

Gender Based Misconduct Policy

The Office of Student Affairs | 334-229-4241



**ALABAMA STATE
UNIVERSITY**

www.alasu.edu

POLICY STATEMENT

Alabama State University is committed to providing a learning and working environment that is free from discrimination on the basis of race, religion, color, physical disability, national origin, gender, marital status, political affiliation or age in any of its programs, including admission of students or employment. In matters regarding gender-based misconduct or discrimination, ASU complies with Title IX of the Education Amendments of 1972. Title IX is a federal law that prohibits discrimination on the basis of sex in education programs or activities. ASU's Policy on Gender Equity applies regardless of the complainant's or respondent's race, gender, disability, age, marital status, religion, color, national origin, sexual orientation or other personal characteristics. ASU's Policy on Gender Equity provides guidance for individuals who may be the victim of gender-based misconduct or discrimination.

Alabama State University has a zero tolerance stance against sexual misconduct in all forms. ASU is firmly committed to providing a safe environment for all students. Sexual misconduct of any form is a violation of the ASU student Code of Conduct. The University will not tolerate domestic violence, dating violence, sexual assault, or stalking and will enlist all available resources in order to provide assistance, aid, and comfort to the survivor, while pursuing all available avenues of sanctions against the respondent. Students found responsible for violating this policy will face disciplinary sanctions, up to and including dismissal from the University.

DEFINITIONS AND EXAMPLES

1. **Gender-Based Discrimination:** A decision regarding the participation in educational programs and activities that is based upon one's gender.
2. **Gender-Based Harassment:** Verbal and nonverbal acts used to create intimidation, hostility or humiliation based upon one's gender that has the purpose or effect of unreasonably interfering with an individual's academic performance or learning environment. Gender-based harassment may include:
 - a. **Domestic/Dating Violence:** A pattern of controlling, abusive, and aggressive behavior by one or both partners in a romantic or intimate relationship such as marriage, dating, family or cohabitation.
 - b. **Sexual Harassment:** Unwelcomed conduct of a sexual nature including unwelcomed sexual advances, requests for sexual favors and other verbal, non-verbal or physical conduct of a sexual nature when:
 - i. Sufficiently serious, pervasive, or persistent as to create and intimidating, hostile, humiliating, demeaning or sexually offense working, academic, residential or social environment under both an objective (a reasonable person's view) and subjective (the complainant's view) standard; or
 - ii. Submission to or rejection of such conduct by an individual is made either explicitly or implicitly a term or condition for employment decisions or academic decisions.

Same-sex harassment violates this policy as does harassment by a student of a faculty member or a subordinate employee of his/her supervisors.

- c. Stalking: Unwanted and repeated course of conduct or behavior directed towards a specific person which may include face-to-face confrontations, telephone calls, text messages, emails or other forms of communication that would cause a reasonable person to fear for his/her or other's safety or suffer substantial emotional distress.
3. Sexual Misconduct: A broad term encompassing any non-consensual physical contact of a sexual nature that varies in severity and consists of a range of behaviors or attempted behaviors. Prohibited Sexual Misconduct includes:
- a. Non-Consensual Sexual Intercourse (Rape): Any sexual intercourse (anal, oral or vaginal) including sexual intercourse with an object or body part, however slight, by one person upon another without consent or by force. Sexual intercourse includes vaginal and/or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact or genital to mouth contact).
 - b. Non-Consensual Sexual Contact: Intentional physical contact of a sexual nature, however slight, with any object or body part, by one person upon another, without consent or by force. For example, Intentional sexual contact includes contact with the breasts, buttocks, groin, genitals, mouth or body part of another. Intentional sexual contact also includes an individual making another person touch him/her with, on or in any of these body parts.
 - c. Sexual Exploitation: Sexual exploitation occurs when a person uses another for sexual purposes without consent to include, prostitution, photographing, recording or taping sexual acts, peeping or exposing body parts.
4. Consent: An informed, knowing and voluntary decision to engage in sexual activity. Consent is active, and not passive. Consent cannot be given by silence nor can it be given while one is impaired due to alcohol, drugs, unconsciousness, sleep, physical impairment or lack of active resistance.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
 - Consent may be withdrawn at any time.
 - Previous relationships or previous consent for sexual activity cannot imply consent to sexual activity on a different occasion.
 - Consent cannot be procured by the use of physical force, compelling threats, intimidating behavior, or coercion. Force includes the physical violence and/or imposing on someone physically to gain sexual access. Force can also include threats, intimidation (implied threats), or coercion used to overcome resistance. The use of coercion can involve the use of pressure, manipulation, substances, and/or force. Ignoring the objections of another person or pressuring them is a form of coercion.
5. Incapacitation: A state where one cannot make a rational, reasonable decision because they lack the ability to understand the consequences (the "who, what, when, where, why or how") of their actions. This includes, but is not limited to, persons incapacitated based on their age, voluntary or involuntary use of drugs, alcohol, or mental or physical disability. — "If You Are Incapacitated You Can Not Give Consent".

