

Augusta University

Policy Library

Anti-Harassment and Non-Discrimination Policy

Policy Manager: University HR Services

POLICY STATEMENT

In accordance with applicable Federal and State law, the University System of Georgia (USG) and Augusta University (AU) prohibit its faculty, staff, and students from engaging in any form of prohibited discrimination or protected status harassment (including sexual harassment), and expects these individuals to refrain from committing acts of bias within the USG's jurisdiction which includes AU. AU complies with applicable State and Federal law which provides that it shall be an unlawful discriminatory practice for any employer, because of the sex (including gender and pregnancy discrimination), age, disability, national origin, race, religion, genetic information, or veteran status of any person, to discharge without cause, to refuse to hire, or otherwise discriminate against any person with respect to any matter directly or indirectly related to employment or academic standing.

AU is strongly committed to ensuring that its learning and working environments are free of harassment and discrimination because of a person's race, national origin, gender, age, religion, veteran status, sexual orientation, genetic information, or disability. AU shall respond in a swift and effective manner, with a goal of eliminating such conduct.

Prohibited discrimination includes any action taken by an AU employee to deny benefits, promotion, leave, overtime, or other privileges of employment to an employee because of the employee's race, national origin, gender, age, religion, veteran status, sexual orientation, genetic information, or disability.

Prohibited discrimination also includes harassment by a co-worker, student, vendor, supervisor, or other employee of AU on the basis of race, national origin, gender, age, religion, veteran status, sexual orientation, genetic information, or disability that is sufficiently severe and pervasive so as to constitute a hostile work environment.

Sexual Harassment is offensive and demeaning. It can create an inhospitable employment or academic environment and can seriously interfere with an individual's work or scholarly pursuits. Such behavior subverts the mission of AU and threatens the careers, educational experience and well-being of faculty, staff, and students.

AU is committed to maintaining our academic community as a place of work and study for faculty, staff, and students, free of sexual harassment and all forms of sexual intimidation and exploitation. AU prohibits all sexually harassing behavior, including behavior made unlawful by Title VII of the Civil Rights Act of 1964 and Title IX of the Educational Amendments of 1972. It is the goal of AU to foster mutual respect and courtesy among all members of the employment and academic community, and to eliminate sexual harassment from occurring on campus.

No individual at AU may take actions to retaliate against any person who brings, or is thought to have brought, a complaint alleging harassment or discrimination, or who has cooperated with, or participated

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in any way with an investigation conducted pursuant to this policy. Encouraging others to retaliate is also a violation of this policy. Any employee who engages in unlawful retaliation shall be subject to disciplinary action, up to and including, discharge from employment.

AFFECTED STAKEHOLDERS

Indicate all entities and persons within the Enterprise that are affected by this policy:

- Alumni Faculty Graduate Students Health Professional Students
 Staff Undergraduate Students Vendors/Contractors Visitors
 Other:

PURPOSE FOR POLICY

This policy ensures compliance with federal and state laws including: Title VI of the Civil Rights Act of 1964 (“Title VI”), Title VII of the Civil Rights Act of 1964 (“Title VII”), Title IX of the Education Amendments of 1972 (“Title IX”), Title II of the Genetic Information Act of 2008 (“Title II”), the Americans with Disabilities Act (ADA), the Pregnancy Discrimination Act, and the Age Discrimination in Employment Act (ADEA), and any another other applicable Federal and State law.

This policy outlines AU’s commitment to maintaining an atmosphere free from discrimination, harassment, or sexual harassment and all forms of sexual intimidation and exploitation. AU is prepared to take action to prevent and correct any occurrence of discrimination or harassment, and individuals who engage in such behavior are subject to discipline. AU fosters mutual respect and courtesy, and discourages sexual harassment from occurring on our campus. Every member of the university and its community is expected to become aware of and support this policy for employees and the [Sexual Misconduct Policy](#) for students.

DEFINITIONS

Board of Regents: The governing body of the University System of Georgia

Complainant: An individual who is alleged to have experienced conduct that violates applicable policies

Respondent: An individual who is alleged to have engaged in conduct that violates applicable policies

Sexual Harassment: Unwelcome verbal, nonverbal, or physical conduct, based on sex (including gender stereotypes) that may be any of the following:

- Implicitly or explicitly a term or condition of employment status in a course program or activity
- A basis for employment or education decisions; or
- Sufficiently severe, persistent, or pervasive to interfere with one’s work or educational performance creating an intimidating, hostile, or offensive work environment; or
- Note: Behavior may rise to the level of a Title IX violation.

