

Title IX Grievance Procedures

Sex discrimination violates an individual's fundamental rights and personal dignity. AUM considers sex discrimination in any of its forms to be a serious offense. This policy refers to all forms of sex discrimination committed against students, including but not limited to: unfair treatment based on an individual's sex/gender, sexual harassment, sexual assault, sexual misconduct, and sexual violence by other students, employees, or third parties.

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. To ensure compliance with Title IX and other federal and state civil rights laws, the University has developed policies and procedures that prohibit sex discrimination in all forms. This policy was created to address issues of student sex discrimination.

I. GRIEVANCE PROCEDURE FOR STUDENT COMPLAINTS.

This procedure is intended to apply to student Title IX grievances against staff or faculty, employee Title IX grievances against students, and student-on-student Title IX grievances. All other grievances by students against students or employees against students will be addressed through the student conduct procedures.

Employees who feel they have been treated unfairly based on sex (or other protected classes) by another employee should refer to the University's Policy Regarding the Prohibited Harassment of Employees in addition to this policy.

II. STATEMENT ON NON-DISCRIMINATION.

In compliance with Title IX of the Education Amendments of 1972, Title VI and VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and other federal, state, and local laws, Auburn University Montgomery does not discriminate against students on the basis of race, color, sex (which includes sexual orientation, gender identity, and gender expression), national origin, age, religion, or disability in its programs and activities. These protections extend to employment with and admission to the University by program participants. The Chief HR Officer is the individual designated by the University to coordinate its efforts to comply with Title IX, Section 504 and other equal opportunity and affirmative action regulations and laws.

III. INFORMAL EFFORTS: A USEFUL FIRST STEP BEFORE FILING FORMAL COMPLAINTS

Before pursuing the formal complaint process, every reasonable effort should be made to constructively resolve issues with faculty, staff, or administrators, including following procedures for formal appeal. Whenever possible and safe, a meeting should be scheduled with a Dean of the School (for students against employees) or the Vice Chancellor for Student Affairs (for student against student or employee against student) to attempt to resolve the complaint. If these efforts are unsuccessful, the formal complaint process may be initiated. AUM does not require a student to contact the person involved or that person's supervisor if doing so is not feasible, or if the student believes that the conduct cannot be effectively addressed through informal means.

IV. FORMAL PROCEDURE

If a complaining party does not wish to utilize the informal resolution procedure or is dissatisfied with the outcome of the informal resolution procedure, a reporting party may pursue the formal procedure.

In cases alleging sexual violence or nonconsensual sexual acts between students, a formal complaint should normally be filed by the complaining party with the Office of Accountability and Advocacy, which will follow its written procedures for resolving such complaints. In cases in which the accused is a University employee or third party, a complaint should be filed with the Office of Human Resources, which will follow its written procedures for resolving such complaints.

In all procedures involving allegations of violations of this Policy, the standard of proof shall be “preponderance of the evidence.” A preponderance of the evidence means that the information shows that it is “more likely than not” that the accused violated this Policy. No language in any otherwise applicable conduct or honor code will supersede this standard of proof requirement.

In all formal procedures involving allegations of violations of this Policy by students, the adjudicative body shall be comprised of persons who have received appropriate training approved by the Title IX Coordinator and who have been judged to be impartial in this case or capable of impartial evaluation of the allegations.

The following persons have been designated to handle inquiries regarding the non-discrimination policies:

Jeanine Boddie-LaVan, Chief HR Officer & Title IX Coordinator
Office of Human Resources and Affirmative Action
P.O. Box 244023
Montgomery, Alabama 36124-4023
Phone: (334) 244-3639
Fax: (334) 244-3751
Email: jblavan@aum.edu

Dr. Janice Lyn, Vice Chancellor of Student Affairs & Deputy Title IX Coordinator for Student Sexual Misconduct
Office of the Dean of Students
P.O. Box 244023
Montgomery, Alabama 36124-4023
Phone: (334) 244-3028
Fax: (334) 244-3619
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Dr. Chaundra Thompson Assistant Vice Chancellor & Deputy Title IX Coordinator
Office of Accountability and Advocacy
P.O. Box 244023
Montgomery, Alabama 36124-4023
Phone: (334) 244-3106
Fax: (334) 244-3619
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Jim Herlihy, Senior Athletic Director & Deputy Title IX Coordinator for Athletics
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Dr. Glen Ray, Professor & Deputy Title IX Coordinator for Faculty
School of Sciences - Psychology
P.O. Box 244023
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Dr. Yulanda Tyre Assistant Vice Chancellor & Deputy Title IX Coordinator
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V. GUIDANCE ON REPORTING