6. Force: Use of physical violence (such as pushing, hitting, pinning down), threats (direct or indirect expressions of harm to self or others) intimidation (implied or indirect threats or abuse of power), and/or coercion (unreasonable pressure applied after someone makes clear they want to stop or not go past a certain point).
7. “Reporter” or “Complainant”: The person filing a report or complaint that the policy was violated.
8. “Accused” or “Respondent”: The person accused of violating the policy or responding to a complaint related to a violation.

TITLE IX INVESTIGATIONS

Any student who believes that he/she has been subjected to discrimination prohibited by Title IX, or that the University has failed to meet its Title IX obligations, may bring the concern to the attention of the University Title IX Coordinator. While the University Title IX Coordinator welcomes an informal presentation of such allegations, and is available to address concerns through consultations and referrals and informal resolution, the University Title IX Coordinator is fully prepared to receive and address such allegations through formal grievance procedures. The University Title IX Coordinator has the authority to investigate allegations of discrimination prohibited by Title IX even absent the filing of a formal grievance, or its subsequent withdrawal. In addition, the University Title IX Coordinator may proceed with processing a formal or informal grievance to be in compliance with Title IX even if a complainant withdraws his/her grievance or specifically requests that the matter not be pursued. The complainant will not be required to participate in the investigation.

In such a circumstance, the University Title IX Coordinator will take all reasonable steps to investigate and respond to the matter in a manner which is informed by the complainant’s articulated concerns. In most circumstances, the University Title IX Coordinator will coordinate his/her activities with other University offices charged with responsibilities for student, faculty and staff conduct and discipline and for enforcing the University’s policies and procedures generally.

Formal Grievance Procedures

These procedures are for student on student, faculty on student and staff on student misconduct.

- 1) A formal grievance process is initiated when a student submits a written statement alleging discrimination and misconduct prohibited by Title IX to the University Title IX Coordinator. In the statement, the student is encouraged to request any relief sought from the University. Prompt submission of formal grievances is encouraged.
- 2) The University Title IX Coordinator will consider the written grievance, and after initial interviews and investigations, may dismiss the grievance without further process or review if the University Title IX Coordinator determines that the grievance on its face is not a violation of University policy or outside the scope of these grievance procedures. If the grievance is not dismissed, the University Title IX Coordinator will interview the individual who submitted the written statement. Depending on the circumstances, the University Title IX Coordinator also may interview others with relevant knowledge, review documentary materials, and take any other appropriate action to gather and consider information relevant to the grievance. The University Title IX Coordinator will determine whether the complaint is a violation of the policy using a preponderance of the

evidence standard. The University Title IX Coordinator will consult with other University offices including, but not limited to, Student Affairs and Human Resources in reaching a decision regarding the written grievance.

- 3) If the Title IX Coordinator determines that there is a violation, he/she Title IX Coordinator will prepare a written report setting forth findings, conclusions, and actions to be taken, if any, and will determine with whom to share the report.
- 4) Following such review, the University's Title IX Coordinator will, as necessary, take appropriate action to ensure that the University comes into compliance with Title IX in a manner which is prompt and equitable to all parties. For example, the University Title IX Coordinator, Student Affairs, and/or the Provost may assure that appropriate changes to housing, academic programs or working conditions are implemented. The decision of the University Title IX Coordinator is the final resolution of the grievance. However, subsequent disciplinary procedures may be instituted by the appropriate offices if the Title IX Coordinator determines that another ASU student or employee did in fact commit violations of Title IX.
- 5) While the time it may take to investigate and resolve a Title IX grievance will depend on a variety of factors, including the nature and scope of the allegations, the University Title IX Coordinator will seek to resolve the grievance within 60 working days of receipt of the grievance. However, depending on the complexity of the matter, resolution may extend beyond 60 working days. Throughout the process, the University Title IX Coordinator will, as appropriate, keep the participants informed of the status of the grievance process.

