Main St, Racine, WI 53403  
[compliance@gtc.edu](mailto:compliance@gtc.edu), 262-564-3062

## 2. Glossary

These terms are used in policies H-110, H-120, and H-130.

**Advisor** means a person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

**Complainant** means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected characteristic; or retaliation for engaging in a protected activity.

**Complaint** (formal) means a document submitted or signed by a Complainant or signed by the Director of Compliance/Title IX Coordinator alleging harassment or discrimination based on a protected characteristic or retaliation for engaging in a protected activity against a Respondent and requesting that Gateway investigate the allegation.

**Confidential Resource** means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority status).

**Day** means a business day when Gateway is in normal operation.

**Directly Related Evidence** is evidence connected to the complaint but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and will not be relied upon by the investigation report.

**Decision-maker** means the person who hears evidence, determines relevance, and makes the final determination of whether this policy has been violated and/or assigns sanctions.

**Director of Compliance/Title IX Coordinator** are interchangeable titles that refer to one position that is designated by Gateway to ensure compliance with Title IX and other anti-discrimination laws and Gateway's Title IX & equal opportunity programs. References to the Coordinator or Director of Compliance throughout this policy may also encompass a designee of the Title IX Coordinator for specific tasks.

**Education program or activity** means locations, events, or circumstances where Gateway exercises substantial control over both the Respondent and the context in which the Sexual Harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by Gateway.

**Equity Resolution Process** means a method of administrative resolution of discrimination and misconduct complaints that relate to protected class discrimination with the exception of cases that fall under 34 CFR §106.30 (all forms of Sexual Harassment).

**Final Determination** means a conclusion by the standard of proof that the alleged conduct did or did not violate policy.

**Finding** means a conclusion by the preponderance of evidence that the conduct did or did not occur as alleged (as in a "finding of fact").

**Formal Complaint** means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging a Respondent engaged in Sexual Harassment or retaliation for engaging in a protected activity and requesting that Gateway investigate the allegation(s).

**Formal Grievance Process** refers to policy H-130: Title IX Grievance Procedure and is a method of formal resolution designated by Gateway reserved for Sexual Harassment claims, and which complies with the requirements of the Title IX Regulations (34 CFR §106.45) and the Violence Against Women Act § 304.

**Grievance Process Pool** includes any investigators, appeal officers, and Advisors who may perform any or all these roles (though not at the same time or with respect to the same case).

**Hearing Officer** refers to the person who has decision-making and sanctioning authority within Gateway's Formal Grievance process.

**Investigator** means the person or persons charged by Gateway with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence for Title IX Sexual Harassment cases. In non-Title IX Sexual Harassment cases, the investigator also completes a credibility assessment, finding of fact, conclusion, and makes recommendations for sanctions in all other cases.

**Mandated Reporter** means an employee of Gateway who is obligated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Director of Compliance/Title IX Coordinator.

**Notice** means that an employee, student, or third-party informs the Director of Compliance/Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.

**Official with Authority (OWA)** means an employee of Gateway explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of Gateway.

**Parties** means the Complainant(s) and Respondent(s), collectively.

**Relevant Evidence** means evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.

**Remedies** are post-final determination actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to Gateway's education program.

**Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected characteristic; or retaliation for engaging in a protected activity under this policy.

**Resolution** means the result of an informal or formal grievance/resolution process. Sanction means a consequence imposed by Gateway on a Respondent who is found to have violated this policy.

**Sexual Harassment** is an umbrella category including the offenses of Sexual Harassment, sexual assault, stalking, and dating violence and domestic violence. See

Section 14(a) for greater detail. Sometimes the term sexual misconduct is used interchangeably with Sexual Harassment.

**Student** means any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with Gateway.

**Title IX Team** refers to the Director of Compliance/Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

**Unwelcome**, though assessed in a variety of ways, generally refers to behavior that is not wanted, not welcome, and not reciprocated.

### **3. Scope of this Policy**

Gateway Technical College (“Gateway” or the “College”) affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. Gateway is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities, that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational enterprise, Gateway has developed internal policies and procedures that will provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected status. Gateway values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in what is often a tough time for all those involved.

The core purpose of this policy is the prohibition of all forms of discrimination. Sometimes, discrimination involves exclusion from or different treatment in activities, such as admission, athletics, or employment. Other times, discrimination takes the form of harassment or, in the case of sex-based discrimination, can encompass Sexual Harassment, sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged policy violation of this anti-discrimination policy is reported, the allegations are subject to resolution using H-130: Title IX Grievance Procedures for Title IX Sexual Harassment cases or H-120: Equity Resolution Procedure for non-Sexual Harassment cases, as determined by the Title IX Coordinator, and as detailed below.

When the Respondent is a member of the Gateway’s community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the Gateway community. This community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as

guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this policy.

This policy applies to all allegations that occur from the date it went into effect. Allegations made prior to that date, regardless of when they are reported, are processed under the policy in effect at the time of the allegation and utilize the current resolution process applicable to the allegations.

#### **4. Policy on Non-Discrimination**

Gateway adheres to all federal and state civil rights laws and their implementing regulations prohibiting discrimination and in public institutions of higher education. These laws include, but are not limited to, Title IX of the Educational Amendments, Section 504 of the Rehabilitation Act, the Wisconsin Fair Employment Act, the Civil Rights Act of 1964, the Americans with Disabilities Act, Wisconsin Statute 106.56 (Postsecondary education: prohibition against discrimination on basis of physical condition or developmental disability), the Pregnancy Discrimination Act, Pregnant Workers Fairness Act, the PUMP Act, the Equal Pay Act of 1963, the nondiscrimination provision of the Immigration and Nationality Act, the Age Discrimination in Employment Act of 1967, the Uniformed Services Employment and Reemployment Rights Act of 1994, and the Genetic Information Nondiscrimination Act of 2008.

To provide equal employment, advancement, and learning opportunities to all individuals, employment and student admission decisions at Gateway will be based on merit, qualifications, and abilities. Gateway will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, color, national origin, ancestry, sex, sexual orientation, creed, religion, political affiliation, marital status, parental status, pregnancy, disability, age, membership in any reserve component of the armed forces, union affiliation, or any other protected category under applicable federal and state law, including, but not limited to, Title IX, Title VI/VII, and the Wisconsin Fair Employment Act, including protections for those opposing discrimination or participating in any resolution procedure on campus or within the Equal Employment Opportunity Commission or other human rights agencies.

As a recipient of federal financial assistance for education activities, Gateway is required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex/gender. Sex includes biological sex, sex stereotypes, gender identity, gender expression, sexual orientation, and pregnancy and related conditions. Gateway also prohibits retaliation against any

person opposing discrimination or participating in any discrimination investigation or complaint process internal or external to the institution. Sex-based harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination and are prohibited under Title IX and by Gateway policy. Any member of the campus community, guest, or visitor who acts to deny, deprive, or limit the educational, employment, residential, or social access, opportunities and/or benefits of any member of the Gateway community on the basis of sex or any other protected class listed above is in violation of Gateway's policy on Equal Opportunity, Civil Rights, and Sex-based harassment. The above protected characteristics are governed by various state and federal laws. Application and governance of this policy relating to any of the above protected characteristics is governed in accord with the applicable law(s) governing the specific protected characteristic. For example, arrest and conviction record discrimination is prohibited by the Wisconsin Fair Employment Act (WFEA) and generally applies only to applicants for employment and employees.

This policy covers nondiscrimination in all aspects of employment and in access to educational programs and activities.

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. Gateway's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include relevant, but controversial or sensitive subject matters protected by academic freedom. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of Gateway policy, though remedies may be offered to those impacted. All policies encompass actual and/or attempted offenses.

### **Discriminatory Harassment**

Discriminatory harassment, defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived characteristic protected by policy or law, is a form of prohibited discrimination under this policy. Gateway does not tolerate discriminatory harassment against any employee, student, visitor, or guest on the basis of any status protected by policy or law. Gateway will remedy all forms of harassment, including by imposing sanctions on the harasser through application of the Equity Resolution Procedure. Gateway's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community, when that conduct creates a hostile environment.

Generally speaking, a hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities. This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive and objectively offensive.

