

AUBURN UNIVERSITY

Title IX Policy and Procedures for Student Sex Discrimination

1. Auburn University is committed to providing a learning, working, and living environment that promotes personal integrity, civility, and mutual respect in an environment free of discrimination on the basis of sex, which includes all forms of sexual misconduct. Sex discrimination violates an individual's fundamental rights and personal dignity. Auburn University considers sex discrimination in all its forms to be a serious offense. This policy refers to all forms of sex discrimination committed against students, including but not limited to: unfair treatment based on sex, sexual harassment, sexual assault, sexual misconduct, and sexual violence by other students, employees, or third parties.
2. [Title IX of the Education Amendments of 1972](#) prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. To ensure compliance with Title IX and other federal and state civil rights laws, the University has developed policies and procedures that prohibit sex discrimination in all of its forms. This policy was created to address issues of student sex discrimination; employees who feel they have been treated unfairly based on sex (or other protected classes) should refer to the University's [Policy Regarding the Prohibited Harassment of Employees](#).

3. Statement on Non-Discrimination.

Auburn University does not discriminate against students on the basis of race, color, sex (which includes sexual orientation, gender identity, and gender expression), national origin, age, religion, or disability in its programs and activities. These protections extend to employment with and admission to the University by program participants. The following person has been designated to handle inquiries regarding the non-discrimination policies:

Kelley Taylor, Director, [Affirmative Action /Equal Employment Opportunity \(AA/EEO\)](#),
ADA, & Title IX Coordinator, Auburn University
317 Foy Hall
Auburn, Alabama 36849
Phone: 334.844.4794
E-mail: taylokg@auburn.edu

4. Guidance on Reporting.

Auburn University 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. Auburn University takes complaints very seriously and will work with complaining parties to ensure their safety and to remedy the situation.

5. Offices Where a Complaint or Report May be Filed.

The University encourages those who have experienced sex discrimination to report these offenses to the Title IX Coordinator. Sexual misconduct offenses may also be reported to the Auburn University Department of Public Safety and Security.

5.1. [Auburn University Title IX Coordinator](#).

5.1.1. Persons who wish to report any form of sex discrimination should contact the University's Title IX Coordinator: the Director of AA/EEO (Kelley Taylor, 334.844.4794, taylokg@auburn.edu).

5.1.2. The Title IX Coordinator can assist with all aspects of the reporting procedure and will conduct a preliminary investigation into the complaint.

5.2. [Auburn University Department of Public Safety and Security](#).

Persons who wish to make a report may contact the:

Auburn University Department of Public Safety and Security
543 A Magnolia Avenue
Auburn, Alabama 36849.
Phone: 334.844.8888.

In case of emergency, call 911.

6. Guidance on Taking Immediate Action.

6.1. Tell a trusted person about the incident. Depending on the nature of the offense, you may contact the:

- [Auburn University Department of Public Safety & Security](#) at 334.844.8888
- [Auburn University's Title IX Coordinator](#) at 334.844.4794
- [Auburn City Police](#) at 911
- Or, go directly to [East Alabama Medical Center](#).

Other helpful resources include:

- [Auburn University Safe Harbor Advocates](#) at 334.844.7233
- [Auburn University Student Counseling Services](#) at 334.844.5123
- [Auburn University Threat Assessment Team](#) at 334.844.5010
- **Rape Counselors of East Alabama, Inc.** Office: 334.741.0707 Hotline: 334.705.0510

6.2. 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.

6.3. When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after the medical examination.

7. Grievance Procedure.

7.1. 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.

7.2. The University shall take reasonable steps to prevent the recurrence of sex discrimination in any form. If a recurrence takes place, those responsible for the behavior may be subject to actions under the Code of Student Discipline if they are a student, or they may be subject to actions under University employment policies if they are an employee.

7.3. Investigation.

7.3.1. 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, typically within ten school days or within a reasonable amount of time required to complete the investigation. The preliminary investigation will be conducted in a manner so that it is adequate, reliable, and impartial.

7.3.2. The preliminary investigation may include any of the following: interviews of the parties involved, including witnesses, and the gathering of other relevant information.

7.3.3. At any time during the preliminary investigation, the Title IX Coordinator or designee may recommend that interim protections or remedies for the parties involved or witnesses be provided by appropriate University officials. These protections or remedies may include: separating the parties, placing limitations on contact between the parties, temporary suspension, or making alternative workplace or student housing arrangements. These remedies may be applied to one, both, or multiple parties involved. Failure to comply with the terms of interim protections may be considered a separate violation of University policy.

