



Policy Number: I.02
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Harassment and Discrimination Policy and Procedure

I. Policy Statement and Purpose

In accordance with applicable law and the University's [Non-Discrimination/Equal Opportunity Policy](#), Athens State University is committed to providing an environment free of harassment or discrimination to all individuals of the University community. Harassment or discrimination by anyone, whether in the classroom, the office, at a University-sponsored function, or during any activity within the scope of the authority of the University's administration, faculty, or staff, will not be tolerated. Employees or students found to participate in harassing or discriminatory behavior will be subject to disciplinary procedures as appropriate, up to and including termination or expulsion.

This policy will be interpreted so as to avoid infringement upon First Amendment rights of free speech. The University must be mindful of the tradition of academic freedom that includes the free exchange of ideas inherent in an academic community. A determination as to whether discrimination or harassment has occurred will be based upon the context in which the alleged conduct occurs.

This policy applies to all employees, students, applicants, vendors/contractors, visitors, and all others conducting official business with the University or participating in any activity within the scope of the authority of the University's administration, faculty, or staff. This policy defines the process by which an individual who has a valid complaint concerning harassment or discrimination (the "**complainant**") may pursue resolution of the matter.

The University is committed to maintaining **confidentiality**, to the extent practicable and appropriate, of persons who make a complaint or provide information in conjunction with an investigation under this policy. An individual's requests regarding the confidentiality of reports of harassment or discrimination will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of maintaining a working and learning environment free from harassment or discrimination and the due process rights of the alleged offender. **Some level of disclosure may be necessary to ensure a complete and fair investigation; therefore, absolute confidentiality cannot be assured or guaranteed.**



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Retaliation is a very serious violation of this policy and should be reported immediately. Retaliation refers to any adverse action that would deter a reasonable person from reporting, testifying, or otherwise cooperating with an investigation or proceeding concerning alleged violation of this policy.

Retaliation against individuals who report possible violations of this policy, or who cooperate with an investigation by the University or any law enforcement agency, is strictly prohibited. Retaliation is an independent basis for disciplinary action, regardless of the outcome of the underlying complaint.

For the purposes of this policy, “**business day**” is defined as any day the University is officially open, regardless of whether classes are in session.

These procedures do not replace the right of a person who believes he/she has been subjected to harassment or discrimination to pursue other options or remedies available under state, civil, or criminal statutes and/or federal law.

A. Definition of Harassment

Harassment is conduct that is (1) unwelcome; (2) discriminatory on the basis of race, color, ethnicity, sex, pregnancy, religion, national origin, disability, age, sexual orientation, gender, gender identity, gender expression, genetic information, veteran status, or any other status protected by state or federal law; and (3) directed at a specific individual or individuals. Harassment violates University policy when it is sufficiently severe, pervasive, or persistent that it denies or limits, or is likely to deny or limit, a reasonable person’s ability to participate in or benefit from University programs, services, opportunities, or activities.

Harassment can include but is not limited to verbal or non-verbal communication, written or graphic communication, electronic communication, and/or physical conduct. Examples of prohibited harassment may include, but are not limited to physical harassment, such as touching, pinching, grabbing, or brushing against another person without their consent; and (b) severe, pervasive, or persistent insults, jokes or derisive comments relating to a person’s protected characteristic.

Sexual Harassment



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Sexual Harassment is harassment (as defined above) of a sexual nature. It can include verbal or non-verbal communication or physical conduct. It is prohibited by this policy when it is sufficiently severe, pervasive or persistent that it denies or limits or is likely to deny or limit a reasonable person's ability to participate in or benefit from University programs, services, opportunities or activities. Examples of prohibited sexual harassment include, but are not limited to (a) repeated sexual solicitations toward a person who has indicated they are unwelcome; (b) conditioning favorable treatment in connection with any University program upon sexual favors; (c) threats of a sexual nature that do not rise to the level of sexual assault or domestic violence; and (d) severe, pervasive, or persistent insults or derisive comments related to sex, gender, gender identity, gender expression, or sexual orientation directed at a specific individual.

Whether sexual harassment is sufficiently severe, pervasive or persistent to violate this policy may depend on multiple factors. Thus, a person should not be deterred from reporting unwelcome sexual conduct simply because they are not certain whether it is severe, pervasive or persistent enough to constitute a policy violation. That is a determination for the University to make, and a person reporting harassment will never be penalized or retaliated against for any report made in good faith.

Violations or accusations related to sexual misconduct are subject to the provisions and procedures of the University's [Sexual Misconduct Policy and Procedures](#).