Any employee, student, visitor, or guest who is affected by unwelcome harassing conduct is encouraged to make a report so that the College can offer assistance and resources. Where conduct does not rise to the level of creating a hostile environment as defined in this policy, the College may invite persons alleged to be responsible to meet and discuss remedial actions, education, and/or effective conflict resolution mechanisms. Participation in such actions is voluntary.

### **Bias Response**

Gateway primarily addresses bias incidents that do not create a hostile environment, as defined in this policy, by providing supportive measures to the recipient of such biased statements or behaviors, while respecting the free speech rights of the respondent. In addition, depending on the severity of the situation, the Office for Equal Opportunity and Civil Rights may, on a voluntary basis, request to meet with the individual(s) who engaged in the alleged biased behavior. Most bias incidents that do not create a hostile environment, while possibly harmful to the recipient, are speech protected by the first amendment and, in such situations, are not subject to disciplinary action or demands to cease such behavior.

## **5. Other Civil Rights Offenses**

Gateway additionally prohibits the following offenses as forms of discrimination when the act is based upon the complainant's actual or perceived membership in a protected class.

**Sexual Exploitation**, defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute Sex-based harassment under this policy.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Invasion of sexual privacy (e.g., doxxing).



- Knowingly making an unwelcome disclosure of (or threatening to disclose) an individual's sexual orientation, gender identity, or gender expression. Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity, when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography.
- Prostituting another person.
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection.
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity.
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity.
- Knowingly soliciting a minor for sexual activity.
- Engaging in sex trafficking.
- Knowingly creating, possessing, or disseminating child pornography.

### **Harm/Endangerment**

- Threatening or causing physical harm.
- Extreme verbal, emotional, or psychological abuse.
- Other conduct which threatens or endangers the health or safety of any person or damages their property.

### **Discrimination**

- Actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities, including disparate treatment.

### **Intimidation**

- Implied threats, or
- Acts that cause the complainant reasonable fear of harm.

## **Hazing**

Acts likely to cause physical or psychological harm or social ostracism to any person within Gateway's community when related to the admission, initiation, pledging, joining, or any other group-affiliation activity.

## **Bullying**

Repeated and/or severely aggressive behavior that is likely to intimidate or intentionally hurt, control, or physically or mentally diminish the complainant, that is not speech or conduct that is otherwise protected by the First Amendment.

Violation of any other Gateway policies may constitute an offense that violated the civil rights of others when conduct is motivated by actual or perceived protected characteristics, and the result is a discriminatory limitation or denial of employment or education access, benefits, or opportunities (e.g. vandalism motivated by hatred for a specific ethnic group).

## **6. Training and Prevention Program**

Gateway provides all students and employees with the opportunity to complete training that focuses on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, stalking, and other forms of discrimination. Primary programming is provided to incoming and existing employees through the Title IX for Employees workshop and for incoming and existing students online through the Know Your (Title IX) Rights training. In addition, ongoing programming is provided to employees and students through such campaigns and events, including but not limited to, tabling events, presentations to students and employees, awareness campaigns (i.e. sexual assault awareness month and domestic violence awareness month), and bystander intervention training.

## **7. Reporting Discrimination, Harassment, and Retaliation**

Anyone who believes that the policy on Equal Opportunity, Civil Rights, and Sexual Harassment has been violated should file a report or contact the Director of Compliance. Reports of discrimination, harassment and/or retaliation may be made using any of the following options. Reports can be made in-person during business hours and any time electronically (Maxient, e-mail, US mail, or phone).

- Report online, using the Incident (Maxient) reporting form located at [gtc.edu/TitleIX](https://gtc.edu/TitleIX) and [gtc.edu/eoo](https://gtc.edu/eoo).

- Report directly to the Office for Equal Opportunity and Civil Rights at 262-564-3062, [compliance@gtc.edu](mailto:compliance@gtc.edu), 1001 S. Main Street, or in-person at the Racine Campus, Lake Building, Room L101B (check in at the Learning Success Center).
- File an incident report with a Campus Security Officer (Racine/iMet: 262-619-6208; Kenosha/Horizon/Lakeview: 262-564-2208; Elkhorn/Burlington: 262-741-8208).

Anonymous reports are accepted but can give rise to a need to investigate. Gateway provides supportive measures to all Complainants, though doing so is impossible with an anonymous report. Because reporting carries no obligation to initiate a formal response, and as Gateway respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of privacy by making a report that allows Gateway to discuss and/or provide supportive measures.

Formal Complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that Gateway investigate the allegation(s). A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by Gateway) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that Gateway investigate the allegations.

Allegations of misconduct, discrimination, harassment or retaliation committed by the Director of Compliance, Vice President of Diversity, Equity, and Inclusion, President, or a member of the Board of Trustees should be filed via Maxient by selecting the position of the person to whom the complaint is about under the “Who is the report regarding?” field. Maxient reports with this option selected are only sent to the VP of Administration and the college’s law firm, Quarles and Brady. To ensure an equitable, fair, and objective investigation, Quarles & Brady, or a third party designated by Quarles & Brady, will conduct the initial assessment and investigation of these individuals, should one be required.

Upon completion of the initial assessment and a determination that there is not a likely policy violation, Quarles & Brady (or its designated third party) will provide a written justification of this decision to the reporting party, the Office for Equal Opportunity and Civil Rights, and the VP of Administration. Should Quarles & Brady (or its designated third party) determine that the allegations indicate a likely policy violation, a copy of the

final investigation report will be sent to the reporting party, the Office for Equal Opportunity and Civil Rights, and the VP of Administration.

**Individuals also have a right to file a complaint with an appropriate government agency. Complaints to these agencies can be made alongside a complaint to the College or without a complaint to the College.**

Employee complaints regarding employment discrimination and those relating to an employee (or a student when the *Oliveras*\* test is met):

Wisconsin Equal Rights Division (DWD)

PO Box 7997

Madison, WI 53707-7997

608-266-3131

[dwd.wisconsin.gov/er/civilrights/](http://dwd.wisconsin.gov/er/civilrights/)

AND/OR

Equal Employment Opportunity Commission (EEOC)

Reuss Federal Plaza

310 West Wisconsin Avenue, Suite 500

Milwaukee, WI 53203-2292

[eeoc.gov](http://eeoc.gov)

Phone: 1-800-669-4000

TTY: 1-800-669-6820

ASL Video Phone: 844-234-5122

Student and/or employee or third-party complaints regarding discrimination in the college's education program or activities:

\_U.S. Department of Education Office for Civil Rights

Citigroup Center

500 W. Madison Street, Suite 1475

Chicago, IL 60661-4544

[ocrcas.ed.gov](http://ocrcas.ed.gov)

Telephone: (312) 730-1560

Email: [OCR.Chicago@ed.gov](mailto:OCR.Chicago@ed.gov)

Students may also file a complaint relating to disability discrimination in post-secondary education with the Wisconsin Equal Rights Division or on any protected characteristic under the WFEA when the *Olicer* test is met.

\*The [Oliveras decision](#) requires that for the Equal Rights Division to have jurisdiction under the provisions of the Act, three requirements must be satisfied: (1) the complaint must allege that an actual or potential "employee" or "applicant for employment or

licensing” has been unlawfully discriminated against; (2) the complaint must name as respondent a party who is an “employer,” a “labor organization,” a “licensing agency,” or a “person” within the meaning of the Act; and (3) the complaint must allege a sufficient nexus between the discrimination complained of and the denial or restriction of some employment opportunity.

There is no time limitation on providing notice/complaints to the Office for Equal Opportunity and Civil Rights. However, if the Respondent is no longer subject to Gateway’s jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible. Acting on allegations significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Director of Compliance/Title IX Coordinator, who may document allegations for future reference, offer supportive measures, and/or engage in informal or formal action, as appropriate. When notice/complaint is affected by significant time delay, Gateway will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint. Those versions are available from the Office for Equal Opportunity and Civil Rights.

## **8. Mandated reporting of policy violations**

All Gateway employees, including casual, temporary, and student employees, have a duty to report allegations of discrimination, harassment, sexual misconduct, and/or retaliation, unless exempted from doing so under the “Confidential Reporting” section below, that they observe or have knowledge of, even if not reported to them by the Complainant or third-party. All employees shall promptly file a Maxient Incident Report within 48 hours of becoming aware of such information. Failure of a non-confidential employee to report an incident or incidents of discrimination, harassment, sexual misconduct or retaliation of which they become aware is a violation of College policy and can be subject to disciplinary action for failure to comply. Confidentiality and mandated reporting are addressed more specifically later in this policy.

