



Title IX Grievance Procedure

Albany State University (ASU) is committed to providing prompt and equitable resolution of any complaint involving gender based discrimination, hereinafter referred to as sexual misconduct, which includes dating violence, domestic violence, sexual exploitation, sexual harassment and stalking. ASU's commitment also extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity. Any individual who believes that sexual misconduct has been perpetrated against him/her or another member of the community should follow this grievance procedure.

INITIATING THE COMPLAINT

A formal complaint is initiated when a reporting individual notifies a responsible employee, privileged employee or confidential employee that an incident of sexual misconduct has occurred. The Title IX Coordinator/Compliance Officer will review every complaint to assess whether the issue is covered under Title IX. If the complaint is covered by a different university policy, the alleged victim will be notified, information will be forwarded to the appropriate individual and no further action will be taken by the Title IX Coordinator/Compliance Officer.

Note: Reporting an incident is not the same as requesting a formal investigation. Absent an emergency which poses a potential risk for the reporting individual, alleged victim, or other members of the University community and before a formal investigation can be initiated, the alleged victim must give consent to pursue such action.

If an incident involves prohibited behavior that is covered under Title IX, upon obtaining consent from the alleged victim, the formal investigative process will be initiated.

REPORTING OPTIONS

Complaints may be filed with a privileged employee, the Title IX Coordinator/Compliance Officer, an ASU Police Officer, a responsible employee (which includes student employees such as Resident Assistants) or a confidential employee.

Before a reporting individual reveals information that he/she may wish to keep confidential, a responsible employee should make every effort to ensure that the reporting individual understands: (i) the type of information the employee is obligated to report to the Title IX Coordinator/Compliance Officer; (ii) the student's option to request the school maintain his or her confidentiality, which the school will consider; (iii) the student's option to report to a privileged employee at the Counseling Center or Student Health Services and the limitations of

making the report to such an individual and (iv) that information is shared with only those who have a legitimate need to know.

Confidential Reporting

If a member of the University community wishes to discuss an incident of sexual misconduct in confidence, he or she must speak directly with a privileged employee. **University employees will make every effort to honor requests for confidentiality, but cannot absolutely guarantee it.** However, every request for confidentiality will be considered and weighed against the risk of harm or the potential thereof to the reporting individual and/or other members of the University community. If the request for confidentiality cannot be honored, the reporting individual will be informed prior to the disclosure of the information and interim measures will be implemented in order to protect the reporting individual and ensure the safety of others.

An alleged victim who initially requests confidentiality should be reminded that he/she may later request a full investigation of the incident. Honoring requests for confidentiality may limit the school's ability to respond fully to the incident, including pursuing disciplinary action against the respondent. Privileged Employees may be contacted at:

Albany State University Counseling & Student Disability Services
(229) 500-3442

Albany State University Student Health Services
(229) 500-3546

Anonymous Reporting

Anonymous reports may be made by placing a written complaint in the drop box located at the "Staff Only" entrance near Room 383 in the Billy C. Black Building.

General Reporting

In accordance with Federal law, ASU has designated certain individuals as responsible employees including faculty, staff and student employees, whose employment functions involve relationships with students or those who have significant responsibility for student welfare and/or campus activities; who have the authority to take action to redress sexual violence; who have been given the duty of reporting incidents of sexual violence or any other misconduct by students. Responsible employees **must** promptly or as soon as practicable report **any** act of sexual misconduct to the Title IX Coordinator/Compliance Officer. **The report must include all known information about the complaint.**

Note: A Responsible Employee is not authorized to use his/her own independent judgment regarding whether to report to the Title IX Coordinator/Compliance Coordinator. The reporting requirement is mandatory not discretionary.

Responsible Employees may be contacted at:

Albany State University Title IX Coordinator
Billy C. Black Building Room 383G
(229) 500-3302

Albany State University Police Department
(229) 430-4711

Albany State University Housing & Residence Life
Staff and Residential Assistants
(229) 500-3062

Albany State University Office of Student Affairs & Success
(229) 500-3553

Student Ethics & Integrity Coordinator
University Judicial Officer
(229) 500-3554

Albany State University Faculty & Staff Representatives
Faculty Senate President
facultysenate@asurams.edu

Staff Council President
Staffcouncil@asurams.edu

Note: Others including coaches and athletic trainers, faculty, staff, and administrators are also designated as Responsible Employees.

Criminal Reporting

The alleged victim may choose to file a criminal complaint with the University Police and/or local law enforcement. Law Enforcement may be contacted at:

Albany State University Police Department
(229) 430-4711

Local Law Enforcement (Albany State University Police Department may assist with coordination.)

