

Auburn University at Montgomery Title IX Policy and Grievance Procedures

Title IX of the Education Amendments of 1972 (20 U.S. Code § 1681) mandates that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. Sex/Gender discrimination violates an individual's fundamental rights and personal dignity. Auburn University at Montgomery considers sex/gender discrimination in any of its forms to be a serious offense. To ensure compliance with Title IX and other federal and state civil rights laws, the University has developed policies and procedures that prohibit sex/gender discrimination in all forms.

The Title IX Policy and Grievance Procedures were created to address issues of student sex/gender discrimination. The AUM Title IX Policy and Grievance Procedures refer to all forms of sex/gender discrimination committed against students, including but not limited to: unfair treatment based on an individual's sex/gender, sexual harassment, sexual violence and sexual misconduct by other students, employees, or third parties.

I. 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 at Montgomery does not discriminate on the basis of race, color, sex (which includes sexual orientation, gender identity, and gender expression), religion, national origin, age, veteran status, genetic information, or disability in admission or application to financial aid programs, educational programs or activities, or employment processes. Leslie Meadows is the Title IX Coordinator designated by the University to coordinate its efforts to comply with Title IX.

II. IMPORTANT DEFINITIONS AND EXAMPLES

Campus Security Authorities are: individuals designated by the University with responsibility for supervising or ensuring safety of others (including student employees in the course of their employment duties) and have a duty to report discriminatory behaviors observed or reported to them.

Responsible Employees are identified as University employees who have the authority to take action to redress the harassment, *or* have the duty to report harassment or other types of misconduct to appropriate officials, *or* who a student could reasonably believe has this authority or responsibility. Notice to a Responsible Employee is official notice to the University.

Sex/Gender 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/gender 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, gender-based verbal or physical conduct that is sufficiently severe, persistent or pervasive to have the effect of unreasonably interfering with, limiting or denying someone the ability to participate in or benefit from the university's educational program. The unwelcome behavior may be based on power differentials (*quid pro quo*), the creation of a hostile environment or retaliation. Examples include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwanted sexual attention; to punish a refusal

to comply; to condition a benefit on submitting to sexual advances; sexual violence; intimate partner violence, stalking; gender-based bullying.

Sexual Misconduct refers to: a broad term encompassing any unwelcome behavior of a sexual nature that is committed without consent or by force, intimidation, coercion, or manipulation to include sexual assault and sexual violence.

Sexual Violence refers to: physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs and alcohol. An individual also may be unable to give consent due to an intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment covered under Title IX.

III. TITLE IX GRIEVANCE PROCEDURE FOR STUDENT COMPLAINTS

All personnel including faculty, administrators, staff members, and students will be expected to comply with the Title IX Policy and Grievance Procedures. Appropriate disciplinary action, up to and including termination or expulsion, will be taken against anyone who violates this policy or procedures in accordance 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 also ensures that adequate, reliable, and impartial investigations are conducted on all complaints. The Title IX Coordinator is available to meet with students and employees as needed.

This procedure is intended to apply to 1) student Title IX grievances against staff or faculty, 2) staff or faculty grievances against students, and 3) 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/gender (or other protected classes) by another employee should refer to the University's Policy Regarding the Prohibited Discrimination and Harassment of Employees in addition to this policy.

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

The University has developed both informal and formal complaint resolution efforts to respond to sex/gender discrimination. The use of the informal complaint resolution efforts is optional. Before pursuing the formal complaint process, it may be helpful in certain situations to constructively resolve issues with faculty, staff, or administrators. Whenever possible and safe, a direct conversation between the student and the other party should be initiated. If these efforts are unsuccessful, the formal complaint process may be initiated. The Title IX Coordinator is available to offer guidance when considering informal efforts.

V. FORMAL PROCEDURE

In instances where the parties involved do not wish to engage in an informal effort, where attempts at the informal effort are unsuccessful, or in situations where informal resolution is inappropriate, the formal procedure should be followed.

VI. COMPLAINT PROCEDURE

The University encourages those who have experienced sex/gender discrimination to report these offenses to Leslie Meadows, the University’s Title IX Coordinator. Ms. Meadows serves as the central reference person for information regarding reporting and investigating Title IX complaints. Sexual misconduct offenses may also be reported to the Campus Police at 334.244.3424.

In all formal procedures involving allegations of violations of the Title IX Policy and Grievance Procedures by students, the investigators are comprised of Deputy Title IX Coordinators 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.