B. Definition of Discrimination

For the purposes of this policy, **discrimination** is defined as any action resulting in illegal differentiation or adverse treatment of an individual based on his/her race, color, ethnicity, national origin, age, marital status, gender, gender identity, gender expression, pregnancy, sexual orientation, , disability, religion, genetic information, veteran status or any status protected by law..

II. Procedures

A. Reporting a Complaint of Harassment (of a Non-Sexual Nature) or Discrimination



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If the complainant is able and feels safe, he/she should directly inform the alleged offender that the comments or conduct are unwelcome and must stop. If the complainant does not feel comfortable confronting the alleged offender, or if the comments or conduct do not cease immediately, and the complainant is a student, the complaint should be reported to:

Title IX Deputy Coordinator
Sandridge Student Union Bldg.
Second Floor - Room 118
Phone 256-233-8172

If the complainant is not a student, the complaint should be reported to:

Jerrie Smith, Title IX Coordinator
First Floor, Founders Hall
Phone: 256-216-3302

Athens State University strongly encourages anyone who feels they have been subjected to harassment or discrimination to report the incident within 180 business days of the occurrence, and preferably as soon as possible after the occurrence. The University can only take action against alleged offenders and protect the University from future incidents if occurrences of harassment and discrimination are reported in a timely fashion.

The University may take interim measures it deems necessary, as determined by the President or the President's designated representative(s), when a credible report is received and/or when an individual poses a potential threat to others. Interim measures will be taken within the context of other University policies and might include changes to class assignments for students or work assignments for employees.

Once the complaint is reported to the Title IX Coordinator or the Title IX Deputy Coordinator, the complainant can choose to proceed informally to resolve the complaint or to immediately begin a formal investigation and review of the complaint. **However, as detailed in the [Sexual Misconduct Policy and Procedures](#), for allegations of sexual assault/violence informal resolution is not appropriate even on a voluntary basis and will not be used to resolve such complaints.**



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B. Informal Steps to Resolve a Complaint of Harassment or Discrimination

In the informal process to resolve a complaint, the Title IX Coordinator or the Title IX Deputy Coordinator, appropriate University Vice President (depending on whether the alleged offender is a student, employee, or non-employee), and other University personnel as needed or requested by the complainant or alleged offender, will discuss and review the complaint with the complainant and with the alleged offender in separate consultations. In the interest of confidentiality, every effort will be made to limit the number of persons involved in the consultations. In most cases, individuals from outside the University will not be allowed to attend or participate in the consultations; exceptions will be at the discretion of the Title IX Coordinator or the Title IX Deputy Coordinator.

The informal process typically includes an inquiry into the facts of the complaint, but does not involve a formal investigation. If it is determined that the complaint is valid and can be resolved immediately to the satisfaction of the complainant, the Vice President will take action to resolve the complaint.

If a complaint is resolved informally, no record of the complaint will be entered in the alleged offender's personnel file or student records. However, the Title IX Coordinator or the Title IX Deputy Coordinator will, in the form of a confidential file memorandum, record the fact of the complaint and the resolution achieved.

Means of resolving the complaint in the informal process may include advising the complainant and/or alleged offender about methods to resolve the concern, arranging for educational programs for individuals or groups, or intervening and/or mediating between the parties. However, the informal process **does not** require the complainant and alleged offender to meet or to resolve the complaint directly with each other.

If the matter is not resolved to the satisfaction of the complainant after the informal process, the complainant can choose to begin a formal investigation and review of the complaint.

C. Formal Investigation and Review of a Complaint of Harassment or Discrimination

1. Request. To begin the formal process, a request for a formal investigation and review must be submitted in writing to the Title IX Coordinator or the Title IX Deputy Coordinator and



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signed by the complainant. Complainants may ask the Title IX Coordinator or the Title IX Deputy Coordinator for assistance from other University personnel in completing their formal request when needed. The request must include:

- Date of report;
- Date and time of incident;
- Contact information for the complainant;
- Name and status (student, employee, other) of the alleged offender (if known);
- Description of the incident;
- Information on whether the incident was reported to any other University official or department, or any police agency.

In addition to the request, the complainant may also submit any supporting documentation related to the complaint. **Note:** It is the right of the complainant to withdraw a complaint by requesting so in writing to the Title IX Coordinator or the Title IX Deputy Coordinator at any stage of the process. Once withdrawn, however, the complaint may not be reinstated.

2. Investigation. The Title IX Coordinator or the Title IX Deputy Coordinator will notify the President of the filing of the formal request as soon as is practicable. Within five (5) business days of the filing of the request, the President or a designee will notify all persons connected with the complaint of the filing of the formal request.