If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report alleged crimes and/or policy violations, and these employees will immediately pass reports to the Director of Compliance/Title IX Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

Though this may seem obvious, when a Mandated Reporter is engaged in harassment or other violations of this policy, they still have a duty to report their own misconduct,

though Gateway is technically not on notice when a harasser is also a Mandated Reporter unless the harasser does in fact report themselves. Finally, it is important to clarify that a Mandated Reporter who is themselves a target of harassment or other misconduct under this policy is not required to report their own experience, though they are, of course, encouraged to do so.

Employees must promptly share all details of the reports they receive. Generally, climate surveys, classroom writing assignments or discussions, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Director of Compliance by employees, unless the reporting party clearly indicates that they wish a report to be made. Remedial actions may result from such disclosures without formal College action.

### **9. When a Complainant Does Not Wish to Proceed**

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Director of Compliance/Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Director of Compliance/Title IX Coordinator has ultimate discretion over whether Gateway proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment.

The Director of Compliance/Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires Gateway to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. Gateway may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Director of Compliance/Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and Gateway's ability to pursue a Formal Grievance or Resolution Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this policy.

When Gateway proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence or testimony.

Note that Gateway's ability to remedy and respond to notice may be limited if the Complainant does not want Gateway to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing the Gateway's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow Gateway to honor that request, Gateway may offer informal resolution options (as appropriate and applicable), supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a formal complaint later. Upon making a formal complaint, a Complainant has the right, and can expect, to have allegations taken seriously by Gateway, and to have the incidents investigated and properly resolved through these procedures. Please consider that delays may cause limitations on access to evidence or present issues with respect to the status of the parties.

## **10. Privacy**

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to Office for Equal Opportunity and Civil Rights, Campus Safety and Security, Human Resources, Campus Dean, and the CARE Team. Information will be shared as necessary with investigators, witnesses and the responding party.

Information will be shared as necessary with investigators, Decision-makers, witnesses, and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C.

1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under H-120: Equity Resolution Process or H-130: Title IX Grievance Procedure.

The Director of Compliance/Title IX Coordinator reserves the right to determine which Gateway officials have a legitimate educational interest in being informed about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

All reports are acted upon promptly while every effort is made by the College to preserve the privacy of reports. Regardless of whether the reporting party has opted-out of allowing the College to share “directory information,” personally identifiable information about the reporting party and witnesses will be treated as private, and shared with those on a “need to know” basis. In cases where a formal complaint is filed and the reporting party wishes to proceed with a resolution, the responding party will be provided with the name of the reporting party, the nature of the allegations, and the names of witnesses provided. Likewise, the responding party’s list of witnesses will be shared with the reporting party.

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, Gateway must issue timely warnings for reported incidents that pose a serious or continuing threat of bodily harm or danger to members of the campus community.

Gateway will ensure that a Complainant’s name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions considering the potential danger.

## **11. Federal Reporting Obligations**

Certain institutional officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- All “primary crimes,” which include criminal homicide, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- Hate crimes, which include any bias-motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;



- VAWA -based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be shared with campus security regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

Campus Security Authorities are addressed in more detail in Gateway's policy H-106: Clery Act Compliance.

## **12. Amnesty**

The Gateway community encourages the reporting of harassment, discrimination, and crimes by complainants and witnesses. Sometimes, complainants or witnesses are hesitant to report to College officials or participate in resolution procedures because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident.

It is in the best interests of the Gateway community that individuals report to Gateway officials and that witnesses come forward to share what they know. To encourage reporting, Gateway maintains a policy of offering reporting parties and witnesses amnesty from minor policy violations, such as underage consumption of alcohol or the use of illicit drugs, related to the incident. Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty to a respondent is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty, the incentive to report serious misconduct, is rarely applicable to respondent with respect to a complainant.

The Director of Compliance will review and approve any amnesty requests.

## **13. Jurisdiction of this Policy**

This policy applies to the employment and education programs and activities of Gateway, to conduct that takes place on the campus or on property owned or controlled by the Gateway, at Gateway-sponsored events, or in buildings owned or controlled by

Gateway's recognized student organizations. This policy can also be applicable to the effects of off-campus misconduct that effectively deprives someone of access to Gateway's education program and activities or benefits and opportunities of employment. Gateway may also extend jurisdiction to off-campus and/or to online conduct when the Director of Compliance/Title IX Coordinator determines that the conduct affects a substantial Gateway interest. Regardless of where the conduct occurred, Gateway will address notice/complaints to determine whether the conduct occurred in the context of its employment or education program or activity and/or has continuing effects on campus (including virtual learning and employment environments) or in an off campus sponsored program or activity.

A substantial Gateway interest includes:

- Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state or federal law;
- Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
- Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- Any situation that is detrimental to the educational interests of the College as determined by the Director of Compliance.

If the responding party is unknown or is not a member of the Gateway community, the Director of Compliance/Title IX Coordinator will assist the Complainant in identifying appropriate institutional and local resources and support options and/or, when criminal conduct is alleged, in contacting local law enforcement if the individual would like to file a police report. In addition, Gateway may take other actions as appropriate to protect the reporting party against such third parties, such as barring the latter from Institution property and/or events. All vendors serving the college through third-party contracts are subject to the policies and procedures of their employers. Further, even when the Respondent is not a member of Gateway's community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Director of Compliance/Title IX Coordinator.

When the responding party is enrolled in or works at another Institution, the Director of Compliance/Title IX Coordinator can assist the reporting party in liaising with the appropriate individual for that Institution, as it may be possible to pursue action under that Institution's policies.

Similarly, the Director of Compliance/Title IX Coordinator may be able to assist and support a student or employee reporting party who experiences discrimination in an externship, study abroad program, or other environment external to the Institution where Sexual Harassment policies and procedures of the facilitating organization may give recourse to the reporting party. Further, even when the responding party is not a member of Gateway's community, remedies and resources can be accessed by contacting the Director of Compliance or by visiting [gtc.edu/TitleIX](http://gtc.edu/TitleIX).

The policies of Gateway are written and interpreted broadly to include online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in or have an effect on the Gateway's education program and activities or use Gateway's networks, technology, or equipment.

Although Gateway may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to Gateway, it will engage in a variety of means to address and mitigate the effects where possible.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites, sharing inappropriate content via Snaps or other social media, unwelcome sexual or sex-based messaging, distributing or threatening to distribute nude or semi-nude photos or recordings, breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the Gateway community.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of the Gateway's control (e.g., not on Gateway networks, websites, or between Gateway email accounts) will only be subject to this policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others. Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but legally protected speech cannot be subjected to discipline.

Off-campus harassing speech by employees, whether online or in person, may be regulated by Gateway only when such speech is made in an employee's official or work-related capacity.

#### **14. Policy on Affirmative Action**

Gateway is committed to affirmative action for women, minorities, veterans, and disabled individuals in employment and academic advancement. The college completes a comprehensive affirmative action plan every year and uses this data to guide placement goals relating to these groups. Placement goals, when indicated, are neither rigid nor inflexible goals that set a ceiling or floor for employment of particular protected class groups. Goals do not create set-asides for employment groups nor are they intended to achieve proportional representation or equal results. Goals do not supersede objective criteria and merit selection principles. All employment decisions are made in a nondiscriminatory manner and placement goals are not used to extend a preference to any individual or adversely affect an individual employment status on the basis of race, sex, religion, etc. In addition, the college conducts an adverse impact analysis to identify possible barriers to employment for all groups to ensure equal employment opportunity.

Gateway's Director of Compliance has been designated as the Affirmative Action Officer and will share relevant information relating to the affirmative action plan with human resource leaders and other members of the college and the public through various methods. Select information regarding the affirmative action plan will be published on the college's website at [gtc.edu/eeo](http://gtc.edu/eeo).

#### **15. Language Access**

In accordance with Title VI of the Civil Rights Act of 1964, Gateway will take reasonable measures to provide meaningful access to those with Limited English Proficiency (LEP) in the provision of all activities, services, and programs offered or sponsored by the college, to the extent required by law. However, the College is not required to provide programs, services, or activities in a language other than English. For the purposes of this policy, LEP is defined as "individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English." Meaningful access is defined as language assistance that results in accurate, timely, and effective communication to the LEP individual. For LEP individuals, meaningful access denotes access that is not unreasonably restricted,

delayed, or inferior as compared to access to programs or activities provided to English proficient individuals.