Auburn University at Montgomery encourages students who have experienced any form of sexual misconduct to report the incident promptly, to seek all available assistance, to pursue Code of Conduct charges, and where appropriate, to pursue criminal prosecution of the offender. Auburn University at Montgomery takes complaints very seriously and will work with complaining parties to ensure their safety and remedy the situation. Chairs, deans, department heads, and supervisors have a duty to identify and report discriminatory behaviors. Employees and persons with responsibility for supervising or ensuring safety of others (including student employees in the course of their employment duties) have a duty to report discriminatory behaviors observed or reported to them.

VI. OFFICES WHERE A COMPLAINT OR REPORT MAY BE FILED.

The University encourages those who have experienced sex discrimination to report these offenses to the Title IX/Deputy Title IX Coordinators (identified with contact information in a Section IV). Sexual misconduct offenses may also be reported to the Campus Police at 334.244.3424.

VII. GUIDANCE ON TAKING IMMEDIATE ACTION

Tell a trusted person about the incident. Take any immediate action necessary to ensure your safety and physical well-being are addressed first. Depending on the nature of the offense, you may choose to take the following actions:

- Take the immediate action necessary to ensure your safety and well-being
- Contact Auburn University at Montgomery Campus Police at 334.244.3424
- Report the incident to the Title IX/Deputy Title IX Coordinators as listed in Section IV
- Seek immediate medical attention at an area hospital

Other helpful resources include:

- AUM Student Counseling Services at 334.244.3553
- AUM Threat Assessment Team at 334.244.3028
- AUM Office of Accountability and Advocacy at 334.244.3106

In the event that sexual assault or violence occurred, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. (The decision to press charges does not have to be made at this time. However, following these procedures will help preserve this option for the future.) Complaining parties should not bathe, urinate, douche, brush teeth, or drink liquids. Clothes should not be changed; but if they are, bring all the original clothing to the hospital in a paper bag, as plastic bags may damage the evidence.

VIII. COMPLAINT PROCEDURE

All incidents of sex discrimination, including sexual misconduct or retaliation, should be reported to the Title IX Coordinator or designee. The Title IX Coordinator ensures that adequate, reliable, and impartial investigations are conducted on all complaints.

IX. INVESTIGATION

A preliminary investigation into the report shall be conducted by the Title IX Coordinator or designee. The preliminary investigation shall be concluded as quickly as possible within the amount of time reasonably required to complete the investigation. The preliminary investigation will be conducted in a manner so that it is adequate, reliable, and impartial.

The preliminary investigation may include interviews of the parties involved, including witnesses, and the gathering of other relevant information.

At any time during the preliminary investigation, the Title IX Coordinator or designee may recommend that interim protections or remedies for the involved parties or witnesses be provided by appropriate University officials. These protections or remedies may include: separating the parties, placing limitations on contact between the parties, temporarily suspending one or more party, or making alternative workplace or student housing arrangements. These remedies may be applied to one or more parties involved. Failure to comply with the terms of interim protections may be considered a separate violation of University policy.

Written notice of the outcome of this preliminary investigation shall be given to the parties involved by the Title IX Coordinator as soon as reasonably practicable after the conclusion of the preliminary investigation.

The University has developed both informal and formal complaint resolution procedures to respond to sex discrimination. The use of the informal complaint resolution procedure is optional. In instances where the parties involved do not wish to engage in the informal procedure, where attempts at the informal procedure are unsuccessful, or in situations where informal resolution is inappropriate, the formal procedure should be followed.

X. COOPERATION WITH LAW ENFORCEMENT

The University will comply with law enforcement requests for cooperation, and such cooperation may require the University to temporarily suspend the fact-finding aspect of a preliminary Title IX

investigation while the law enforcement agency is in the process of gathering evidence. The University will promptly resume its preliminary Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence-gathering process.