Title IX Sexual Misconduct: Conduct on the basis of sex that satisfies one or more of the following: conditioning the provision of an aid, benefit, or service of the institution on an individual's participation in unwelcome sexual conduct (quid pro quo harassment); unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or sexual assault, dating violence, domestic violence, or stalking as defined by IX. The alleged conduct must have occurred in the United States on or at institution-sponsored or affiliated events where the institution exercises substantial control over both the Respondent and the context, or in buildings owned or controlled by a student organization that is officially recognized by the institution. See [Board Policy 6.7 Sexual Misconduct](#).

Sexual Misconduct: includes, but is not limited to, such unwanted behavior as dating violence, domestic violence, nonconsensual sexual contact, nonconsensual sexual penetration, sexual exploitation, sexual harassment, and stalking as defined in the Policy of the Board of Regents of the University System of Georgia.

Adverse Actions: Actions that can affect the status of an applicant or employee which Includes termination, demotion, denial of benefits, and any other negative employment actions taken against an employee.

PROCESS & PROCEDURES

Overview

It is a violation of this policy for an employee, faculty member, contractor, or visitor to sexually harass, harass in other form, or discriminate against any individual at Augusta University. Persons who feel that they have been subjected to harassment or discrimination are encouraged to have their concern addressed. Any person who files a complaint is believed to have filed in good faith, and the complaint will be investigated by the AA/EEO Officer. The individual accused of harassing/discriminatory behaviors will be able to address the allegations made against him or her. The process will include:

A. Reporting Procedure & Initial Evaluation of Reports

Any employee who believes he/she has been discriminated against/subjected to harassment, or is aware of discrimination/harassment against others, should contact the [AA/EEO Officer](#). Information on [filing a complaint](#) is available online. A [written statement](#) outlining the alleged behavior is a minimum requirement.

Upon notice of the alleged misconduct, the AA/EEO Officer will assess whether a formal investigation, informal resolution, or dismissal would be appropriate. In making this determination, AU will assess whether the allegation(s), if true, would rise to the level of prohibited conduct, whether an investigation is appropriate in light of the circumstances, whether the parties prefer an informal resolution, and whether any safety concerns exist for the campus community. The need to issue a broader warning to the community in compliance with the Clery Act shall be assessed in compliance with federal law.

B. Confidentiality

Where a Complainant requests that their identity be withheld or the allegation(s) not be investigated, AU will consider whether or not such request(s) can be honored while still providing a safe and nondiscriminatory environment. AU will inform the Complainant that the institution cannot guarantee confidentiality and that even granting confidentiality shall not prevent AU from reporting information or statistical data as required by law, including the Clery Act.

C. Retaliation

Retaliation against any employee, faculty, resident, or student under this policy by anyone in the AU community is a violation of this policy and applicable law. Retaliation occurs when a person who participates in a protected activity or protests against discrimination is impacted by an (or we could say “suffers an”) adverse employment action. This includes individuals who (1) file or encourage one to file a complaint of unlawful discrimination, (2) participate in an investigation of unlawful discrimination, or (3) oppose unlawful discrimination in one of the listed protected categories. Employees should report any retaliation to a supervisor, any manager, or to the AA/EEO Officer. Complaints will be immediately, objectively, and thoroughly investigated.

Retaliation can also occur between co-workers who act against an individual who has actively participated in an investigation. Such acts under this category may include withholding information that is needed for the employee to complete his/her job duties, avoidance and other such adverse actions.

Anyone who has made a report or complaint, provided information, assisted, participated, or refused to participate in any manner in these proceedings, shall not be subjected to retaliation. Instances of retaliation include, but are not limited to, unfair grading, unfair evaluation, public or private ridicule, threats of any kind. Encouraging others to retaliate also violates this policy. Retaliation shall be investigated independently of whether or not the original allegation is substantiated. Anyone who believes that they have been subjected to retaliation should immediately contact the AU Employee Relations department and report the matter. Any person found to have engaged in retaliation in violation of this Policy shall be subject to disciplinary action (up to and including suspension or termination).

D. False Reporting

Individuals are prohibited from knowingly making false statements or knowingly submitting false information to a system or institution official. Any person found to have knowingly submitted false complaints, accusations, or statements, including during a hearing, in violation of this Policy shall be subject to appropriate disciplinary action (up to an including suspension or termination).

E. Support Services

Once AU has received information regarding the alleged misconduct, the parties will be provided written information about support services. Support services are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without charge that are made available to the Complainant and Respondent. AU provides an Employee Faculty Assistance Program and the USG provides an Employee Assistance Program, both services available to all employees without charge.