Other Reporting

When the accused is a university employee, the reporting individual may also report the incident to the Office of Human Resource Management or request that one of the above referenced representatives assist them in reporting to Human Resources. When the accused is an employee of an affiliated entity or vendor of the university, university officials will, at the request of the reporting individual, assist in reporting to the appropriate office of the vendor or affiliated entity.

Albany State University Office of Human Resources Management
(229) 500-3066

Special Considerations

If the reported incident involves any act of sexual violence, whoever is first notified should discuss the following with the alleged victim:

- Personal safety and protection from the perpetrator,
- Seeking medical attention to obtain treatment for pregnancy, sexually transmitted infections, and possible injury as well as to preserve any available evidence,
- Contacting the Title IX Coordinator/Compliance Officer about University resources and supports as well as rights and options,
- Contacting the Student Counseling Center and Student Health Services or the Lily Pad SANE Center, and/or
- Filing a report with ASU Police or local law enforcement.

All evidence should be preserved, if possible, as this may be necessary to establish that sexual violence has occurred. Evidence is best preserved, if following the incident, the individual against whom the act has been perpetrated reports the incident and immediately seeks medical attention. When seeking medical attention following an act of sexual violence, the alleged victim is encouraged to retain clothing or any item which might have evidence of the act, and refrain from taking a bath/shower, brushing his/her teeth, or using mouthwash.

Interim Measures

The Coordinator shall report to his/her direct supervisor and the System Director any allegation(s) of sexual misconduct that may require interim measures. The Title IX Coordinator/Compliance Officer or his/her designee may impose interim protective measures before the final outcome of an investigation if failure to implement the interim measures would constitute a threat to the safety and well-being of the reporting student, alleged victim or other members of the University Community.

Interim measures may include, but are not limited to:

- Change of university housing assignment;
- Issuance of a “no contact” directive;
- Restrictions or bars to entering certain University property;

- Changes to academic or employment arrangements, schedules or supervision;
- Interim suspension; and/or
- Other measures designed to promote the safety and well-being of the parties.

Note: If an interim suspension is issued, the terms of the suspension take effect immediately. Upon request, the respondent will have an opportunity to be heard by the respective conduct officer, Title IX Coordinator, or System Director, as appropriate, within three business days in order to determine whether the interim suspension should continue.

All interim measures will remain in effect **unless/until** modified by the Title IX Coordinator/Compliance Officer, Vice President of Student Affairs & Success or the President or his/her designee. Any party may appeal interim measures in writing to Title IX Coordinator/Compliance Officer.

Process for Investigating and Resolving Institutional Reports

The institution shall take necessary and appropriate action to protect the safety and well-being of its community. Accordingly, sexual misconduct perpetrated against students by University System of Georgia students, faculty, or staff should be addressed whenever such acts occur on a campus, in connection with an institution's program or activity, or in a manner that creates a hostile environment for members of the institution community. Further, the policy is applicable to all University System of Georgia students, faculty, and staff, as well as contractors, vendors, visitors, guests or other third parties.

Advisors

Both the alleged victim and respondent, as parties to the matter, shall have the opportunity to use an advisor (including an attorney) of his/her choosing for the express purpose of providing advice and counsel at his/her own expense. The selected advisor shall not otherwise be a party or witness involved in the investigation. The advisor may be present during any meetings and proceedings involved in the investigatory or resolution process in which the advisee is also eligible to be present. The advisor may advise the advisee, including providing questions, suggestions, advice on the proceedings, and guidance on responses to any questions of the participant, but shall not participate directly. The institution shall not prohibit family members of any party from attending if the party requests such attendance, but may limit the number to two family members.

Timeframe

Efforts will be made to complete the investigation within a reasonable timeframe, which will be determined based upon the allegations, availability of witnesses and/or evidence, etc. in a particular case. When the timeframe will extend past the reasonable timeframe, the parties will be informed of the delay and the reason for the delay. The investigator shall keep the parties informed of the status of the investigation.

Investigations

All sexual misconduct investigations involving a student respondent, whether overseen by the institution's Coordinator or the System Director, shall follow the investigation process set forth in Section 4.6.5 of the Board of Regents Policy, Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings, which is referenced below.

“Throughout any investigation and resolution proceedings, a party shall receive written notice of the alleged misconduct, shall be provided an opportunity to respond, and shall be allowed to remain silent or otherwise not participate in or during the investigation and resolution process without an adverse inference resulting. If a party chooses to remain silent or otherwise not participate in an investigation, the investigation may still proceed and policy charges may still result and be resolved. Additionally, in any investigation involving allegations of sexual misconduct, timely notice of meetings shall be provided to each party of any meeting at which the complainant, respondent or alleged victim may be present. Timely and equal access to information that will be used during the investigation will be provided to the complainant, respondent and alleged victim (where applicable).