7.3.4. Written notice of the outcome of this preliminary investigation shall be given to the parties involved by the Title IX Coordinator as soon as reasonably practicable after the conclusion of the preliminary investigation.

7.4. 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 may be followed.

8. Informal Procedure.

8.1. Informal resolution procedures are optional and may be used when the University determines that it is appropriate and both parties are agreeable. Some complaints of sex discrimination can be resolved through informal mediation between the parties by the Title IX Coordinator.

8.2. Informal procedures are never utilized in cases involving allegations of sexual violence or nonconsensual sexual intercourse.

8.3. If either party is unsatisfied with the outcome of the informal resolution procedure, the formal resolution procedure may be pursued.

9. Formal Procedure.

9.1. If a complaining party does not wish to utilize the informal resolution procedure or is unsatisfied with the outcome of the informal resolution procedure, a reporting party may pursue the formal procedure.

- 9.2. In cases alleging sexual violence or nonconsensual sexual intercourse between students, a formal complaint shall normally be filed by the complaining party with the Office of Student Conduct, which will follow its written procedures for resolving such complaints. In cases where the accused is a University employee or third party, a complaint shall be filed with the Office of Affirmative Action/Equal Employment Opportunity, which will follow its written procedures for resolving such complaints.
- 9.3. In all procedures involving allegations of violations of this Policy, regardless of any language found within any applicable conduct or honor code, there shall be no applicable timeframe limitations on initiating a conduct process, and 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.
- 9.4. 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 Title IX Coordinator.

10. Cooperation with Law Enforcement.

- 10.1. 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, which typically takes three to ten calendar days, although the delay in the University's investigation may be longer in certain instances.
- 10.2. 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 the avoidance of retaliation.

11. Important Definitions and Examples.

- 11.1. Sex 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.

Examples 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.

- 11.2. 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 or pervasive as to objectively interfere with a student's educational, living, or work performance or environment.

While sexual harassment encompasses a wide range of conduct, some examples of specifically prohibited conduct include:

11.2.1. Promising, directly or indirectly, a reward to a student, if the student complies with a sexually oriented request.

11.2.2. Threatening, directly or indirectly, retaliation against a student if the student refuses to comply with a sexually oriented request.

11.2.3. Denying, directly or indirectly, a student an education or employment related opportunity if the student refuses to comply with a sexually oriented request.

11.2.4. Engaging in unwelcome sexually suggestive conversation or inappropriate physical contact or touching of a student.

11.2.5. Engaging in indecent exposure.

11.2.6. Making repeated or persistent sexual or romantic advances toward a student despite the student's rejection of the advances.

11.2.7. Engaging in unwelcome physical contact such as touching, blocking normal movement, physical restraint, or assault.

11.2.8. Retaliating against a student for filing a harassment complaint or threatening to report harassment.

11.2.9. 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 also be found responsible for engaging in prohibited harassment.

11.2.10. Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered separately would not rise to the level of harassment.

11.3. Sexual Misconduct.

Sexual Misconduct is a broad term encompassing any sexual behaviors that violate Auburn University's Title IX Policy. In general, any harassing behavior or nonconsensual physical contact of a sexual nature may constitute Sexual Misconduct. Sexual Misconduct may vary in its severity, and consists of a range of behaviors or attempted behaviors that may be grounds for student disciplinary action under University policy.

Prohibited conduct under this Sexual Misconduct Policy includes:

11.3.1 Nonconsensual Sexual Contact, which is defined as any intentional sexual touching, however

slight, with any object or body part, by a man or a woman upon a man or a woman, without consent.

11.3.2. Nonconsensual Sexual Intercourse, which is defined as any sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a man or woman upon a man or a woman, without consent.

11.3.3 Forced Sexual Intercourse, which is defined as unwilling or nonconsensual sexual penetration (anal, vaginal or oral) with any object or body part that is committed either by force, threat, intimidation, or through exploitation of another's mental or physical condition of which the assailant was aware or should have been aware.

11.4. Sexual Contact Includes:

11.4.1. Intentional contact with the breasts, buttocks, groin, or genitals of another person, or touching another person with any of these body parts; or making another person touch you or themselves with or on any of these body parts; or

11.4.2. Any intentional bodily contact in a sexual manner, even where the touching does not involve contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice; or

11.4.3. Intercourse, however slight, meaning vaginal penetration by a penis, object, tongue or finger, anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact or genital to mouth contact).

11.5. Sexual Exploitation.

11.5.1. Sexual Exploitation occurs when a person takes nonconsensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.

11.5.2. Examples of sexual exploitation include, but are not limited to: prostituting another student; nonconsensual video or audio-taping of sexual activity; going beyond the boundaries of consent (such as letting your friends hide in the closet to watch you having consensual sex); engaging in voyeurism; knowingly transmitting an STD or HIV to another.