F. Investigation and Resolution

Investigations under this policy will be conducted by the AA/EEO Officer, Director of Employee Relations or designee, unless otherwise noted or investigated under Title IX. Matters that require investigation will be conducted in a timely manner. Barring extenuating circumstances, investigations and recommended resolutions should generally be completed within 60 days of receipt of the formal written complaint. In such cases where the investigation and resolution will exceed the 60 day period, the parties will be notified in writing with an explanation of why.

G. Disciplinary Action

In determining the severity of sanctions or corrective actions, the following should be considered: the frequency, severity, and/or nature of the offense; history of past conduct; an offender's willingness to accept responsibility; previous institutional response to similar conduct; strength of the evidence; and the wellbeing of the AU community. The [AU Work Rules of Conduct](#) will be reviewed and considered when determining corrective action.

H. Appeals

If the disciplinary action imposed is a suspension, the employee (faculty and staff) will have the right to appeal to the immediate supervisor of the person who issued the action. In addition for staff, if the disciplinary action imposed is a suspension, demotion, or termination, employees have the right of appeal based on the guidelines outlined the [Grievance Procedures for Employees and Postdoctoral Fellows Policy](#). For a faculty member, if the disciplinary action is discharge or removal during the contract year, the individual will have the right of appeal in accordance with [BOR Policy 8.3.9 Discipline and Removal of Faculty Member](#).

Upon receiving notification that potential sexual harassment has occurred, members of management must refer such matters to the AA/EEO Officer in Human Resources. Failure of the manager to refer sexual harassment allegations to the AA/EEO Officer may be viewed as a violation of this policy and could result in disciplinary action, up to and including termination.

Allegations of Sexual Misconduct, which includes sexual harassment, should be addressed using the standards set out in the [Sexual Misconduct Policy BOR 6.7](#) and the Process/Procedures section of the USG Prohibit Discrimination and Harassment policy and the process described above. Therefore, upon receiving notification of an allegation of sexual harassment, the AA/EEO Officer will notify the Title IX Coordinator in accordance with the Sexual Misconduct policy referenced

above. The process outlined above will apply, except that any investigation will be conducted by the investigator assigned by the Title IX Coordinator, and additional procedures will apply, including:

A. Access to Advisors

Both the Complainant and the Respondent, as parties to the matter, shall have the opportunity to use an advisor (who may or may not be an attorney) of the party's choosing. The advisor may accompany the party to all meetings and may provide advice and counsel to their respective party throughout the sexual misconduct process, including providing questions, suggestions and guidance to the party, but may not actively participate in the process except to conduct cross-examination at the hearing as outlined in the Resolution/Hearing section below. If a party chooses not to use an advisor during the investigation, the institution will provide an advisor for the purpose of conducting cross-examination on behalf of the relevant party.

All communication during the sexual misconduct process will be between the institution and the party, and not the advisor. The institution will copy the party's advisor prior to the finalization of the investigation report when the institution provides the parties the right to inspect and review directly related information gathered during the investigation. With the party's permission, the advisor may be copied on all communications.

B. Investigation

The Title IX Coordinator will be responsible for assigning an investigator. Throughout any investigation and resolution proceeding, a party shall receive written notice of the allegations made against them and shall be provided the opportunity to respond. All employees, both parties and non-parties, are required to cooperate to the fullest extent possible in any internal investigation conducted by AU, when directed to do so by any of the following: AA/EEO Officer, Director of Employee Relations, Title IX Coordinator, Vice President of Human Resources, Associate Provost of Faculty Affairs, Executive Vice President of Faculty Affairs and Provost, or President.

Until a final determination of responsibility, the Respondent is presumed to have not violated any applicable policies associated with the allegations. Prior to finalizing the investigation report, timely and equal access to information directly related to the allegations that has been gathered during the investigation and may be used at the hearing will be provided to the Complainant, the Respondent, and a party's advisor (where applicable).

Formal judicial rules of evidence do not apply to the investigation process; additionally the standard of review throughout the investigation and resolution processes is a preponderance of the evidence.