Where the potential sanctions for the alleged misconduct may involve a suspension or expulsion (even if such sanctions were to be held “in abeyance,” such as probationary suspension or expulsion) the institution's investigation and resolution procedures must provide the additional minimal safeguards outlined below.

1. The alleged victim and respondent shall be provided with written notice of the complaint/allegations, pending investigation, possible charges, possible sanctions, and available support services. The notice should also include the identity of any investigator(s) involved. Notice should be provided via institution email to the address on file.
2. Upon receipt of the written notice, the respondent shall have at least three business days to respond in writing. In that response, the respondent shall have the right to admit or to deny the allegations, and to set forth a defense with facts, witnesses, and supporting materials. A non-response will be considered a general denial of the alleged misconduct. Any alleged victim shall also be provided three business days to respond to or to supplement the notice.
3. If the respondent admits responsibility, the process may proceed to the sanctioning phase or may be informally resolved, if appropriate.
4. If at any point the investigator determines there is insufficient evidence to support a charge or to warrant further consideration of discipline, then the complaint should be dismissed.
5. 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.
6. The initial investigation report shall be provided to the respondent and the alleged victim (where applicable). This report should clearly indicate any resulting charges (or alternatively, a determination of no charges), as well as the facts and evidence in support thereof, witness statements, and possible sanctions. For purposes of this Policy, a charge

is not a finding of responsibility, but indicates that there is sufficient evidence to warrant further consideration and adjudication.

7. The final investigation report should be provided to the misconduct panel or hearing officer for consideration in adjudicating the charges brought against the respondent. A copy shall also be provided to the respondent and alleged victim (where applicable) before any hearing. The investigator may testify as a witness regarding the investigation and findings, but shall otherwise have no part in the hearing process and shall not attempt to otherwise influence the proceedings outside of providing testimony during the hearing.”

Hearings

All sexual misconduct hearings, sanctions, and appeals involving a student respondent, whether overseen by the institution’s Coordinator or the System Director, shall follow the investigation process set forth in Section 4.6.5 of the Board of Regents Policy, *Standards for Institutional Student Conduct Investigation and Disciplinary Proceedings*, which is referenced below.

“In no case shall a hearing to resolve charge(s) of student misconduct take place before the investigative report has been finalized.

Where the respondent indicates that he or she contests the charges, the matter shall be set for a hearing and once the investigative report has been finalized and copies provided to the respondent and alleged victim (where applicable); however, the alleged victim (where applicable) and respondent may have the option of selecting informal resolution as a possible resolution in certain student misconduct cases where they mutually agree, except where deemed inappropriate by the Vice President for Student Affairs (or his/her designee) or the System Director.

Where a case is not resolved through informal resolution or informal resolution is not available due to the nature of the charges, the respondent shall have the option of having the charges heard either by an administrator (hearing officer) or a hearing panel. However, all cases involving charges of sexual misconduct that go to a hearing shall be heard by a panel of staff and/or faculty. Sexual misconduct panel members shall receive appropriate annual training as directed by the System Director or Coordinator and required by the Clery Act. If an administrative hearing is requested, the respondent shall use his or her discretion to determine whether the case should be heard by a hearing panel. Notice of the date, time, and location of the hearing shall be provided to the respondent, complainant, and alleged victim (where applicable) at least five business days prior to the hearing. Notice shall be provided via institution email where applicable. Additionally, the following standards will apply to any such hearing:

The respondent shall have the right to present witnesses and evidence to the hearing officer or panel. Witness testimony, if provided, shall pertain to knowledge and facts directly associated with the case being heard. Both parties shall have the right to confront any witnesses, including the other party, by submitting written questions to the hearing officer for consideration. Advisors may actively assist in drafting questions. The Panel shall ask the questions as written and will limit questions only if they are unrelated to determining the veracity of the charge leveled against

the respondent(s). In any event, the Panel shall err on the side of asking all submitted questions and must document the reason for not asking any particular questions.

1. Where the hearing officer or panel determines that a party or witness is unavailable and unable to be present due to extenuating circumstances, the hearing officer or panel may establish special procedures for providing testimony from a separate location. In doing so, the hearing officer or panel must determine whether there is a valid basis for the unavailability, ensure proper sequestration in a manner that ensures testimony has not been tainted, and make a determination that such an arrangement will not unfairly disadvantage any party. Should it be reasonably believed that a party or witness who is not physically present has presented tainted testimony, the hearing officer or panel will disregard or discount the testimony.

In sexual misconduct cases, the hearing officer reserves the right to allow a party to testify in a separate room, so long as no party is unfairly disadvantaged by this procedure. A party must still give testimony in the presence of the Panel, and the opposing party must have the opportunity to view the testimony remotely and to submit follow-up questions.