The University will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the complaining party(s) and the campus community and avoid of retaliation.

XI. SEXUAL HARASSMENT AND TITLE IX COMPLIANCE

Sexual harassment is a violation of Title VII of the Civil Rights Act of 1964 and is illegal, sex-based discrimination under Title IX of the Education Amendments Act of 1972. It is against the policy of AUM for any person (faculty, administrator, staff member, or student), male or female, to engage in sexual harassment of another person (faculty, administrator, staff member, or student).

All personnel including faculty, administrators, staff members, and students will be expected to comply with this policy and take appropriate measures to ensure that sexual harassment does not occur. Appropriate disciplinary action, up to and including termination or expulsion, will be taken against anyone who violates this policy in accord with relevant AUM disciplinary procedures for that person's association with the University (faculty, administrators, staff members, or students).

The Title IX coordinator is responsible for overseeing all Title IX complaints and identifying and addressing any patterns or systematic problems that arise during the review of such complaints. The Title IX coordinator is available to meet with students and employees as needed.

XII. IMPORTANT DEFINITIONS AND EXAMPLES

Sex Discrimination is defined as: behaviors and actions that deny or limit a person's ability to benefit from, and/or fully participate in, the educational programs or activities or employment opportunities because of a person's sex/gender.

Examples of sex discrimination under Title IX include, but are not limited to, sexual harassment, sexual assault, failure to provide equal opportunity in education programs, activities, and co-curricular programs including athletics, discrimination based on pregnancy, and employment discrimination.

Sexual Harassment is defined as: unwelcome sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature when:

1. Submission to such conduct is made a term or condition of employment or the educational relationship;
2. Submission to or rejection of such conduct is used as a basis for employment or education decisions affecting the individual, or
3. Such conduct is so severe and pervasive as to objectively interfere with the educational, living, or work performance or environment of a student or employee.

Sexual harassment can involve males or females being harassed by members of either sex. Although sexual harassment sometimes involves a person in a position of greater authority than the harasser, individuals in positions of lesser or equal authority can be found responsible for engaging in prohibited harassment.

Sexual harassment can be physical and/or psychological in nature. A series of incidents can constitute sexual harassment even if one of the incidents considered separately would not rise to the level of harassment.

While sexual harassment encompasses a wide range of conduct, some examples of specifically prohibited conduct include:

- Promising, directly or indirectly, a reward to a student, if the student complies with a sexually-oriented request.
- Threatening, directly or indirectly, retaliation against a student if the student refuses to comply with a sexually-oriented request.
- Denying, directly or indirectly, a student an education or employment-related opportunity if the student refuses to comply with a sexually-oriented request.
- Engaging in unwelcome sexually suggestive conversation or inappropriate physical contact or touching of a student.
- Engaging in indecent exposure.
- Making repeated or persistent sexual or romantic advances toward a student despite the student's rejection of the advances.
- Engaging in unwelcome physical contact such as touching, blocking normal movement, physical restraint, or assault.
- Retaliating against a student for filing a harassment complaint or threatening to report harassment.

XIII. SUPPORT SERVICES

There are various supportive measures available for those who have experienced sex discrimination. These support sources include:

Title IX Coordinator. The Title IX Coordinator serves as the central reference person for information about reporting and the investigative procedure. Additional support services include:

Student Counseling Services. Students who have experienced any form of sex discrimination, including sexual misconduct, may receive free and confidential counseling at Auburn University at Montgomery Student Counseling Services at 334.244.3553.

Office of Accountability and Advocacy. Students who have experienced any form of sex discrimination, including sexual misconduct, may receive additional support and services at 334.244.3106.

XIV. REASSIGNMENTS

When the complaining party and the accused student participate in the same courses, reside in the same University residence or in proximity to one another, or participate in the same activities (e.g., sports teams), complaining parties may request that a fair and immediate way to reassign and/or move one of the persons be decided upon by the Title IX Coordinator and the Vice Chancellor of Student Affairs or a designee. The Vice Chancellor for Student Affairs or designee will consult with the Office of the Provost in making decisions as to whether the complainant/respondent can be released from classes, the appropriate academic dean(s) or faculty in making a determination regarding alternative classroom assignments for the accused student, and/or the complaining party who has experienced a sex offense, and with Housing & Residence Life in making a determination regarding alternative housing assignments.