Inquiries regarding Title IX Policy and Grievance Procedures can be made directly to:

Leslie Meadows, Title IX Coordinator
Office of Human Resources and Affirmative Action
7400 East Drive, Taylor Center 151
Montgomery, Alabama 36117
Phone: (334) 244-3755
Fax: (334) 244-3751
Email: lmeadows@aum.edu

Alternatively, Title IX complaints can be reported directly to any one of the following Deputy Title IX Coordinators:

Kenneth Jones, Deputy Title IX Coordinator
7400 East Drive, Taylor Center 304
Montgomery, Alabama 36117
(334) 244-3487 | kjone108@aum.edu

Brad Robbins, Deputy Title IX Coordinator
7400 East Drive, 314-A Taylor Center
Montgomery, Alabama 36117
(334) 244-3345 | brobbin2@aum.edu

Dr. Janice Lyn, Deputy Title IX Coordinator
7400 East Drive, Taylor Center 163
Montgomery, Alabama 36117
(334) 244-3028 | jllyn@aum.edu

Jessie Rosa, Deputy Title IX Coordinator
7400 East Drive, Physical Education
Montgomery, Alabama 36117
(334) 244-3712 | jrosa@aum.edu

Dr. Glen Ray, Deputy Title IX Coordinator
7400 East Drive, 210 Goodwyn Hall
Montgomery, Alabama 36117
(334) 244-3690 | gray@aum.edu

Dr. C. Nichole Thompson, Deputy Title IX Office of
7400 East Drive, Taylor Center 163
Montgomery, Alabama 36117
(334) 244-3106 | cthomp23@aum.edu

Twyla Williams, Deputy Title IX Coordinator
7400 East Drive, 9th Floor Library Tower
Montgomery, Alabama 36117
(334) 244-3657 | twill128@aum.edu

Individuals with complaints of this nature also always have the right to file a formal complaint with the:

United States Department of Education
Office for Civil Rights (OCR)
400 Maryland Avenue, SW
Washington, DC 20202-1100
Customer Service Hotline: 800-421-3481
Fax: 202-453-6012
TDD: 877-521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

VII. GUIDANCE ON TAKING IMMEDIATE ACTION

AUM strongly encourages students to take any immediate action necessary to ensure your safety and physical well-being are addressed first. Tell a trusted person about the incident. 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.
- For incidents that occur on campus, contact the Auburn University at Montgomery Campus Police Department at 334.244.3424; for incidents that occur off campus, contact local law enforcement by dialing 911.
- Seek immediate medical attention at a hospital.
- Report the incident to the Title IX Coordinator or Deputy Title IX Coordinators as listed in Section IV.

Other helpful AUM resources include:

AUM Student Counseling Services

Students who have experienced any form of sex/gender discrimination, including sexual misconduct, may receive free and confidential counseling at the Auburn University at Montgomery Student Counseling Services at 334.244.3469.

AUM Student Health Services

The Student Health Clinic is open every semester for currently enrolled AUM students with a valid student I.D. For a nominal co-payment, students can be seen for problem-oriented visits by a certified registered nurse practitioner who can provide health screenings, physical examinations, immunizations, women's health examinations, contraceptive counseling, and laboratory testing at 334.244.3281.

AUM Office of Accountability and Advocacy

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

AUM Police Department

Students who have experienced, witnessed, or are concerned about a safety issue are encouraged to contact AUM's on-campus law enforcement agency any time at 334.244.3424.

Other helpful community resources include:

- Baptist East Emergency Room 334.277.8330
- Alabama Coalition Against Domestic Violence Crisis Line 1.800.650.6522
- Family Sunshine Center 334-263-0218
- One Place Family Justice Center 334.262.7378
- Lighthouse Counseling Services at 334.286.5980
- Standing Together Against Rape (STAR) Crisis Line 334.213.1227

In the event that sexual assault or sexual 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 shower, bathe, attempt to clean affected areas, urinate, brush teeth, eat or drink. 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. INVESTIGATION

An investigation into the report by the Title IX Coordinator or designee shall be conducted and concluded as efficiently as possible within the amount of time reasonably required to complete the investigation. The investigation will be conducted in a manner so that it is adequate, reliable, and impartial. The investigation may include interviews of the parties involved, including witnesses, and the gathering of other relevant information. Written notice of the outcome of the investigation shall be given to the parties involved by the Title IX Coordinator or designee promptly following the conclusion of the investigation. While the length of an investigation will depend on a variety of factors, including the nature and scope of the allegations, the number of parties and witnesses, and the availability of parties and witnesses, the investigator will seek to conclude the investigation within 60 calendar days of receipt of the complaint.

At any time during the investigation, the Title IX Coordinator or designee may recommend that interim measures or accommodations for the involved parties or witnesses be provided by appropriate University officials. These interim measures or accommodations may include: separating the parties, placing limitations on contact between the parties, modifying course scheduling, or initiating alternative workplace or student residence arrangements. These remedies may be applied to one or more parties involved. Failure to comply with the terms of interim measures or accommodations may prompt further action by the University.

