



Procedure 6.16: Title IX Policy and Procedure
Volume 6.

Managing Office: Office of Human Resources

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I. INTRODUCTION

Alabama A&M University (AAMU) is committed to creating and maintaining a safe educational and work environment that is free from discrimination and harassment.

II. OBJECTIVE AND PURPOSE

The objective is to ensure that everyone is aware, informed, and prepared to address concerns regarding sex discrimination and harassment in all forms.

Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. As a part of a campus-wide comprehensive prevention program and to ensure compliance with Title IX and other federal and state civil rights laws, AAMU has developed policies and procedures that prohibit sex discrimination and harassment in all forms.

III. UNIVERSITY STATEMENT ON NON-DISCRIMINATION

In compliance with Title IX of 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, AAMU is committed to an educational and work environment in which all individuals are treated with respect and dignity. Therefore, discrimination or harassment based on age, race, sex (which includes gender, gender identity, and gender expression), color, religion, national origin, disability, genetic information, sexual orientation, covered veteran status, or any other characteristics protected under state, federal, or local law will not be tolerated. This applies to all applicants, employees, students, guests, vendors, and persons doing business with the University. The University prohibits harassment, discrimination and retaliation whether engaged in by fellow employees, by a supervisor or manager or by someone not directly connected to the University. (e.g., an outside vendor or customer). The Human Resources Director 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.

IV. POLICY

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

V. INFORMAL PROCEDURE: 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 the appropriate academic dean (for students against employees) or the Associate Vice President 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. AAMU 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.

VI. FORMAL GRIEVANCE PROCEDURE

This procedure is intended to apply to student Title IX grievances against staff or faculty employees. All other grievances by students against students or employees against students will be addressed through the student code of 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.

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 Student Affairs, 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 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 the 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 Deputy Title IX Officer 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:

Lisa A. Spencer, SPHR Director of Human Resources & Title IX Coordinator Office of Human Resources and Affirmative Action
Normal, Alabama 35762
Phone: (256) 372-5835
Fax: (256)372-5881
Email: lisa.spencer@aamu.edu

VII. GUIDANCE ON REPORTING

AAMU 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. AAMU takes complaints very seriously and will work with complaining parties to ensure their safety and remedy the situation. Chairperson, Deans, Department Heads, and Supervisors have a duty to identify and report discriminatory behaviors. Employees and person 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.

VIII. OFFICE WHERE A COMPLAINT OR REPORT MAY BE FILED

The University encourages those who have experience sex discrimination to report these offenses to the Title IX/Deputy Title IX Coordinator (identified with contact information in VI). Sexual misconduct offenses may also be report to the Department of Public Safety at 256-372-5555.

IX. 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:

1. Take the immediate action necessary to ensure your safety and well-being.
2. Contact the Alabama A&M University Department of Public Safety at 256-372-5555.
3. Report the incident to the Title IX/Deputy Title IX Coordinator as listed in Section VI.
4. Seek immediate medical attention at an area hospital.
5. Other helpful resources include:
 - a. Crisis Services of North Alabama at 256-716-1000
 - b. Alabama A&M University Health and Counseling Services at 256-372-5601

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.

X. 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.

XI. 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 or designee 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.

XII. 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 retaliation.

XIII. 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 AAMU 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). Sexual harassment is defined as unwelcome sexual advance, request for sexual favors, and/or other conduct of a sexual nature.

All personnel including faculty, administrators, staff members, and students will be expected to comply with the 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 AAMU 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.

XIV. IMPORTANT DEFINITIONS AND EXAMPLES

A. Consent

"Consent" must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

B. Sexual Assault

"Sexual assault" is actual or attempted sexual contact with another person without that person's *consent*. Sexual assault includes, but is not limited to:

Intentional touching of another person's intimate parts without that person's *consent*; or

- Other intentional sexual contact with another person without that person's *consent*; or
- Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's *consent*; or

Rape, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent.

C. Sexual Discrimination

Sexual 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.

Example 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.

D. Sexual Exploitation

"Sexual exploitation" occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's *consent*.

Examples of behavior that could rise to the level of sexual exploitation include:

Prostituting another person;

- Recording images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's *consent*;

Distributing images (e.g., video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not *consent* to such disclosure and objects to such disclosure; and,

Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's *consent*, and for the purpose of arousing or gratifying sexual desire.

E. Sexual Harassment

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 includes a wide range of conduct, some examples of specifically prohibited conduct include:

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

F. Unwelcome Conduct

Conduct is considered "unwelcome" if an individual did not request or invite it and considered the conduct to be undesirable or offensive. Unwelcome conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening.

XV. SUPPORT SERVICES

These 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:

Alabama A&M University Health and Counseling Services: Students who have experienced any form of sex discrimination, including sexual misconduct, may receive confidential counseling at Alabama A&M University Health and Counseling Services by calling 256-372-5601.

XVI. 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 President for Student Affairs or a designee. The Vice President 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 deciding regarding alternative classroom assignments for the accused student, and/or the complaining party who has experience a sex offense, and with Housing & Residence Life in deciding 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.

AAMU employees who need assistance may contact the AAMU Human Resources Director for information regarding counseling options.

XVII. RETALIATION

AAMU 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 they are an employee, or dismissal if they are 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.

XVIII. CONFIDENTIALITY

Those who have experienced sex discrimination should know that all University employees, excluding licensed professionals from Student Counseling Services, must report known felonies to the police, either directly or through the University Public Safety Department.

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 the staff members in the AAMU Health and Counseling Center or a member of an off-campus crisis resource, such as Crisis Services of North Alabama. Campus counselors are available to help students 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.

XIX. FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials (Department of Public Safety 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.

XX. 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 the University 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 Office of Academic Affairs. 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 the Vice President for Student Affairs.
 - **Interim Protective Measures-**The University may take interim steps to protect the complainant as necessary before the final outcome of an
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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 Public 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.