The College will ensure meaningful communication with persons who are LEP and their authorized representatives, as well as providing for communication of information contained in vital documents. Gateway will provide all interpreters, translators, and other aids needed to comply with this policy without cost to persons accessing services. The college will provide language assistance through the use of competent bilingual staff, contracts or formal arrangements with organizations providing interpretation or translation services, or technology and telephonic interpretation services.

Gateway's Language Access Plan is published at [gtc.edu/LEP](http://gtc.edu/LEP).

## **16. Policy on Accommodation Disabilities**

Gateway is committed to full compliance with the Americans with Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Amendment Act (ADAAA) which prohibit discrimination against qualified persons with disabilities, as well as other applicable federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity. The ADA defines a major life activity as those functions that are important to most people's daily lives and include breathing, walking, talking, hearing, seeing, sleeping, caring for oneself, performing manual tasks, and working.

Under the WFEA (as it applies to employees), an individual has a disability when he or she has a physical or mental impairment which makes achievement unusually difficult or limits the capacity to work. An impairment "makes achievement unusually difficult" when it limits a person's major life activities such as seeing, hearing, walking, learning, and working. An impairment "limits the capacity to work" when the restrictions imposed by the impairment limit the individual's ability to perform the particular job in question. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the institution whether qualified or not.

Neither the ADA nor WFEA require an employer to lower or disregard production or performance standards because an employee with a disability cannot meet standards due to a disability-related reason. The ADA and Section 504 of the Rehabilitation Act do not require the College to lower or disregard academic or performance standards for students with a disability who cannot meet standards due to a disability-related reason.

The Director of Compliance has been designated as the ADA/504 Coordinator responsible for coordinating efforts to comply with these disability laws, including investigation of any allegations of noncompliance. Grievances related to disability status and/or accommodations for both students and employees will be addressed using policy H-120: Equity Resolution Process.

## **17. Students with Disabilities**

Gateway provides qualified students with disabilities with reasonable accommodation(s) and support needed to ensure equal access to the academic programs and activities of the College. All accommodations are made on a case-by-case basis and based on a student's physical or mental impairment. A student requesting an accommodation should first contact Student Accommodations and Accessibility Services (SAAS) which coordinates services for students with disabilities. The Accommodations and Accessibility Coordinator reviews documentation provided by the student, and, in consultation with the student and other College faculty and staff (as necessary and appropriate), determines which reasonable accommodations are appropriate to the student's particular needs and academic programs in accordance with applicable College policies. Temporary disabilities that are severe or expected to last six months or longer are considered disabilities under the Americans with Disabilities Act Amendments Act of 2008 (ADAAA).

## **18. Applicants and Employees with Disabilities**

Pursuant to the ADA and WFEA, Gateway will provide reasonable accommodation(s) to all job applicants and qualified employees with disabilities who request accommodations and where their disability makes achievement unusually difficult, limits their capacity to work, and/or impacts their ability to perform the essential functions of their job, except where doing so would be unduly disruptive or would result in undue hardship.

An employee with a disability is responsible for requesting an accommodation request in writing or electronically using the Accommodation Request Form found on the Compliance intranet page ([gtc.edu/compliance](http://gtc.edu/compliance)) and submitting the completed form, along with appropriate documentation, to the Office for Equal Opportunity and Civil Rights. The Director of Compliance/ADA Coordinator or designee will work with the employee's supervisor to identify which job functions or tasks are affected by the

employee's disability and what reasonable accommodations could enable the employee to perform those duties in accordance with applicable Gateway policies.

While disability accommodation requests are managed with a high level of confidence, the Director of Compliance may, in certain circumstances, work with the employee's supervisor and human resources to identify which essential functions of the position are affected by the employee's disability and to implement the specific accommodation. In these situations, only information about the accommodation, and not the medical condition being accommodated, will be shared with these parties.

## **19. Service Animals**

A person with a disability has a general right of privacy about the disability and cannot be asked about the nature or extent of the disability. Service animals are defined by the Americans with Disabilities Act as a dog, or, in more limited cases, a miniature horse, which has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability. The dog must be trained to take specific action when needed to assist the person with a disability. However, state law defines a service animal as any animal that has been individually trained to do work or perform tasks for a person with a disability. Service animals, which include guide and signal dogs, are allowed to go anywhere the general public or student is allowed to go with few exceptions. If admitting service animals would fundamentally alter the nature of a service or program, service animals may be prohibited. In addition, if a particular service animal is out of control and the handler does not take effective action to control it, or if it is not housebroken, that animal may be excluded.

There is no requirement under state or federal law that a service or support animal be documented in an official registry or wear an identifying vest or identification tag. In addition, students may voluntarily register their service animal with Student Accommodations and Accessibility Services and include their animal on their accommodation plan.

Emotional support, therapy, comfort, and companion animals are not service animals and are not allowed inside buildings except under specific College-approved circumstances such as when the College brings in therapy dogs during finals week.

Service animals must always be under the control of the handler, and the handler is solely responsible for all care of the animal. Gateway employees should not inquire about a service animal unless the animal is disruptive, acting dangerous, or otherwise

presents a health or safety concern. In such cases, the Gateway employee should contact security and file a Maxient report.

Employees, including campus security, may only ask one question of a person with a service animal, "Is the service animal required because of a disability?" Federal law allows an additional question, about what work or tasks the animal has been trained to perform. However, this question is not permitted under state law and, therefore, should not be asked.

Wisconsin law prohibits the following conduct toward a service animal: intentional or reckless harassment, injury, or death of service animals.



## **20. Policy on Pregnant Students and Employees**

Under the Department of Education's (ED) Title IX regulations, an institution that receives federal funding "shall not discriminate against any student or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of such student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom." According to the ED, appropriate treatment of a pregnant student includes granting the student leave "for so long a period of time as is deemed medically necessary by the student's physician," and then effectively reinstating the student to the same status as was held when the leave began.

All employees are required to refer students who inform them that they are pregnant to the Title IX Pregnant Student program by sending an email to [TIXpregnancy@gtc.edu](mailto:TIXpregnancy@gtc.edu).

This generally means that pregnant students should be treated by Gateway the same way as someone who has a temporary disability, and will be given an opportunity to make up missed work wherever possible. Extended deadlines, make-up assignments (e.g., papers, quizzes, tests, and presentations), tutoring, independent study, online course completion options, and incomplete grades that can be completed later, should all be employed, in addition to any other ergonomic and assistive supports typically provided by Disability Support Services. To the extent possible, Gateway will take reasonable steps to ensure that pregnant students who take a leave of absence or medical leave return to the same position of academic progress that they were in when they took leave, including access to the same course catalog that was in place when the leave began.

The IX Pregnant Student Program has the authority to determine which accommodations are necessary and appropriate, and to inform faculty members of the need to adjust academic parameters accordingly. The Title IX Coordinator has the responsibility of approving all Title IX accommodations forms that require processing through Perceptive Content and assuring that the accommodations are consistent and appropriate. The final decision regarding all Title IX Pregnant accommodations lies with the Gateway Office for Equal Opportunity and Civil Rights.

As with disability accommodations, information about pregnant students' requests for accommodations will be shared with faculty and staff only to the extent necessary to provide the reasonable accommodation and never includes specific medical information. Faculty and staff will regard all information associated with such requests as private and will not disclose this information unless necessary. Administrative

responsibility for these accommodations lies with Title IX Pregnant Student Program who will maintain all appropriate documentation related to accommodations.

In situations such as clinical rotations, performances, labs, and group work, the institution will work with the student to devise an alternative path to completion, if possible. In progressive curricular and/or cohort-model programs, medically necessary leaves are sufficient cause to permit the student to shift course order, substitute similar courses, or join a subsequent cohort when returning from leave.

Students are encouraged to work with the Title IX Pregnant Student Program as soon as they learn they are pregnant and don't yet need accommodation. This will allow the student to devise a plan for how to best address the conditions as pregnancy progresses, anticipate the need for leaves, minimize the academic impact of their absence, and get back on track as efficiently and comfortably as possible.