Informal Resolution

In many instances, counseling, advice, or informal discussion may be useful in resolving concerns about allegations of discrimination prohibited by Title IX. Students who wish to resolve their concerns informally should bring them to the attention of the University Title IX Coordinator. In working to resolve the matter, the University Title IX Coordinator ordinarily will interview the student and, as appropriate, others who may have knowledge of the facts underlying the grievance. At any point, including while the informal process is ongoing or afterward, the student may elect to end the informal process in favor of filing a formal grievance. Although ASU welcomes informal resolution of grievances when appropriate, it will not use mediation between a victim and alleged perpetrator.

Retaliation

ASU 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 Title IX violations. 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 reporting process.

Confidentiality

All inquiries, complaints, and investigations are treated with discretion. Information is disclosed as law and policy permit or require. However, the identity of the student making the allegations is usually disclosed to the person(s) accused of such conduct. Publicizing information about alleged sex discrimination or retaliation is strictly prohibited, and may be considered a violation of University policy

The Title IX Coordinator shall maintain all information pertaining to a complaint or investigation in secure files. ASU University Police officials have a duty to report violations of this policy for federal statistical reporting purposes keeping all personally identifiable information private. Information 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.

REPORTING OPTIONS

Confidential Employees

Confidential Employees include, but are not limited to, counselors, medical, Violence Against Wo(men) staff and clergy. They required to disclose any information to the college about sexual assault, sexual harassment, dating violence, or stalking unless there is a threat of harm, a child involved, a weapon involved, or an unknown dangerous person on campus.

Responsible Employees

Responsible Employees have the authority to take action to redress sexual violence. They are required to report incidents to the Title IX Coordinator or other appropriate official. Reporting includes the names of the complainant, alleged respondent and student along with relevant facts. (Refer to page 9 for list of Responsible Employees)

Anonymous Reporting

Anonymous reports can be made by calling the anonymous Violence Against Women 24-hour Hotline at 334-22-6767, by calling ASU University Police at 334-229-4400 or a Campus Security Authority. A Campus Security Authority is an individual in one of the following categories:

1. A campus police department or a campus security department of an institution.
2. Any individual or individuals who have responsibility for campus security but who do not constitute a campus police department or a campus security department (e.g., an individual who is responsible for monitoring the entrance into institutional property). This also includes event security, volunteers in police, DTA security, and the like.
3. Any individual or organization specified in an institution's statement of campus security policy as an individual or organization to which students and employees should report criminal offenses.

4. An official of an institution who has significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline and campus judicial proceedings.

These reports will be forwarded to the University Title IX Coordinator and the Clery Coordinator.

Training, Education and Prevention

Alabama State University will ensure that all employees receive training that includes:

- A statement that the institution prohibits SDDS offenses;
- The definition of the offenses;
- The definition of consent, with reference to sexual offenses;
- “Safe and positive” options for bystander intervention an individual may take to “prevent harm or intervene” in risky situations;
- Recognition of signs of gender- based abusive behaviors and how to avoid potential attacks;
- The definitions of Confidentiality and Privacy and who is who on campus; and
- How to appropriately respond to reports of sexual violence.

Responsible Employees also will receive training on:

- The University’s Code of Conduct for Gender- Based Misconduct offenses;
- Their responsibility to report to the Title IX coordinator or other appropriate school official any incidents of sexual harassment or sexual violence that may violate the school’s code of conduct or may create or contribute to the creation of a hostile environment;
- Their responsibility to inform students of their reporting obligations; and
- Students’ options to request confidentiality and the availability of other on and off campus resources.

Employees who are involved in implementing the schools’ grievance procedures will also receive:

- Information on working with and interviewing persons subjected to sexual violence;
- Information on the types of conduct that would constitute sexual violence, including same-sex violence;
- Information on the proper standard of review for sexual violence complaints (preponderance of the evidence);
- Information on consent and the role drugs or alcohol can play in the ability to consent;
- The importance of accountability for individuals found to have committed sexual violence;
- The need for remedial actions for the perpetrator, complainant and university community;

- How to determine credibility;
- How to evaluate evidence and weigh it in an impartial manner;
- How to conduct investigations;
- Confidentiality;
- The effects of trauma, including neurobiological change; and
- Cultural awareness training regarding how sexual violence may impact students differently depending on their cultural backgrounds.

ASU is committed to ensuring that all faculty, staff and administrative personnel receive annual education and/or training on sexual, domestic, and dating and stalking issues.

Rape Shield

The University will not make inquiries in to a victim's sexual history.