When a student employee makes an allegation of sexual misconduct and the accused individual works in the same department, alternative work assignments may be made by the appropriate administrator upon request.

Auburn University at Montgomery employees who need assistance may contact the AUM Office of Human Resources or the Title IX Coordinator, or reference the Employee Handbook for information regarding counseling options.

XV. RETALIATION

Auburn University at Montgomery strictly prohibits retaliation against any person for using this reporting procedure, or for filing, testifying, assisting, or participating in any investigation or proceeding involving allegations of sex discrimination. Any person who violates this policy will be subject to discipline, up to and including termination, if he/she is an employee, or dismissal if the person is a student.

Retaliation includes intimidation, threats, harassment and any other adverse action threatened or taken against any complainant or third party because of the complaint or participation in the investigation and/or hearing process.

XVI. CONFIDENTIALITY

Those who have experienced sex discrimination should know that all University employees (Resident Assistants, Auburn University at Montgomery Public Safety and Security, staff members, etc.), excluding licensed professionals from Student Counseling Services, must report known felonies to the police, either directly or through Campus Safety.

If you would like to report an incident or speak to someone about something that happened and you desire that details of the incident be kept confidential, you should speak with staff members in the AUM Counseling Center or a member of an off-campus rape crisis resource, such as Rape Counselors of East Alabama. Campus counselors are available to help you free of charge and can be seen on an emergency basis. All inquiries, complaints, and investigations are treated with discretion. Information is disclosed as law and policy permit or require. However, the identity of the complainant is usually disclosed to the person(s) accused of such conduct and to relevant witnesses.

The Title IX Coordinator or designee shall maintain all information pertaining to a complaint or investigation in secure files.

XVII. FEDERAL STATISTICAL REPORTING OBLIGATIONS.

Certain campus officials (Campus Security officials) have a duty to report violations of this policy for federal statistical reporting purposes. All personally identifiable information is kept private, but statistical information must be passed along to Campus Security officials regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given), for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

XVIII. SPECIAL PROVISIONS

A. Attempted Violations

In most circumstances, the University will treat attempts to commit any of the violations listed in this Policy as if those attempts had been completed.

B. False Reports

The University will not tolerate intentional false reporting of incidents. Intentional false reports may also violate state criminal statutes and/or civil defamation laws.

C. Immunity for Complaining Parties

The University community encourages the reporting of sex discrimination violations. Sometimes, complaining parties are hesitant to report to University officials because they fear that they themselves may be charged with policy violations, such as underage drinking at the time of the incident.

It is in the best interest of this community that as many complaining parties as possible choose to report to University officials. To encourage reporting, the University pursues a policy of offering complaining parties of sex discrimination limited immunity from being charged with policy violations related to the particular incident. While violations to policy cannot be completely overlooked, the University will provide educational options rather than sanctions in such cases.

D. Good Samaritan

The welfare of students in our community is of paramount importance. At times, students on and off campus may need assistance. The University encourages students to offer help and assistance to others in need.

E. Parental Notification

The University reserves the right to notify parents/guardians of students regarding any health or safety emergency, change in student status, or conduct situation. The University also reserves the right to designate which University officials have a need to know about individual complaints pursuant to the Family Educational Rights and Privacy Act (FERPA).

F. Notification of Outcomes

The outcome of a Title IX investigation involving students is part of the education record of the student parties involved, and is protected from release under a federal law, FERPA. However, the University observes the legal exceptions that allow for notification of the parties involved and others whom the University determines to inform based on the law and this policy.

Students who bring any sort of sex discrimination complaint against faculty or staff shall be informed of the outcome of the investigation and the resolution at the same time as the complaint respondent.

The University may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a University policy that is a "crime of violence," including: sex offenses, arson, burglary, robbery, criminal homicide, assault, destruction/damage/vandalism of property and kidnapping/abduction. The University will release this information to the complainant in any of these offenses regardless of the outcome.

