

# **AUBURN UNIVERSITY at MONTGOMERY**

## **POLICY REGARDING PROHIBITED DISCRIMINATION (INCLUDING HARASSMENT) OF EMPLOYEES**

### **1. INTRODUCTION**

Auburn University at Montgomery is committed to providing a working and academic environment free from prohibited discrimination and harassment and to fostering a nurturing and vibrant community founded upon the fundamental dignity and worth of all its members.

### **2. POLICY**

In accordance with applicable federal law, Auburn University at Montgomery complies with all regulations regarding unlawful discrimination against or harassment of its employees. Any form of discrimination or harassment related to an employee's race, color, sex (which includes sexual orientation, gender identity, and gender expression), religion, national origin, age, veteran status, genetic information, or disability (protected classes) is a violation of University policy. Any violation of this policy will be treated as a disciplinary matter. This policy is intended to cover any prohibited harassment of or discrimination against an employee by another employee, student, or University agents. This policy also covers harassment of employees by non-employees on University property or while engaged in University sponsored activities, as well as prohibited discrimination against employees by University contractors.

### **3. DEFINITION**

Harassment in academic settings and in the employment arena where employees are involved is defined as:

Conduct (physical, verbal, graphic, written, or electronic) that is (1) unwelcome; (2) discriminatory on the basis of race, color, sex, religion, national origin, age, sexual orientation, veteran status, genetic information, or disability; (3) directed at an individual or group in one of the protected classes outlined in this policy; and (4) **that is sufficiently serious to interfere with or limit a student's ability to participate in or benefit from the services, activities, or opportunities offered by the University.**

### **4. PROHIBITION AGAINST RETALIATION**

It is a violation of this policy to take an adverse employment action against any employee, because he/she opposed a practice they reasonably believed to be discriminatory; or filed an internal or external complaint, grievance, or charge; or participated in any investigation or proceeding, in accordance with this policy.

If an employee feels that he or she is being harassed by any other employee (including supervisor, coworker, etc.) because of his/her protected class, the employee should immediately make this known to his or her immediate supervisor. The supervisor will promptly notify the Office of Human Resources whose responsibility it is to see that the matter is investigated, and that, where appropriate, disciplinary action is taken. If the employee does not feel the matter can be discussed with the supervisor, the employee should arrange for a conference with the Office of Human Resources to discuss the complaint.

Prohibited harassment of University employees in connection with their work by non-employees may also be a violation of this policy. Any employee who becomes aware of prohibited harassment of an employee by a non-employee should report such harassment to his or her supervisor or to the Office of Human Resources, whose responsibility it is to investigate such matters. Appropriate action will be taken against non-employee violators of this policy.

## **5. REPORTING PROCEDURES**

Employees who believe they have been discriminated against or harassed on the basis of their protected class should report incidents in writing to the Office of Human Resources as indicated below:

Jeanine Boddie-LaVan  
Chief Human Resources Officer  
AA/EEO/ADA and Title IX Coordinator  
Office of Human Resources  
304 Taylor Center  
Phone: 334-244-3639  
E-mail: [jblavan@aum.edu](mailto:jblavan@aum.edu)

The written complaint should identify the parties involved; describe the discriminatory or harassing conduct, including when and where it occurred; and identify by name or description any witnesses and/or evidence. Written complaints should be forwarded directly and only to the appropriate designated individual as listed above.

Representatives from the Office Human Resources will investigate the incident and will consult with witnesses and other appropriate University officials as necessary. Complaints will be handled on a “need to know” basis with a view toward protecting the complaining party from possible reprisal and protecting the accused from irresponsible or mistaken complaints.

## **6. INVESTIGATION PROCESS**

Upon receipt of the written complaint, an impartial investigation shall be conducted. A thorough investigation will afford the complainant, the subject of the complaint, other interested persons, and their representatives, if any, an opportunity to provide witnesses, submit documents, and information relevant to the consideration of and resolution of the complaint.

The purpose of the investigation is to gather facts relating to the incident(s) outlined in the written complaint and to determine whether it is more likely than not that the alleged behavior occurred and, if so, whether it constitutes discrimination and/or harassment. The internal complaint process allows individuals to submit their complaint through their chain of command if appropriate, although the requisite fact finding phase will typically be conducted by the Office of Human Resources. The investigator (or co-investigators, as necessary) will conduct a fact-finding inquiry that may include written statements, interviews and any other sources of evidence the investigator deems appropriate.

The investigation record will consist of informal statements (not taken under oath) from the alleged victim, the alleged offender, and the witnesses.

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 days of receipt of the complaint.

When appropriate, prior to or during the investigation, the University may take reasonable and appropriate interim steps to protect the safety and well-being of members of the University community, maintain the integrity of the investigative and/or resolution process, and deter retaliation.

## **7. 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 and/or 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 and/or Harassment*

There may be a determination that while the behavior was inappropriate and unprofessional, it 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 and/or 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 any disability based discrimination or harassment and to remedy the discriminatory effects on the complainant and other, if appropriate.**

## **8. 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.

## **9. MANDATORY REPORTING**

There may be a time when an employee or AUM representative becomes aware of behaviors that are disruptive or of concern. Once they are made aware, regardless of how they choose to respond, the University has been put on notice and will be held liable for the action or inaction that is taken. We recognize that a natural inclination may be to avoid it, resolve it, let the parties work it out, etc. However, in situations that could involve harassment of any type, we are required by law to do more. 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, each person should notify the Office of Human Resources immediately once they are made aware or receive a complaint of:

- Hostile environment
- Harassment
- Sexual Harassment
- Discrimination
- Drug/Alcohol Abuse
- Sexual misconduct
- Retaliation
- Threats of violence

Please note that there is no specific language that the employee must use. However, if there is a belief or suspicion that an incident has occurred, send the employee to the Office of Human Resources and follow-up with the Chief HR Officer at 334 244-3639 to personally ensure that the situation has been redirected appropriately. We want to work with the leadership on our campus to be vigilant about preventing and immediately correcting these behaviors and ensuring a culture and a workplace free from discriminatory and harassing behaviors.

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