THE REPORTING PROCESS

The University strongly encourages individuals to report acts of gender-based violence to the appropriate authorities and officials. Reporting an assault is the only way that action can be taken against the alleged attacker. Survivors are encouraged to do one or more of the following:

1. Contact the Violence Against Wo(men) Program (VAWP), also known as "M.O.V.E" (Moving Out Violent Environments)
2. Contact the Title IX Coordinator
3. Contact University Police or local police authorities. Please note that reporting to University Police or other law enforcement does not require an individual to file criminal charges.
4. Contact campus administrative offices as indicated. Upon the person's request, these officials or designee will assist in notifying proper law enforcement officers.

A student who has experienced gender-based misconduct may disclose information regarding the misconduct to any member of the ASU community. If a student survivor reports to another student, faculty or staff member that a sexual assault has occurred, the survivor should strongly be urged to report the event to one of the departments listed as on campus resources. University Police, Counseling Services, Health Services, the Vice President for Student Affairs, the Title IX Coordinator and the Violence Against Wo(men) Program Director are just a number of areas in which an incident can be reported. However, students should be aware that not all employees are required to maintain confidentiality. The employee should inform the student of his/her confidentiality status.

If an incident of gender-based misconduct is reported, the victim or employee should:

1. Ensure the safety of the student survivor.
2. Encourage the student survivor to seek immediate medical treatment if injured.

3. If the survivor was sexually assaulted and desires a confidential rape exam, he/she should be encouraged to contact S.T.A.R at 334-213-1227. The survivor should be encouraged not to shower/bathe, brush teeth, comb his /her hair, or change clothes in order to preserve any evidence that can be gathered. The rape crisis center will collect clothing for evidence and provide a change of clothes for the survivor. If the student survivor has already changed clothes, the clothing worn during the assault should be placed in a brown paper bag and brought to the rape crisis center.
4. If a dating or domestic violence offense occurs, the Family Sunshine Center may be contacted.
5. If a stalking offense occurs, the student survivor will be referred to the ASUPD and/or the One Place Family Justice Center.
6. Inform the student survivor of resources available on campus such as “M.O.V.E”, ASU’s Violence Against Wo(men) Program (VAWP), the Title IX Coordinator, the Counseling Center, the Health Center and University Police.
7. Advise the student survivor of his/her right to, or not to notify or seek assistance from off campus law enforcement, the Title IX Coordinator and University Police.
8. Advise the student survivor of his/her right to receive or reject counseling assistance or medical treatment for the purpose of gathering evidence for subsequent prosecution.
9. The ASU VAWP support staff will complete the VAWP List of Services Check Sheet that addresses sexual, dating, domestic or stalking violence services to ensure that the student survivor was made aware of on -and off- campus resources.

Amnesty

At times, students are hesitant to report the occurrence of a gender-based assault to University officials because they are concerned that they themselves, or witnesses to the misconduct, may be charged with violations of the drug and alcohol policy. While these behaviors are not condoned by the University, the importance of dealing with them pales in comparison to the need to address instances of alleged gender-based misconduct. Accordingly, in these cases, the University will not pursue disciplinary action against a student who claims, in good faith, to be the victim of a gender-based misconduct in connection with the reporting of a gender-based incident, or against students named as witnesses to the incident.

RESOURCES

Off Campus

Agency	Location	Contact	Availability
*Standing Together Against Rape (S.T.A.R)	530 South Lawrence Street Montgomery, AL 36104	334-213-1227	24 Hours
*Family Sunshine Center Domestic Violence Crisis Line Local Crisis Line	858 South Court St, Montgomery, AL 36104	1- 800-650-6522 334-263-0218	24 Hours
*One Place Family Justice Center	530 South Lawrence Street Montgomery, AL 36104	334-262-7378	8 a.m. -5 p.m.
Montgomery Police Department	320 North Ripley Street Montgomery, AL 36104	334-241-2651 or 911	24 Hours

On Campus

Department	Location	Contact	Availability
University Police	1452 Carter Hill Road Montgomery, AL 36104	334-229-4400 334-229-4717	24 Hours
*ASU Counseling Services	John Garrick Hardy Student Center #C-155	334-229-4382 334-229-4894	8 a.m. -5 p.m.
*ASU Health Center	Simpson Hall Basement	334-229-4436 334-229-4438	8 a.m. -5 p.m.
Title IX Coordinator	John Garrick Hardy Student Center #A-211	334-229-4210	8 a.m. -5 p.m.
Vice President for Student Affairs	McGhee Hall #108	334-229-4241 334-229-4233	8 a.m. -5 p.m.
**“M.O.V.E” Violence Against Wo(men) Program	John Garrick Hardy Student Center # C-137	334-229-6767	24 Hours

Faculty and Non instructional Staff are deemed to be responsible employees that may assist all students.