Additionally, the investigation procedures must provide the following:

1. The parties shall be provided with written notice of the report/allegations with sufficient details, pending investigation, possible charges, possible sanctions, available support services and interim measures, and other rights under applicable institutional policies. For the purposes of this provision, sufficient details include the identities of the parties involved, if known, the conduct allegedly constituting sexual misconduct, and the date and location of the alleged incident, if known. This information will be supplemented as dictated by evidence collected during the investigation. The notice should also include the identity of any investigator(s) involved. Notice should be provided via institution email to the party's email.
2. Upon receipt of the written notice, the parties shall have at least three business days to respond in writing. In that response, the Respondent shall have the right to admit or deny the allegations, and to set forth a defense with facts, witnesses, and supporting materials. A Complainant shall have the right to respond to and supplement the notice. Throughout the investigation and resolution process, the Complainant and the Respondent shall have the right to present witnesses and other inculpatory and exculpatory evidence.
3. If the Respondent admits responsibility, the process may proceed to the sanctioning phase or may be informally resolved, if appropriate.
4. An investigator shall conduct a thorough investigation and should retain written notes and/or obtain written or recorded statements from each interview. The investigator shall also keep a record of any party's proffered witnesses not interviewed, along with a brief, written explanation of why the witnesses were not interviewed.
5. An investigator shall not access, consider, disclose, or otherwise use a party's records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional made in connection with the party's treatment unless the party has provided voluntary written consent. This also applies to information protected by recognized legal privilege.
6. The initial investigation report shall be provided to the Complainant, the Respondent, and a party's advisor (if applicable). This report should fairly summarize the relevant evidence gathered during the investigation and clearly indicate any resulting charges or alternatively, a determination of no charges. For purposes of this Policy, a charge is not a finding of responsibility.
7. The Complainant and the Respondent shall have at least 10 calendar days to review and respond in writing to the initial investigation report and directly related information gathered during the investigation. The investigator will review the Complainant's and the

Respondent's written responses, if any, to determine whether further investigation or changes to the investigation report are necessary. The final investigation report should be provided to the Complainant, the Respondent, and a party's advisor, if applicable, at least 10 calendar days prior to the hearing. The final investigation report should also be provided to the Hearing Officer for consideration during the adjudication process.

C. Resolution/Hearing

Matters involving alleged Title IX Sexual Misconduct must be heard at a live hearing, as outlined below. When the matter involves a faculty member as the Respondent, the Executive Vice President of Academic Affairs & Provost or the EVP's designee, will serve as the Hearing Officer and single decision maker. When the matter involves a staff member (any employee who is not faculty) as the Respondent, the Vice President of Human Resources or the VP's designee, will serve as the Hearing Officer and single decision maker.

D. Title IX Hearings

As applicable, faculty and staff are required to participate in Title IX hearings if either a complainant, respondent, witness, or investigator. Augusta University will incorporate the provisions of the [Human Resources Administrative Practice Manual](#) policy [Prohibit Discrimination & Harassment](#).

The designated Hearing Officer shall provide notice of the date, time, and location of the hearing to the parties email at least 10 calendar days prior to the hearing. Parties may attend the hearing with their advisor.

Hearings shall be conducted as outlined in Appendix A and as outlined the [Sexual Misconduct Policy](#).

- E. Title IX Disciplinary Action:** In determining the severity of sanctions or corrective actions the following should be considered: the frequency, severity, and/or nature of the offense; history of past conduct; an offender's willingness to accept responsibility; previous institutional response to similar conduct; strength of the evidence; and the wellbeing of the university community. The institution will determine disciplinary action and issue notice of the same, as outlined above.
- F. Title IX Appeals:** The Complainant and the Respondent shall have the right to appeal the outcome on any of the following grounds: (1) to consider new information, sufficient to alter the decision, or other relevant facts not brought out in the original investigation(or hearing), because such information was not known or knowable to the person appealing during the time of the investigation (or hearing); (2) to allege a procedural error within the investigation or hearing process that may have substantially impacted the fairness of the process, including but not limited to whether any hearing questions were improperly excluded or whether the decision was tainted by a conflict of interest or bias by the Title IX Coordinator , investigator(s), or administrative decision maker(s), or (3) to allege that the

finding was inconsistent with the weight of the information.

Employees should be aware that all forms of communication (e-mail, text messaging, and internet usage) sent on/through AU property and/or software, or harassment through social networks towards a fellow employee, could, in some situations, be regarded as workplace harassment. All institutional property should be used with the utmost discretion and in compliance with acceptable use policies ([Acceptable Use of Electronic Mail & Electronic Messaging](#) and [Acceptable Use of Information Technology](#)).

REFERENCES & SUPPORTING DOCUMENTS

[EEO Complaint Resolution Procedure](#)
[Augusta University Work Rules of Conduct](#)
[Appendix A](#)

RELATED POLICIES

[Student Sexual Misconduct Policy](#)
[USG HRAP Policy – Prohibit Discrimination and Harassment](#)
[BOR Sexual Misconduct Policy](#)
[Grievance Procedures for Employees and Postdoctoral Fellows Policy](#)

APPROVED BY:

Executive Vice President for Academic Affairs and Provost, Augusta University
Date: 8/31/2020

President, Augusta University Date: 8/31/2020