### **Definitions under this section**

- Caretaking: caring for and providing for the needs of a child.
- Medical Necessity: a determination made by a qualified healthcare provider (of the student's choosing) that a certain course of action is in the patient's best health interests.
- Parental Status: the status of a person who, with respect to another person who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is:
  - A biological parent;
  - An adoptive parent;
  - A foster parent;
  - A stepparent;
  - A legal custodian or guardian;
  - In loco parentis with respect to such a person; or
  - Actively seeking legal custody, guardianship, visitation, or adoption of such a person.
- Pregnancy and Pregnancy-Related Conditions: include: 1) Pregnancy, childbirth, termination of pregnancy, or lactation; 2) medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or 3) the recovery from pregnancy, childbirth, termination of pregnancy, lactation, or their related medical conditions.
- Pregnancy Discrimination: includes treating an individual affected by pregnancy or a pregnancy-related condition less favorably than similar

individuals not so affected and includes a failure to provide legally mandated leave or accommodations.

- Pregnant Student/Birth Parent: refers to the student who is or was pregnant. This policy and its pregnancy-related protections apply to all pregnant persons.
- Reasonable Accommodations: (for the purposes of this provision) changes in the academic environment or typical operations that enables pregnant students or students with pregnancy-related conditions to continue to pursue their studies and enjoy the equal benefits of Gateway.

### **Reasonable accommodations of students affected by qualifying conditions**

- Gateway and its faculty, staff, and other employees will not require students to limit their studies as the result of pregnancy or pregnancy-related conditions.
- The benefits and services provided to students affected by pregnancy will be no less than those provided to students with temporary medical conditions.
- Students with pregnancy-related disabilities, like any student with a short-term or temporary disability, are entitled to reasonable accommodations so that they will not be disadvantaged in their courses of study or research, and may seek assistance from the Title IX Pregnant Student Program.
- Pregnant rights become effective and in force when a student formally contacts and provides required documentation to the Title IX Pregnant Student Program. Accommodations are made within the same semester as the qualifying event occurs and going forward and Gateway typically does not provide retroactive accommodations beyond the current semester. However, there are situations that could prevent a student from registering as a pregnant/parenting student, as noted below, and which must be approved by the Title IX Coordinator. Exceptions include situations that made it impractical or impossible for the student or a designee to contact the Title IX Pregnant Student Program, such as incarceration, incapacitation, homelessness, and the like. Documentation is required that shows dates that correspond to the duration of the exception. The student is responsible for providing all the documentation in the initial request and there are no appeals or further reviews of retroactive accommodations.

The college will provide retroactive accommodations for cases that occurred prior to January 1, 2019, if, after a review of the syllabi from the student's courses and related

information for the semester in question, there is no indication that the student was provided notice of the pregnant students' rights.

Nothing in this policy requires modification to the essential elements of any academic program. A calculation of the student's grade is completed as part of the accommodation process. The student must have been able to earn a passing grade in the class when controlling for the excused time.

## **21. Employee Accommodations**

Pregnant employees are also protected by the Pregnant Workers Fairness Act (PWFA). Under the PWFA, a "qualified employee" is an employee or applicant who, with or without reasonable accommodation, can perform the essential functions of the employment position, except that an employee or applicant may still be qualified if they are temporarily unable to perform an essential job function.

Protections and rights under the PWFA include reasonable accommodations, discovered through an interactive process, to known limitations related to the pregnancy, childbirth, or related medical conditions of a qualified employee, unless the accommodation would impose an undue hardship on the employer. Qualified employees cannot be denied employment opportunities based on the need of the employer to make reasonable accommodations to the pregnancy, childbirth, or related medical conditions of the qualified employee. In addition, a qualified employee cannot be required to take paid or unpaid leave if another reasonable accommodation can be provided to the known limitations related to the pregnancy, childbirth, or related medical conditions of the qualified employee. As with all other laws, the employee requesting or utilizing an accommodation under this provision is protected from retaliation or other adverse action.

### **Nursing Students & Employees**

Gateway provides private personal needs rooms that can be used for any need, including pumping breast milk and medication administration. The college does not provide storage for breast milk though employees may store breast milk in the staff refrigerator.

Each campus and center have a designated personal needs room. Contact [TIXpregnancy@gtc.edu](mailto:TIXpregnancy@gtc.edu) (link sends e-mail) to obtain access.

There is no state law pertaining to workplace lactation/pumping, but the federal Fair Labor Standards Act (FLSA), Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP) Act, & Title IX provide the following protections:

Reasonable break time for an employee to express breast milk for her nursing child for two years after the child's birth each time such employee has need to express the milk.

A place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk. A bathroom, even if private, is not a permissible location.

A reasonable amount of break time to express milk as frequently as needed by the nursing mother. The frequency of breaks needed to express milk as well as the duration of each break will likely vary.

Employers are not required under the FLSA or PUMP Act to compensate nursing mothers for breaks taken for the purpose of expressing milk. However, where employers already provide compensated breaks, an employee who uses that break time to express milk must be compensated in the same way that other employees are compensated for break time. In addition, the FLSA's general requirement that the employee must be completely relieved from duty or else the time must be compensated as work time applies.

Under the PUMP Act, employees are to notify their employer if they believe the employer is not in compliance with the Act and give the employer 10 days from such notice to cure the non-compliance. Submit a report of non-compliance to the Office for Equal Opportunity and Civil Rights.

Retaliation for exercising rights under this provision is prohibited.

### **Student-employee leave**

All student-employees are entitled to the protections of the Family and Medical Leave Act and the Pregnant Workers Fairness Act.

Pregnancy and related conditions shall be treated as any other temporary disability for job purposes, including leave and benefits.

Pregnancy and related conditions will be regarded as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which

employees will be reinstated to the status that they held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

## **22. Free Exercise of Religion and Religious Accommodation**

Students and employees are entitled to accommodation on the basis of religious beliefs. The Equal Employment Opportunity Commission defines religion to include theistic beliefs (i.e., those that include a belief in God) as well as non-theistic moral or ethical beliefs about right and wrong that are as sincerely held with the strength of traditional religious views. The Wisconsin Fair Employment Act defines "creed" as "a system of religious beliefs, including moral or ethical beliefs about right and wrong that are sincerely held with the strength of traditional religious views." The term is to be interpreted broadly and on an individual basis as not all people observe even the same faith in the same way. Social, political, or economic philosophies, or personal preferences, are not "religious" beliefs under Title VII. The law provides protection against religious discrimination in the terms and benefits of employment, including any action that would tangibly impact an employee's employment.

A religious accommodation is one that accommodates an employee or student's observance, practice, or belief unless doing so would create an undue hardship. In the classroom is a change in class schedule or in the way assignments are customarily completed to enable a student to participate in his/her religious practice or belief without causing undue hardship or materially altering the course.

A religious accommodation could also relate to campus policies, procedures or practices pertaining to students, where, because of his/her religious practice or belief, the student was unable to meet a deadline.

Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious perspective of their submissions. Such home and classroom work should be judged by ordinary academic standards of substance, relevance, and other legitimate pedagogical objectives. Thus, if a teacher's assignment involves writing a poem, the work of a student who submits a poem in the form of a prayer (for example, a Psalm) should be judged based on academic standards (such as literary quality) and be neither penalized nor rewarded on account of its religious perspective.

Those seeking religious accommodations should speak with their supervisor or, in the case of students, their instructor. If the employee or student is not satisfied with the accommodation provided, they may file a complaint or otherwise contact the Office for Equal Opportunity and Civil Rights for assistance and resolution options. The Office for

Equal Opportunity and Civil Rights can and may request verification of beliefs and practices if there is a legitimate reason to do so.

### **23. Sexual Harassment**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and Wisconsin Equal Rights Division regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

Gateway has adopted the following definition of Sexual Harassment to address the unique environment of an academic community, including federal law (2 U.S.C. 2000e-2) and state law (Wisconsin Statute 111.36).

Acts of Sexual Harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as conduct on the basis of sex, or that is sexual in nature, that satisfies one or more of the following:

#### **Quid Pro Quo (Title IX):**

- an employee of Gateway,
- conditions the provision of an aid, benefit, or service of Gateway,
- on an individual's participation in unwelcome sexual conduct.

Under Title VI, this type of conduct is referred to as "harassment resulting in discrimination with respect to a term, condition, or privilege of employment" and involves conduct based on a protected characteristic, carried out by a supervisor, manager, agent, or employer, that affects a term, condition, or privilege of employment.

