

AUBURN UNIVERSITY at MONTGOMERY

POLICY REGARDING PROHIBITED DISCRIMINATION & HARASSMENT OF STUDENTS

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 students. Any form of discrimination or harassment related to protected classes such as a student's race, color, sex, religion, national origin, age, sexual orientation, gender identity, gender expression, veteran status, genetic information, or disability 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 a student by other students, employees, or University agents. This policy also covers harassment of students by non-employees on University property or while engaged in University sponsored activities, as well as prohibited discrimination against students by University contractors. Student-on-student complaints of sex/gender harassment or sexual misconduct, up to and including sexual assault, will be handled according to the University's [Title IX Policy & Grievance Procedures](#).

3. DEFINITION

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

Conduct (physical, verbal, graphic, written, or electronic) that is (1) unwelcome; (2) discriminatory on the basis of a protected class referenced in the above policy; (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 action against any student 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.

5. REPORTING PROCEDURES

Students who believe they have been discriminated against or harassed on the basis of their protected class by faculty, staff members, students, or third parties (such as members of the general public or University contractors while on University property or while engaged in University sponsored activities) should immediately report incidents to the Office of Human Resources or Student Affairs as indicated below:

Nicole Whitehead, Ed.D.
Chief Human Resources Officer
AA/EEO/ADA and Deputy Title IX Coordinator
Office of Human Resources
Library Tower 9th Floor
334-244-3641 | HR@aum.edu

Tonya Dupree, JD, SPHR
Title IX & Compliance Coordinator
Office of Human Resources
Library Tower 9th Floor
334-244-3755 | tonya.dupree@aum.edu

Representatives from the Office of Human Resources will investigate the incident and will consult with witnesses and other appropriate University officials as necessary. The University will use its best efforts not to disseminate information concerning the complaint beyond those who have a legitimate need to know, with a view toward protecting the complaining party from possible reprisal and protecting the accused from irresponsible or mistaken complaints. If a student believes he or she has been discriminated against regarding academic accommodations on the basis of a disability by a student, employee, or third party, the student should contact:

Dr. Phill Johnson
504 Compliance Officer
211A Library Tower
Phone: 334-244-3200
E-mail: pjohns23@aum.edu

This is the person designated to coordinate the University's compliance with Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act and to handle inquiries regarding the non-discrimination policies related to disability.

6. INVESTIGATIVE PROCESS

Upon receipt of the written complaint, an impartial investigation shall be conducted. A thorough investigation will afford the complainant, the accused party of the complaint, and other involved persons an opportunity to provide witnesses, submit documents, and convey information relevant to the consideration of and resolution of the complaint.

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 complainant and respondent promptly following the conclusion of the investigation.

At any time during the investigation, the Office of Human Resources or Student Affairs 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.

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.

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 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:

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 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.

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 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.

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

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 investigation for consideration.

The Appeals Committee 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 eligible for appeal.

9. MANDATORY REPORTING/CAMPUS SECURITY AUTHORITIES

Auburn University at Montgomery takes complaints very seriously. Chairs, deans, department heads, and supervisors are considered mandatory reporters and have a duty to identify and report harassing and discriminatory behaviors. Campus Security Authorities (CSAs) are employees and persons 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 harassing and discriminatory behaviors observed or reported to them.

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

All faculty, staff, and administrators should assist students in directing their harassment and/or discrimination complaints to the Office of Human Resources or Student Affairs. If there is a belief or suspicion that an incident has occurred, send the individual to the Office of Human Resources and follow-up with the Chief HR Officer at 334 244-3641 to personally ensure that the situation has been redirected appropriately. The Office of Human Resources works closely with the leadership on our campus in a vigilant effort to prevent and immediately respond to violations and ensure a culture and a workplace free from discriminatory and harassing behaviors.

REVISED: May 2019