11.6 Relationship Violence.

11.6.1. Relationship Violence is abuse or violence between partners or former partners involving one or more of the following elements:

1. Battering that causes bodily injury;
2. Purposely or knowingly causing reasonable apprehension of bodily injury;
3. Emotional abuse creating apprehension of bodily injury or property damage;
4. Repeated telephonic, electronic, or other forms of communication – anonymously or directly --- made with the intent to intimidate, terrify, harass, or threaten.

11.7 Stalking.

11.7.1. Stalking based on one's sex or gender includes repeatedly following, harassing, threatening, or

intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.

11.8. Consent.

Effective consent is the basis of the analysis applied to unwelcome sexual contact. Lack of consent is the critical factor in any incident of sexual misconduct.

11.8.1. Consent to participate in sexual activity is freely and actively given, and requires clear communication between all persons involved in the sexual encounter.

11.8.2. Consent is active, not passive. Consent can be communicated verbally or by actions, but in whatever way consent is communicated, it must be mutually understandable. Silence, in and of itself, cannot be interpreted as consent.

11.8.3. It is the responsibility of the initiator of sexual contact to make sure they understand fully what the other person(s) involved in the activity wants and does not want sexually.

11.8.4. Consent to one form of sexual activity does not imply consent to other forms of sexual activity.

11.8.5. Previous relationships or previous consent does not imply consent to future sexual acts.

11.8.6. Consent cannot be procured by use of physical force, compelling threats, intimidating behavior, or coercion. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another.

11.8.7. Effective consent cannot be given by minors, mentally disabled individuals, or persons incapacitated as a result of consumption of drugs or alcohol.

11.8.8. If you have sexual activity with someone you know to be--or should know to be -- mentally or physically incapacitated (by alcohol or drug use, unconsciousness or blackout), you are in violation of this policy.

11.8.9. Incapacitation is a state where one cannot make a rational, reasonable decision because they lack the ability to understand the "who, what, when, where, why or how" of their sexual interaction.

11.8.10. This policy also covers someone whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of a so-called "date-rape" drug. Possession, use and/or distribution of any of these substances, including but not limited to: Rohypnol, Ketamine, GHB or Burundanga is prohibited, and administering one of these drugs to another student for the purpose of inducing incapacity is a violation of this policy.

11.9. Use of alcohol or drugs will never function to excuse behavior that violates this policy.

12. Support Services.

12.1. There are various supportive measures available for those who have experienced sex discrimination. These support sources include:

12.1.1. [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:

12.1.2. [Safe Harbor](#). Students who have experienced sexual assault or violence and wish to receive assistance in seeking medical services, academic services, counseling services, assistance with university or community procedures, or referrals to other agencies should call Safe Harbor at 334.844.7233

12.1.3 [Auburn University Student Counseling Services](#). Students who have experienced any form of sex discrimination, including sexual misconduct, may receive free and confidential counseling at Auburn University Student Counseling Services at 334.844.5123.

12.2. 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 Vice President for Student Affairs or a designee. The Vice President for Student Affairs or designee will consult with the appropriate academic dean(s) in making a determination regarding alternative classroom assignments for the accused student and/or the complaining party who has experienced a sex offense, and with the Director of Housing & Residence Life in making a determination 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 by the student employee filing the complaint.

Auburn University employees who need assistance may contact the AU Human Resources Office or the Title IX Coordinator, or reference the Employee Handbook for information regarding counseling options.

13. Retaliation.

Auburn 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 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.

14. Confidentiality.

- 14.1. 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. Publicizing information about alleged sex discrimination or retaliation is strictly prohibited, and may be considered a violation of University policy.
- 14.2. The Title IX Coordinator shall maintain all information pertaining to a complaint or investigation in secure files.
- 14.3. Federal Statistical Reporting Obligations.

Certain campus officials (Campus Security 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.

15. Special Provisions.

- 15.1. 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.

- 15.2. 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.

- 15.3. 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.

- 15.4. 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 students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others, for fear that they may get in trouble themselves (for example, an underage student who has been drinking might hesitate to help take an alleged victim of sexual misconduct to Auburn University Public Safety and Security). The University pursues a policy of limited immunity for students who offer help to others in need.

15.5. Parental Notification.

The University reserves the right to notify parents/guardians of dependent 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).

15.6. Notification of Outcomes.

15.6.1. 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.

15.6.2. 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.

15.6.3. 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.

15.7. 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, such as placing a privacy screen in the hearing room. 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.

15.8 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.

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