#### **Sexual Harassment:**

- unwelcome conduct,
- determined by a reasonable person,
- to be so severe, and
- pervasive, and,
- objectively offensive,

- that it effectively denies a Complainant equal access to the Gateway's education program or activity or denies an employee the benefits or opportunities of employment.

Under Wisconsin Statute 111.36(1)(b), sexual harassment in the employment context includes implicitly or explicitly making or permitting acquiescence in or submission to Sexual Harassment a term or condition of employment; or making or permitting acquiescence in, submission to or rejection of Sexual Harassment the basis or any part of the basis for any employment decision affecting an employee, other than an employment decision that is disciplinary action against an employee for engaging in Sexual Harassment in violation of this paragraph; or permitting Sexual Harassment to have the purpose or effect of substantially interfering with an employee's work performance or of creating an intimidating, hostile or offensive work environment. Under this paragraph, substantial interference with an employee's work performance or creation of an intimidating, hostile or offensive work environment is established when the conduct is such that a reasonable person under the same circumstances as the employee would consider the conduct sufficiently severe or pervasive to interfere substantially with the person's work performance or to create an intimidating, hostile or offensive work environment.

Sexual harassment by an Employer is committed if a supervisor, manager, or owner of the employer engages in verbal or physical conduct of a sexual nature, whether or not that conduct creates a hostile work environment. In addition,

### **Sexual Assault**

- **Rape:** Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the complainant.
- **Fondling:** The touching of the private body parts of another person (usually buttocks, groin, breasts), for the purpose of sexual gratification, without consent of the victim.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by Wisconsin law
- **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent of 18.

### **Dating Violence**



- Violence, on the basis of sex, committed by a person who is in or has been in a social relationship of a romantic or intimate nature with the complainant.
- The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition, dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

### **Domestic Violence**

1. Felony or misdemeanor crimes committed by a person who is a current or former spouse or intimate partner of the victim under Wisconsin law or a person similarly situated to a spouse of the victim is cohabitating, or has cohabitated with the victim as a spouse or intimate partner, or shares a child in common with the victim or commits acts against a youth or adult victim who is protected from those acts under state family or domestic violence laws.

### **Stalking**

- Engaging in a course of conduct, on the basis of sex (or other protected characteristics), directed at the complainant, that would cause a reasonable person to fear for the person's safety, or the safety of others, or suffer substantial emotional distress.
- For the purposes of this definition, course of conduct means:
  - Two or more acts, including, but not limited to, acts in which the respondent directly, indirectly, or through third parties, 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.
  - A reasonable person means a person under similar circumstances and with similar identities to the complainant.
  - Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Gateway reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy. The most serious offenses are likely to result in suspension/expulsion/termination.

## 24. Force and Consent

As used in the offenses above, the following definitions and understandings apply:

- **Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g. “Have sex with me or I’ll hit you,” “Okay, don’t hit me, I’ll do what you want.”). Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent. Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.
- **Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

### Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain *their* consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonably immediate time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

Proof of consent or non-consent is not a burden placed on either party involved in a complaint. Instead, the burden remains on Gateway to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. When parties consent to BDSM or other forms of kink, non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, and as a result, Gateway’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including due to alcohol or drug consumption. As stated above, a Respondent violates

this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the "who, what, when, where, why, or how" of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual's state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

## **25. Unethical Relationships**

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as faculty and student, supervisor and employee). The relationship may be less consensual than the person who has greater power perceives. 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. The College does not wish to interfere with private choices regarding personal relationships when these relationships do not interfere with the goals and policies of the College. For the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student) are generally discouraged.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with

direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor. Under such circumstances, the College will likely remove the employee from the supervisory or evaluative responsibilities or shift a party out of being supervised or evaluated by someone with whom they have established a consensual romantic or sexual relationship. While no relationships are prohibited by this policy, failure to timely self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

Gateway reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this policy.

## **26. State Law Definitions**

Domestic violence is defined under Wisconsin statute 968.075 (1)(a) as any of the following engaged in by an adult person against his or her spouse or former spouse, against an adult with whom the person resides or formerly resided or against an adult with whom the person has a child in common:

- Intentional infliction of physical pain, physical injury or illness.
- Intentional impairment of physical condition.

A violation of s. 940.225 (1), (2) or (3) [sexual assault statute]

A physical act that may cause the other person reasonably to fear imminent engagement in the conduct described under subd. 1., 2. or 3.

Wisconsin does not have a separate legal definition of dating violence.

Wisconsin statute 940.32(1)(1) defines stalking as a course of conduct, which is a series of two or more acts carried out over time, however short or long, that show a continuity of purpose, including any of the following:

- Maintaining a visual or physical proximity to the victim.
- Approaching or confronting the victim.
- Appearing at the victim's workplace or contacting the victim's employer or coworkers.

- Appearing at the victim's home or contacting the victim's neighbors.
- Entering property owned, leased, or occupied by the victim.
- Contacting the victim by telephone or causing the victim's telephone or any other person's telephone to ring repeatedly or continuously, regardless of whether a conversation ensues.
- Photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim. This subdivision applies regardless of where the act occurs.
- Sending material by any means to the victim or, for the purpose of obtaining information about, disseminating information about, or communicating with the victim, to a member of the victim's family or household or an employer, coworker, or friend of the victim.
- Placing an object on or delivering an object to property owned, leased, or occupied by the victim.
- Delivering an object to a member of the victim's family or household or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased, or occupied by such a person with the intent that the object be delivered to the victim.
- Causing a person to engage in any of the acts described in subds. 1. to 9.

Rape is generally defined as forced sexual intercourse. It may also include situations where the victim is incapable of giving consent due to incapacitation by means of disability or alcohol or other drugs. Many rapes are committed by someone the victim knows, such as a date or friend.

Under State of Wisconsin law 940.225, rape is referred to as sexual assault, and is defined as sexual intercourse against the will of the victim that can occur under a variety of circumstances, including:

First degree sexual assault. Whoever does any of the following is guilty of a Class B felony:

- Has sexual contact or sexual intercourse with another person without consent of that person and causes pregnancy or great bodily harm to that person.

- Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a dangerous weapon.
- Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
- Commits a violation under sub. (2) against an individual who is 60 years of age or older. This paragraph applies irrespective of whether the defendant had actual knowledge of the victim's age. A mistake regarding the victim's age is not a defense to a prosecution under this paragraph.

Second degree sexual assault. Whoever does any of the following is guilty of a Class C felony:

- Has sexual contact or sexual intercourse with another person without consent of that person by use or threat of force or violence.
- Has sexual contact or sexual intercourse with another person without consent of that person and causes injury, illness, disease or impairment of a sexual or reproductive organ, or mental anguish requiring psychiatric care for the victim.
- Has sexual contact or sexual intercourse with a person who suffers from a mental illness or deficiency which renders that person temporarily or permanently incapable of appraising the person's conduct, and the defendant knows of such a condition.
- Has sexual contact or sexual intercourse with a person who is under the influence of an intoxicant to a degree which renders that person incapable of giving consent if the defendant has actual knowledge that the person is incapable of giving consent and the defendant has the purpose to have sexual contact or sexual intercourse with the person while the person is incapable of giving consent.
- Has sexual contact or sexual intercourse with a person who the defendant knows is unconscious.
- Is aided or abetted by one or more other persons and has sexual contact or sexual intercourse with another person without the consent of that person.

- Is an employee of a facility or program under s. 940.295 (2) (b), (c), (h) or (k) and has sexual contact or sexual intercourse with a person who is a patient or resident of the facility or program.
- Has sexual contact or sexual intercourse with an individual who is confined in a correctional institution if the actor is a correctional staff member. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.
- Has sexual contact or sexual intercourse with an individual who is on probation, parole, or extended supervision if the actor is a probation, parole, or extended supervision agent who supervises the individual, either directly or through a subordinate, in his or her capacity as a probation, parole, or extended supervision agent or who has influenced or has attempted to influence another probation, parole, or extended supervision agent's supervision of the individual. This paragraph does not apply if the individual with whom the actor has sexual contact or sexual intercourse is subject to prosecution for the sexual contact or sexual intercourse under this section.
- Is a licensee, employee, or nonclient resident of an entity, as defined in s. 48.685 (1) (b) or 50.065 (1) (c), and has sexual contact or sexual intercourse with a client of the entity.
- (k) Is a law enforcement officer and has sexual contact or sexual intercourse with any person who is detained by any law enforcement officer, as provided under s. 968.24, or is in the custody of any law enforcement officer. This paragraph applies whether the custody is lawful or unlawful and whether the detainment or custody is actual or constructive. Consent is not an issue in an action under this paragraph.