The Title IX Coordinator or the Title IX Coordinator will coordinate a formal investigation of the complaint, in consultation with the appropriate University administrators as determined by the President.

The investigation process is not a formal legal procedure, but is an internal process for complaints to be addressed and resolved while maintaining the due process rights of the parties involved in the complaint.

In general, the investigation will include the following steps:

- a. Review of written statements and oral interviews with the complainant.
- b. Review of written statements and oral interviews with the alleged offender.



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- c. Review of written statements and oral interviews with any witnesses with pertinent information related to the complaint.

In the interest of confidentiality, every effort will be made to limit the number of persons involved in the interviews. In most cases, individuals from outside the University will not be allowed to attend or participate in the interviews; exceptions will be at the discretion of the Title IX Coordinator or the Title IX Deputy Coordinator. However, if either party is permitted to have individuals from outside the University attend or participate in the interviews, the Title IX Coordinator or the Title IX Deputy Coordinator must extend this opportunity to the other party.

The investigation will be conducted as promptly as possible given the circumstances of the complaint, and will be completed in no more than sixty (60) calendar days of the filing of the formal request.

3. Report of the Investigation. Within fifteen (15) business days of the conclusion of the investigation, the Title IX Coordinator or the Title IX Deputy Coordinator will prepare a written report of the formal investigation. In general, the written report will include:
 - a. Statements of the allegations and issues associated with the complaint.
 - b. Positions of the parties involved in the complaint.
 - c. Summary of the evidence and findings of fact.
 - d. A determination by the investigating parties as to whether harassment or discrimination in violation of applicable law or the University's [Non-Discrimination/Equal Opportunity Policy](#) has occurred. This determination will be based on the preponderance of the evidence – whether it is more likely than not that harassment or discrimination occurred.

The complainant and alleged offender will be informed promptly in writing when the investigation is completed, and of the determination of the investigating parties as to whether a statute or policy was or was not violated. The complainant will be informed of any actions taken to resolve the complaint that are directly related to the complainant, such as an order that the alleged offender not contact the complainant. In accordance with relevant University privacy policies, the complainant may generally be notified that the



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matter has been referred for disciplinary action against the alleged offender, but will not be informed of the details of the recommended disciplinary action without the consent of the alleged offender.

4. Resolution of the Complaint. The investigation report will be submitted to the President and the appropriate University administrator, depending on whether the alleged offender is an employee or student. In cases where it is determined that violations have occurred, sanctions or disciplinary actions will be the decision of the President and the appropriate University administrator pursuant to other applicable University policies.

When it is determined that violations have occurred, the specific findings of the investigation will be considered in determining remedies for individuals harmed by the harassment or discrimination. In cases where disciplinary action or sanctions may be taken against the alleged offender, such actions may include (but not be limited to) counseling or education relevant to the complaint, verbal or written reprimands, reassignment, suspension, expulsion, or termination.

Whatever the outcome of the investigation, the Title IX Coordinator or the Title IX Deputy Coordinator will provide both the complainant and the alleged offender sources of counseling, advocacy, or support upon request.

5. Retention of Records of the Formal Investigation. The Title IX Coordinator or the Title IX Deputy Coordinator is responsible for maintaining records relating to harassment and discrimination investigations, reports, and resolutions. Records shall be maintained in accordance with University records policies, but may be maintained longer at the discretion of the in cases where the parties have a continuing affiliation with the University.

Any documentation concerning disciplinary action taken against the offender, whether the offender is an employee or student, will be maintained in the personnel or student record of the offender as appropriate.

6. Appeals will be considered only in those instances where a procedural error occurred during the original investigation, or where previously unavailable relevant evidence that could impact the outcome of the original investigation becomes available. Either party may



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request an appeal, to the President, on these grounds. If granted, the appeal will follow the same procedure as the original formal investigation and review process.

III. Responsibility for this Operating Policy

Policy Owner

As part of the initial approval of this policy by the President and subsequent to the original dissemination of the policy, the President has assigned the Vice President for Financial Affairs as the policy owner for the ongoing evaluation, review, and approval of this policy. Subsequent reviews and revisions to this policy must be in accordance with approved operating policy procedures and processes.

This policy will be reviewed every three years or more frequently as needed by the Policy Owner. Revisions will be reviewed/affirmed by the Cabinet and approved by the University President. This policy will be updated/published in the University's Policy Library.

Responsibility for Policy Implementation

The President has assigned the responsibility of implementing this policy to the Title IX Coordinator or the Title IX Deputy Coordinator.