2. Formal civil rules of evidence do not apply to the investigatory or resolution process.
3. The standard of review shall be a preponderance of the evidence; however, any decision to suspend or to expel a student must also be supported by substantial evidence at the hearing.
4. Institutions should maintain documentation of the proceedings, which may include written findings of fact, transcripts, audio recordings, and/or video recordings.
5. Following a hearing, both the respondent and alleged victim (where applicable) shall be simultaneously provided a written decision via institution email (where applicable) of the outcome and any resulting sanctions. The decision should include details on how to appeal, as outlined below. Additionally, the written decision must summarize the evidence in support of the sanction. The same form will be completed, regardless of whether the student opts for a hearing panel or an administrative proceeding.

Possible Sanctions

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 hearing panel, hearing officer or administrator that found that a policy violation occurred will determine sanctions and issue notice of the same, as outlined above.

The broad range of sanctions includes: expulsion; suspension for an identified time frame or until satisfaction of certain conditions or both; temporary or permanent separation of the parties (e.g., change in classes, reassignment of residence, no contact orders, limiting geography of where parties can go on campus) with additional sanctions for violating no-contact orders; required participation in sensitivity training/awareness education programs; required participation in alcohol and other drug awareness and abuse prevention programs; counseling or mentoring;

volunteering/community service; loss of institutional privileges; delays in obtaining administrative services and benefits from the institution (e.g., holding transcripts, delaying registration, graduation, diplomas); additional academic requirements relating to scholarly work or research; financial restitution; or any other discretionary sanctions directly related to the violation or conduct.”

All sexual misconduct adjudication involving an employee respondent shall be addressed utilizing the institution’s employment policies and procedures.

Appeals

“Where the sanction imposed includes a suspension or expulsion (even for one held in abeyance), the following appellate procedures must be provided. The alleged offender (and in cases involving sexual misconduct or other forms of discrimination and/or harassment, the alleged victim) 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 hearing, because such information was not known or knowable to the person appealing during the time of the hearing; (2) to allege a procedural error within the hearing process that may have substantially impacted the fairness of the hearing, including but not limited to whether any hearing questions were improperly excluded or whether the decision was tainted by bias; or (3) to allege that the finding was inconsistent with the weight of the information.

Appeals may be made for the above reasons in any case where sanctions are issued, even when such sanctions are held “in abeyance,” such as probationary suspension or expulsion.

The appeal must be made in writing, and must set forth one or more of the bases outlined above, and must be submitted within five business days of the date of the final written decision. The appeal should be made to the institution’s Vice President for Student Affairs or his/her designee.

The appeal shall be a review of the record only, and no new meeting with the respondent or any alleged victim is required. The Vice President, or his or her designee, may affirm the original finding and sanction, affirm the original finding but issue a new sanction of lesser severity, remand the case back to the decision-maker to correct a procedural or factual defect, or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The Vice President or his or her designee shall then issue a decision in writing to the respondent within a reasonable time period.

The decision of the Vice President or his or her designee may be appealed in writing within five business days (as determined by the date of the decision letter) to the President of the institution solely on the three grounds set forth above.

The President may affirm the original finding and sanction, affirm the original finding but issue a new sanction of greater or lesser severity, remand the case back to the decision maker to correct a procedural or factual defect, or reverse or dismiss the case if there was a procedural or factual defect that cannot be remedied by remand. The President’s decision shall be simultaneously issued in writing to the complainant, the respondent and the alleged victim (where applicable)

within a reasonable time period. The President's decision shall be the final decision of the institution.

Should the respondent or alleged victim (where applicable) wish to appeal the President's decision, he or she may request review by the Board of Regents in accordance with the Board of Regents' Policy on Discretionary Review.

Recusal / Challenge for Bias

Any party may challenge the participation of any institution official, employee or student panel member in the process on the grounds of personal bias by submitting a written statement to the Dean of Students setting forth the basis for the challenge. The designee shall not be the same individual responsible for investigating or adjudicating the conduct allegation. The written challenge should be submitted within a reasonable time after the individual knows or reasonably should have known of the existence of the bias. The Dean of Students will determine whether to sustain or deny the challenge and, if sustained, the replacement to be appointed."

Statement against Retaliation

Retaliation via threats, intimidation, coercion or by any other means against a member of the University community who filed a complaint or participated in any manner in the school's investigation proceedings is prohibited under Title IX and is a violation of ASU policy. ASU will seriously consider any act(s) of retaliation and take immediate action to investigate, prevent the recurrence of and remedy any retaliatory effects. Reports of retaliation will be reviewed and investigated in the same manner in which other allegations of misconduct are handled. Any student or employee who engages in retaliation may be subject to sanction(s) or disciplinary action.

Note: The grievance procedure may be modified or amended by the Title IX Coordinator/Compliance Officer at any time when appropriate and with prior notice.