Third degree sexual assault. Whoever has sexual intercourse with a person without the consent of that person is guilty of a Class G felony. Whoever has sexual contact in the manner described in sub. (5) (b) 2. or 3. with a person without the consent of that person is guilty of a Class G felony.

Fourth degree sexual assault. Except as provided in sub. (3), whoever has sexual contact with a person without the consent of that person is guilty of a Class A misdemeanor.



The cities of Racine, Elkhorn, Kenosha, and Burlington; the villages of Sturtevant and Pleasant Prairie; and the counties of Racine, Kenosha, and Walworth do not have local ordinances relating to dating violence, domestic violence, sexual assault, or stalking.

Besides rape, other sexual offenses include the following: sodomy (forced anal intercourse); oral copulation (forced oral-genital contact); rape by a foreign object (forced penetration by a foreign object, including a finger); and sexual battery (the unwanted touching of an intimate part of another person for the purpose of sexual arousal).

In Wisconsin, sexual consent is defined as words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact. The following persons are presumed incapable of consent but the presumption may be rebutted by competent evidence:

- A person suffering from a mental illness or defect which impairs capacity to appraise personal conduct.
- A person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

Complete Wisconsin sexual assault offense definitions can be found in WIS.STAT.940.225: <http://docs.legis.wisconsin.gov/statutes/statutes/940/>

## **27. Preservation of Evidence**

The preservation of evidence in incidents of sexual assault and stalking is critical to potential criminal prosecution and to obtaining restraining orders, and particularly time-sensitive. Gateway will inform the Complainant of the importance of preserving evidence by taking the following actions:

### **Sexual Assault**

Seek forensic medical assistance at the [specify] hospital, ideally within 120 hours of the incident (sooner is better).

Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.

Try not to urinate.

If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.

If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence) or secure evidence container [available from...].

Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

## **Stalking**

Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.

Make a secondary recording of any voice messages and/or save the audio files to a cloud server.

Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, TikTok, Facebook).

Save copies of email correspondence, including notifications related to account access alerts.

Take time stamped photographs of any physical evidence including notes, gifts, etc. in place when possible.

Save copies of any messages showing a request for no further contact.

Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

## **28. Sex Offenders on Campus**

In accordance with the Campus Sex Crimes Prevention Act of 2000, which amends the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, the Jeanne Clery Act and the Family Educational Rights and Privacy Act of 1974, Gateway provides information on where individuals can locate registered sex offenders using the Wisconsin Department of Corrections website:

<http://offender.doc.state.wi.us/public>. All sex offenders are required to register in the state of Wisconsin and to provide notice to the Wisconsin Department of Correction wherever the offender is employed, carries on a vocation, volunteers services or is a student.

Students who have been convicted of a sex offense and are required to register with any state as a sex offender must disclose this information to the Office for Equal Opportunity and Civil Rights at by completing the self-disclosure form at [gtc.edu/safety](http://gtc.edu/safety).

The form must be completed and returned by mail to the Office for Equal Opportunity and Civil Rights (1001 Main St., Racine, WI 53403) or by email to [compliance@gtc.edu](mailto:compliance@gtc.edu).

This disclosure facilitates communication with the individual, enhances safety on campus, and assists the individual by addressing any existing restrictions imposed by probation and/or parole.

The College does not provide campus notifications of the existence of a sex offender on campus or share this information with anyone who does not have a need to know.

## **29. Remedial Action**

Upon notice of alleged discrimination, harassment, sexual misconduct, or retaliation, Gateway will provide written notification to the parties and consider and implement appropriate initial remedial, responsive and/or protective actions. Such actions could include but are not limited to: no contact orders, providing counseling services, academic support, student financial aid counseling, providing a campus escort, changes in transportation, changes to academic or work schedules, safety planning,

and/or referral to campus and community support resources. Requests for accommodations can be made to the Office for Equal Opportunity and Civil Rights.

The College will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor upon a finding that they have engaged in discriminatory, harassing or retaliatory behavior.

The College will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the College's ability to provide the accommodations or protective measures.

### **30. Bystander Intervention**

Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of harm, dating violence, domestic violence, sexual assault, or stalking. Bystander intervention includes:

- recognizing situations of potential harm;
- understanding institutional structures and cultural conditions that facilitate violence, overcoming barriers to intervening, identifying safe and effective intervention options, and taking actions to intervene.

The most basic and best action an active bystander can take is to call Security or local law enforcement at 911.

Additional ways to be a prosocial (active) bystander, include:

- Being vigilant by watching out for your friends and fellow students or employees
- If you see someone who is too intoxicated to consent, enlist their friends to help them leave safely
- Intervening and asking if a person needs help (e.g., "Do you need a ride?" or "Do you want me to call Security or the police?")
- Confronting people who seclude, hit on, and try to make out with, or have sex with people who may be incapacitated.

- Speaking up when someone discusses plans to take sexual advantage of another person.
- Believing someone who discloses sexual assault, abusive behavior, or experience with stalking.
- Encouraging victims to self-report;
- Refer people to on- or off- campus resources listed in this document for support in health, counseling, or with legal assistance.

### **31. Confidentiality and Reporting**

All College employees (faculty, staff, administrators) are expected to report actual or suspected discrimination, harassment, sexual misconduct and retaliation to appropriate officials immediately, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, Student Support Counselors may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to appropriate College officials (except in limited circumstances include suspected child abuse or threat of harm to others) – thereby offering options and advice without any obligation to inform an outside agency or campus official unless a reporting party has requested information to be shared. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

Employees who are confidential and who receive reports within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client. Other resources exist to report crimes and policy violations and these resources will act when an incident is reported to them. If a Complainant expects formal action in response to their allegations, reporting to any Mandated Reporter can connect them with resources to report crimes and/or policy violations, and these employees will promptly pass reports to the Director of Compliance/Title IX Coordinator (and/or law enforcement, if desired by the Complainant), who will take action when an incident is reported to them. The following describes the reporting options at Gateway.

#### **Confidential Reporting**

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

#### On-campus

Licensed professional counselors (Student Support Counselor)

Elkhorn: 262-741-8300

Burlington: 262-741-8300

Kenosha: 262-564-2300

Racine: 262-619-6300

#### Off-campus:

Licensed professional counselors

Local rape crisis counselors

Elkhorn: 800-365-1587

Burlington: 262-638-6741

Kenosha: 800-236-7188

Racine: 262-638-6741

Domestic violence resources

Elkhorn: 262-723-4653

Burlington: 262-633-3233

Kenosha: 800-853-3503

Racine: 262-633-3233

Local or state assistance agencies

#### **Clergy/Chaplains**

All of the above-listed individuals should maintain confidentiality except in extreme cases of immediacy of threat, danger or abuse of a minor. Student Support Counselors

are available to help students free of charge and can be seen during normal business hours. For employees, the Employee Assistance Program is available to provide confidential support services and referrals.

Gateway makes every effort to preserve the confidentiality of reports. Gateway will not share the identity of any individual who has made a report or Formal Complaint of harassment, discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of harassment, discrimination, or retaliation; any Respondent; or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA) or its implementing regulations, or as required by law; or to carry out the purposes of 34 C.F.R. Part 106, including any investigation, hearing, or grievance proceeding arising under these policies and procedures.

Gateway reserves the right to determine which College officials have a legitimate educational interest in knowing about incidents that fall under this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

### **32. Reporting Child Abuse and Neglect**

Wisconsin law 48.981(2) requires that any mandated reporter who has a reasonable cause to suspect that a child (defined as any person under the age of 18) seen by the person in the course of professional duties has been abused or neglected, or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur is required to make a report. Mandated reporters include health professionals and mental health providers, among others. For the purpose of this policy, any employee who has reasonable cause to believe that a child who they've seen in the course of their duties at the College has been abused or neglected or threatened with abuse or neglect that will occur should immediately contact the Office for Equal Opportunity and Civil Rights and may be required to contact the local department of human services.

### **33. Parental Notification**

The College reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or student conduct situation, particularly alcohol and other drug violations. The College may also notify

parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations.