In all procedures involving allegations of violations of the Title IX Policy and Grievance Procedures, 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.

IX. COOPERATION WITH LAW ENFORCEMENT

The AUM Police Department, the AUM Office of Human Resources, and the AUM Office of Accountability and Advocacy routinely conduct joint investigations of Title IX grievances. The University will comply with law enforcement requests for cooperation. The University can implement appropriate interim measures and accommodations during the law enforcement agency’s investigation period to provide for the safety of the complaining party and the campus community and avoid retaliation.

X. RETALIATION

A fear of retaliation is one of the reasons people experiencing sexual harassment, sex/gender discrimination, or sexual misconduct may be reluctant to report the incidents. The University 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/gender discrimination. Any person who violates this policy will be subject to discipline, up to and including employment termination or academic dismissal. 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.

XI. CONFIDENTIALITY

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 Student Counseling Services or AUM Student Health Services. It is important to note that while information reported to a licensed counselor or health provider is confidential, the provider does have a duty to warn others of any potential danger that may place a student, another individual, or the campus community at risk of being harmed. AUM counselors are available to help students 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.

When reporting incidents to other individuals at the University, including the Title IX Coordinator or designee, every effort will be made to respect a request for confidentiality. However, it is not guaranteed. The Title IX coordinator or designee will evaluate the request in the context of the University's responsibility to provide a safe and nondiscriminatory environment for all students. When information must be shared in order to conduct an investigation, the information will only be shared with individuals who have a legitimate need to know. Information pertaining to a complaint or investigation is maintained in secure files.

XII. MANDATORY REPORTING

Auburn University at Montgomery takes complaints very seriously. There may be a time when an employee or AUM representative becomes aware of behaviors that are disruptive or of concern. In situations that could involve harassment of any type, we are required by law to take action. Additionally, employees and those representing AUM have to consider that they are not necessarily privy to all the information (similar incidents, past decisions, new rulings, etc.) needed to make the necessary determinations in these types of situations. As such, in order to protect everyone, employees must notify the Office of Human Resources immediately once they are made aware or receive a complaint of:

- Hostile Environment
- Harassment
- Sexual Harassment
- Discrimination
- Sexual Misconduct
- FERPA Violations
- Retaliation
- Threats of Violence
- Criminal Activities
- Violations of Employment Law

XIII. FEDERAL STATISTICAL REPORTING OBLIGATIONS

Campus Security Authorities (CSAs) and mandatory reporters have a duty to report violations of Title IX for federal statistical reporting purposes. All personally identifiable information is kept private, but statistical information must be passed along to CSAs regarding the type of incident and its general location (on-campus 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.

XIV. SPECIAL PROVISIONS

- A. Attempted Violations: In most circumstances, the University will treat attempts to commit any of the violations listed in Title IX Policy and Grievance Procedures 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 encourages the reporting of sex/gender 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/gender 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 members of the campus community to offer help and assistance to others in need.
- E. Parental/Guardian 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 legitimate 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 the Title IX Policy and Grievance Procedures.
- G. Alternative Testimony Options: For sex/gender discrimination 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 complainant or witness more comfortable, they are not intended to disadvantage of the respondent.

XV. 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 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:

1. Finding of “No Violation” of the University’s Policy Regarding Prohibited Discrimination and Harassment

If there is a determination that the behavior investigated did not violate the University’s Policy Regarding Prohibited Discrimination and Harassment, 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 the Title IX Policy and Grievance Procedures.

2. Finding of “Inappropriate Behavior Not Rising to the Level of a Violation” of the University’s Policy Regarding Prohibited Discrimination and Harassment

There may be a determination that the behavior was inappropriate and unprofessional but did not rise to the level of violating the University’s Policy Regarding Prohibited Discrimination and Harassment. 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 Title IX Policy and Grievance Procedures.

3. Finding of “Violation” of the University’s Policy Regarding Prohibited Discrimination and Harassment

If there is a determination that the behavior did violate the University’s Policy Regarding Prohibited Discrimination and Harassment, a recommendation will be made to the appropriate University official for implementation of disciplinary action against any student, or staff or faculty member. 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, including formal complaints to their employer and/or restricting access to University property. This finding may be appealed using the process below.

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 written request for appeal of the investigative decision. The request for an appeal must be submitted within seven (7) working 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, and will be determined by an assembled Appeals Committee. 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 during the course of the investigation.

The Appeals Committee will be comprised of Deputy Title IX Coordinators who were not involved in the initial investigation and who have limited knowledge of the initial investigation. All members of the Appeals Committee must agree before an action is invoked.

If the appeal is granted, the following actions are available:

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

The Appeals Committee will inform the parties involved of the decision in writing within ten (10) working days of receiving the appeal. The outcome of this process cannot be appealed.

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