Title IX Deputy Listing

Name	Department	Location	Contact
Jaunelle White	Athletics	Dunn-Oliver Acadome #227 W	334-229-7636
Sallie Crumbie	Student Affairs	John Garrick Hardy Student Center #C1-38	334-229-5080
Inv. Marquez James	Police Department	University Police Station 1452 Carter Hill Road Montgomery, AL 36104	334-229-6727
Gourgoine Wade	Residential Life	John Garrick Hardy Student Center #C1-41	334-229-4357
Jeremy Hodge	Career Services	Kilby Hall #2	334-229-4156

Violence Against Wo(men) Program: “M.O.V.E”

Alabama State University has a Violence Against Wo(men) Program, entitled M.O.V.E. The mission of this program is to coordinate comprehensive on and off campus services and resources for the University that help to reduce offenses in the area of sexual, domestic, dating and stalking violence. The VAWP is committed to providing culturally specific prevention and education programs for the University along with culturally relevant training for campus law enforcement and judicial administration. The effort is guided with input and direction from an active Coordinated Community Resource Team. The overall purpose of the program is to help create and foster a campus environment that has a “zero tolerance” for sexual, domestic, dating and stalking offenses. More importantly, VAWP will provide needed support in a time of crisis to survivors of such offenses. More importantly, VAWP will provide needed support in a time of crisis to survivors of such offenses by providing information regarding their rights and access to on and off campus support resources. More information regarding students’ rights can be found on page 58 of the student handbook: The Pilot.

Educational Programs

Alabama State University is committed to providing preventive, informative and supportive programs for all members of the university community. Campus-wide programs coordinated by the Violence Against Wo(men) Program, University Police and the Division of Student Affairs will be offered to students to increase safety awareness, improve communication skills between women and men, help prevent acquaintance and stranger rape, build self-esteem and provide information on steps to take in the event of a sexual assault. Dissemination of educational information will begin prior to and upon arrival and during the academic year. Various educational formats will be used including but not limited to, classroom sessions, required online modules, handouts, forums and programs. Bystander intervention alternatives are strategically included in the online modules and incorporated in on-going programs. Additionally, the sexual misconduct police are linked to the online training as well.

UNIVERSITY DISCIPLINARY PROCESS

Alabama State University is committed to providing an investigative hearing process that is sensitive, fair, supportive and respectful of the rights and needs of all involved. Article IV of The Pilot sets forth the procedures to be followed when there is an allegation/charge of student misconduct. A student who is a survivor of sexual assault may also file a Title IX grievance pursuant to the Title IX procedures detailed in the Student Handbook/Pilot. If, based upon the preponderance of the evidence, a student is found responsible for the offense; the student will be subject to sanctions which are set forth in Article VI. The student may also appeal the penalty or sanction pursuant to Article IX, Judicial Appeal Procedures. Both the complainant and the accused shall be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense. Pursuant to existing University disciplinary procedures, under appropriate circumstances, interim measures may be taken to provide for the safety of the complainant, of the respondent and of witnesses. University disciplinary procedures and possible sanctions are described in the Code of Conduct in the Student Handbook/Pilot.

If a faculty and/or staff member is accused of sexual assault, the Non-Instructional Staff Handbook, the University Faculty Handbook and the Human Resources Policies and Procedures Manual may also be used to determine the disciplinary process to be applied and sanctions.

Judicial Appeal Procedure

In each case involving impositions of a penalty or sanction, both parties shall have the right to appeal the decision.

1. An appeal shall be in writing and shall be delivered to the Vice President for Student Affairs within 5 class days following the decision by the hearing officer of the assistant vice president for Student Affairs. A student who fails to file an appeal within the 5 class day period forfeits the right to any appeal.
2. An appeal to the Vice President for Student Affairs may be made only on the following grounds:
 - a. Lack of due process, i.e., when a student can show an error in the hearing; or arbitrariness in finding against the weight of the evidence;
 - b. Lack of substantial evidence; or
 - c. Evidence that was not considered or available that would subsequently change the nature of the case.
3. Upon receipt of an appeal, the Vice President for Student Affairs may render a decision within five (5) class days. The Vice President for Student Affairs shall review the case and make one of the following determinations:
 - a. Find no error and affirm the decision of the tribunal which adjudicates the case; or
 - b. Find irregulars, additional pertinent evidence or prejudicial errors sufficient to overturn the decision or remand the case to the appropriate body for further adjudication.
4. The Vice President for Student Affairs will communicate the decision to the adjudicatory body, the student, and the President of the University.