When a student is non-dependent, the College may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk. The College also reserves the right to designate which College officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

### **34. Retaliation**

Protected activity under this policy includes reporting an incident that may implicate this policy, participating in the grievance process, supporting a Complainant or Respondent, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Director of Compliance/Title IX Coordinator and will be promptly investigated. Gateway will take all appropriate and available steps to protect individuals who fear that they may be subjected to retaliation.

Gateway and any member of Gateway's community are prohibited from taking or attempting materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy and procedure.

Filing a complaint could be considered retaliatory when the charges are made for the purpose of interfering with or circumventing any right or privilege provided afforded within H-120: Equity Resolution Process that is not provided by H-130: Title IX Grievance Process. Therefore, Gateway vets all complaints carefully to ensure this does not happen, and to assure that complaints are tracked to the appropriate process.

Charges against an individual for code of conduct violations that do not involve sex discrimination or Sexual Harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of Sexual Harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.



The exercise of rights protected by the First Amendment does not constitute retaliation.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding or equity resolution process under this policy and procedure does not constitute retaliation, provided that a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith.

### **35. False Allegations and Information**

Deliberately false and/or malicious accusations under this policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence; tampering with or destroying evidence; or deliberately misleading an official conducting an investigation, hearing, or informal resolution can be subject to discipline under appropriate Recipient policies.

### **36. Records policy**

Records, both physical and electronic, of incidents or complaints and those produced during a civil rights inquiry or investigation are maintained for no less than seven years 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 investigation. Students and employees may access these records in accordance with applicable College policies on access to records.

Records of the following are retained:

- Each civil rights investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
- Any disciplinary sanctions imposed on the Respondent;
- Any remedies provided to the Complainant designed to restore or preserve equal access to the Gateway’s education program or activity;
- Any appeal and the result therefrom;
- Any Informal Resolution and the result therefrom;

- All materials used to train Director of Compliance, Investigators, Decision-makers, and any person who facilitates an Informal Resolution Process. Gateway will make these training materials publicly available on Gateway's website;
- Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
  - The basis for all conclusions that the response was not deliberately indifferent;
  - Any measures designed to restore or preserve equal access to Gateway's education program or activity;

If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

Gateway will also maintain any and all records in accordance with state and federal laws. The Office for Equal Opportunity and Civil Rights may access student and employee data held on college owned and managed networks as part of an investigation. Such data will be retained in keeping with this policy and other related college policies.

### **37. Revision**

These policies and procedures will be reviewed and updated regularly by the Director of Compliance. The College reserves the right to make changes to this document as necessary and once those changes are posted online at [gtc.edu/eeo](http://gtc.edu/eeo), they are in effect. The Director of Compliance may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Director of Compliance 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.

## **38. APPENDIX A: POLICY EXAMPLES**

Some examples of possible Sexual Harassment include:

- A professor offers for a student to have sex or go on a date with them in exchange for a good grade. This constitutes Sexual Harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- A student repeatedly sends graphic, sexually-oriented jokes and pictures around campus via social media to hundreds of other students. Many don't find it funny and ask the student to stop, but the student does not. Because of these jokes, one student avoids the sender on campus and in the residence hall in which they both live, eventually asking to move to a different building and dropping a class they had together.
- A professor engages students in class in discussions about the students' past sexual experiences, yet the conversations are not in any way germane to the subject matter of the class. The professor inquires about explicit details and demands that students answer them, though the students are clearly uncomfortable and hesitant.
- An ex-partner widely spreads false stories about an individual's sex life with their former partner to the clear discomfort and frustration of the former partner, turning the former partner into a social pariah on campus.

### **Examples of Stalking**

- Students A and B were friends with benefits. Student A wanted a more serious relationship, which caused student B to break it off. Student A could not let go, and pursued student B relentlessly. Student B obtained a campus no-contact order. Subsequently, Student B discovered their social media accounts were being accessed, and things were being posted and messaged as if they were from them, but they were not. Whoever accessed their account posted a picture of a penis, making it look as if they had sent out a picture of themselves, though it was not their penis. This caused them considerable embarrassment and social anxiety. They changed their passwords, only to have it happen again. Seeking help from the Title IX Coordinator, Student B met with

the IT department, which discovered an app on their phone and a keystroke recorder on their laptop, both of which were being used to transmit their data to a third party.

- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate it if the gift deliveries stopped. The student then started leaving notes of love and gratitude on the tutor's car, both on-campus and at home. Asked again to stop, the student stated by email, "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. If I can't have you, no one will."

### **Examples of Sexual Assault:**

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 p.m. until 3:00 a.m., Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. Despite her clear communications that she is not interested in doing anything sexual with him, Bill keeps at her, questions her religious convictions, and accuses her of being "a prude." He brings up several rumors that he has heard about how she performed oral sex on a number of other guys. Finally, it seems to Bill that her resolve is weakening, and he convinces her to "jerk him off" (hand to genital contact). Amanda would have never done it but for Bill's incessant advances. He feels that he successfully seduced her and that she wanted to do it all along but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left.
- Jiang is a junior. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, soon become more intimate, and start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter at the age of five and avoids sexual relations as a result, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses, and begins to have intercourse with Beth, Beth has a severe flashback to her childhood

trauma. She wants to tell Jiang to stop but cannot. Beth is stiff and unresponsive during the intercourse.

### **Examples of Retaliation:**

- A faculty member alleges gender inequity in pay within her department; the Department Chair then revokes his approval for her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual misconduct investigation as a witness whose testimony is damaging to the Respondent, who is also a member of Organization A; the student is subsequently removed as a member of Organization A because of their participation in the investigation.

## **39. APPENDIX B: Protected Class/Characteristic Definitions**

This list is not exhaustive and is intended to provide an overview of each protected characteristic/class. New case law and legislation can impact these definitions.

Age refers to any employee age 40 and over and any age for students.

Ancestry: refers to the country, nation, tribe or other identifiable group of people from which a person descends. It can also refer to the physical, cultural or linguistic characteristics of the person's ancestors.

Arrest and conviction record. Arrest refers to a person has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any felony, misdemeanor or other offense. A conviction record is information indicating that a person has been convicted of any felony, misdemeanor or other offense, been judged delinquent, has been less than honorably discharged, or has been placed on probation, fined, imprisoned or paroled by any law enforcement or military authority.

Color refers to a person's skin color.

Creed refers to a system of religious beliefs, including moral or ethical beliefs about right and wrong that are sincerely held with the strength of traditional religious views."

Disability, as defined under the Wisconsin Fair Employment Act, refers to any employee who has a physical or mental impairment that makes achievement unusually difficult or limits the capacity to work, has a record of such an impairment, or is

perceived as having such an impairment. As it applies to students and employees, it also refers to a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.

Gender identity or expression refers to a person's self-identified gender, which may or may not correspond with their birth sex

Marital status refers to the status of being married, single, divorced, separated, or widowed. Going through a divorce or filing for divorce does not change an individual's marital status from being married.

Membership in any reserve component of the armed forces

Union affiliation refers to membership status in or association with a union.

National origin refers to a person's, or his or her ancestor's, country of birth or because a person has physical, cultural or linguistic characteristics of a national origin group.

Parental status refers to an employee is married or single, or whether they have children or not. In some cases, parental status can be found to be sex-based discrimination.

Pregnancy refers to pregnancy, child- birth, termination of pregnancy, or recovery therefrom and, for employees, a past or potential pregnancy and birth control use.

Political affiliation refers to an employee declining to attend a meeting or to participate in any communication from an employer about religious matters or political matters.

Race refers to a group of people united or classified together based on a common history, nationality or geography. It includes all races, not just members of a racial minority. Racial groups include American Indian or Alaska Native, Asian, Native Hawaiian or Pacific Islander, Black or African American, and White. Bi-racial and multi-racial designations are also recognized.

Religion refers to traditional religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, and newer or less common religions, such as Rastafarianism. The law also protects people who do not have religious beliefs.

Sex refers to being male, female, or intersex.

Sexual orientation refers to heterosexuality, homosexuality, bisexuality, or asexuality, whether actual or perceived, and, as having a history of such a preference or being identified with such a preference.

Military service refers to veteran status (including disabled veteran; recently separated veteran; active-duty, wartime, or campaign badge veteran; and Armed Forces Service Medal veteran).

Viewpoint expression refers to written, verbal, artistic, and other expression of a point of view on any given topic.