G. Alternative Testimony Options for Sexual Misconduct Hearings

For sexual misconduct complaints, whether the complaining party is serving as the complainant or as a witness, alternative testimony options may be given. While such options are intended to help make the complaining party more comfortable, they are not intended to work to the disadvantage of the accused student.

H. Changing Academic or Living Arrangements and Interim Protective Measures:

- Academic Schedules – Any student who has been affected by sexual misconduct who wishes to change his/her classroom or academic situation may discuss various options with the Title IX Coordinator who will work in conjunction with the Office of the Provost. Options include total University withdrawal, discrete course withdrawal, or change of section.
- Campus Room or Apartment – Any student who has been affected by sexual misconduct has the option of changing her/his on-campus housing assignment if alternate housing is reasonably available by contacting options with the Title IX Coordinator who will work in conjunction with the Office of Residence Life at (334)244-3296.
- Interim Protective Measures – The University may take interim steps to protect the complainant as necessary before the final outcome of an investigation. Measures include, but are not limited to “no contact” agreements, interim suspension, and temporary removal from University housing may be taken if deemed appropriate. Any reported retaliatory harassment will be addressed immediately by the Department of Campus Safety and/or Student Affairs.

I. Past Sexual History or Character of the Parties

The unrelated past sexual history or sexual character of a party will not be admissible in hearings.

XIX. Resolution and Appeal Process

A. Resolution Procedures

At the conclusion of the investigation, the investigator will prepare a written report. The report will explain the scope of the investigation and whether any allegations in the complaint were substantiated. The written report will be maintained in the Office of the Human Resources.

A summary of findings and outcomes will be provided to all parties involved (the person who filed the written complaint as well as the person whose behavior is being investigated). There are three potential outcomes that could occur:

Finding of “No Violation” of the University’s Policy on Discrimination or Sexual Harassment

If there is a determination that the behavior investigated did not violate this Policy, both parties will be so informed. Neither party may appeal such a finding. If retaliatory behavior occurs after the issuance of this determination, either party may bring a complaint under this Policy.

Finding of “Inappropriate Behavior Not Rising to the Level of a Violation” of the University’s Policy on Discrimination or Sexual Harassment

There may be a determination that the behavior was inappropriate and unprofessional but did not rise to the level of violating this Policy. Such inappropriate behavior may merit discipline, ongoing monitoring, coaching, or other appropriate action. Neither party may appeal such a finding. If retaliatory behavior occurs after the issuance of this determination, either party may bring a complaint under this Policy.

Finding of “Violation” of the University’s Policy on Discrimination or Sexual Harassment

If there is a determination that the behavior did violate this Policy, a recommendation will be made to the appropriate University official for implementation of disciplinary action against any student, faculty

member, or other University employee. Appropriate action will also be taken against non-University personnel who violate this policy, including formal complaints to their employer and/or restricting access to University property. This finding may be appealed using the process below.

The University's ability to discipline an individual who is not an employee or student (such as a vendor or contractor) is limited by the degree of control, if any; the University has over such individual. Nonetheless, the University will seek to take appropriate action in response to violations of this Policy.

In all cases where a violation is found to have occurred, the University will take steps to prevent the recurrence of the sexual harassment and to remedy the harassing effects on the complainant and others, if appropriate.

B. Appeal Process

Where a violation is found, either party may issue a request for appeal in writing of the investigative committee's decision. The request for an appeal must be within 7 days of the notification of the outcome of the investigation. The decision of granting an appeal will be based upon the information presented in the written letter of the appeal. The grounds for appeal shall be limited to the following:

- Additional information is submitted which was unknown or unavailable **and** would alter the facts of the case.
- A substantial procedural error was committed.
- The decision was not supported by the evidence presented at the hearing.

An appeal will not be automatically granted. All representatives must agree before an action of the Appeals Committee is invoked. If the appeal is granted, the following actions are available:

- Affirm the original decision and/or recommended sanction.
- Return the case back to the Investigative Committee due to the discovery of a procedural error.
- Return the case back to the Investigative Committee due to new and compelling evidence that was not available at the time of the original hearing for consideration.

The designated University representatives will inform the parties involved of his/her decision in writing within ten (10) working days of receiving the appeal. The outcome of this process is not appealable.

Adopted: January 2013

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