

# Know Your Rights

## TITLE IX AT ASU

Alabama State University is committed to promoting gender equity in employment and education. In cases dealing with sex discrimination, informal mediation is available through the Title IX Coordinator or the Assistant Vice President of Human Resources, depending on the circumstances of the alleged incidents. In the event an individual is not satisfied with the mediation or elects not to pursue the informal process to remedy an alleged discriminatory practice, the student or employee may file a formal grievance. The purpose of the grievance procedure is to facilitate resolution of a grievance in an orderly and consistent manner as established in the Title IX Grievance Manual of the Office for Civil Rights of the U.S. Department of Education and Alabama State University.

**Information regarding the application of Title IX may be obtained from the Assistant Vice President of Human Resources at 334-229-6747 and the Title IX Coordinator at 334-229-4867.**

### TITLE IX DEFINITIONS THAT YOU SHOULD KNOW

Before filing a Title IX grievance, we want to ensure that you are familiar with the following definitions:

#### **Grievance**

A complaint alleging any action, policy, procedure or practice which would be prohibited by Title IX.

#### **Title IX**

Title IX of the Education Amendments of 1972, the 1980 implementing regulations and any memoranda, directives, guidelines or subsequent legislation that may be issued or enacted by the U.S. Department of Education.

#### **Complainant**

A student or employee of Alabama State University who submits a grievance relevant to Title IX or an individual or group submitting a grievance on behalf of a student(s) or employee(s).

#### **Alabama State University**

Any reference to Alabama State University means any school, department, subunit or program operated by the University.

#### **Title IX Coordinator**

The employee(s) designated to coordinate Alabama State University's efforts to comply with and carry out its responsibilities under Title IX and the Title IX implementing regulation.

#### **Title IX Deputy**

Any person designated by Alabama State University or by the Title IX Coordinator as a person with whom Title IX grievances may be filed. The Title IX grievance representative may be delegated other tasks by the Title IX Coordinator.

#### **Respondent**

A person alleged to be responsible, or who may be responsible, for the Title IX violation alleged in a grievance. The term may be used to designate persons with direct responsibility for a particular action or those persons with supervisory responsibility for procedures and policies in those areas covered in the grievance.

#### **Hearing Officer**

The representative(s) of Alabama State University, or its governing body, who is delegated authority for hearing/resolving a grievance at a specified level of grievance processing.

#### **Grievance Answer**

The written statement of the respondent regarding the grievance allegations and possible corrective action.

#### **Grievance Decision**

The written statement of a hearing officer on his or her findings regarding the validity of the grievance allegation and the corrective action to be taken.

#### **Day**

A class day; the calculation of days in grievance processing shall exclude Saturdays, Sundays and all holidays.

#### **Corrective Action**

The action which is taken by Alabama State University to eliminate or modify any policy, procedure or practice found to be in violation of Title IX and/or to provide redress to any grievant injured by the identified violation.



# HOW TO FILE A TITLE IX GRIEVANCE

A grievance may be filed by an individual student, employee or a group that files a complaint on behalf of a student(s) with the Title IX Coordinator. A grievance alleging discrimination or harassment, must be done so in writing and submitted to the Title IX Coordinator or other designated Title IX Deputy.

- 1** All grievances shall be processed in accordance with the following procedures: A grievance may be filed in writing at any time after the occurrence of a possible Title IX violation. The written grievance shall contain (1) the nature of the alleged incident; (2) the individual(s) against whom the complaint is made (i.e., "Respondent"); (3) the names of any witnesses; (4) any and all available evidence or sources of evidence; and (5) how the alleged discrimination denies or limits access to, or benefits of, any program, activity, or employment opportunity at Alabama State University.
- 2** The Title IX Coordinator shall notify all parties in writing within five (5) class days of receiving the grievance.
- 3** The respondent must send in writing a grievance answer within five (5) class days back to the Title IX Coordinator.
- 4** If the Title IX Coordinator fails to respond within five (5) class days or if the response is unfavorable, a grievance petition may be filed with the hearing officer within five (5) class days of the date on which the Title IX Coordinator(s)' response was received or should have been received.
- 5** The Title IX Coordinator shall notify the hearing officer of the complaint and shall set up a hearing. The Title IX Coordinator shall set the date, time and place of the hearing and notify the respondent of the hearing at least five (5) class days before the hearing.
- 6** Each party may be represented by professional legal counsel. However, if any party elects to be advised or represented by legal counsel, the hearing officer must be notified in writing no later than 48 hours before the hearing. In such a case, the University may exercise the option to present its case through the use of legal counsel.
- 7** At the conclusion of the hearing, the hearing officer shall compile his or her findings regarding the validity of the grievance allegation and the recommended corrective action in a document called the "grievance decision" on the appropriate hearing form. The hearing officer shall transmit written copies of the "grievance decision" to the grievant, Student Conduct Officer and Vice President for Student Affairs and Enrollment Management, and the Title IX Coordinator. The Title IX Coordinator shall send a copy to the President. A verbatim record in the form of a tape recording may be made during each hearing. All correspondence sent to the grievant must be by signature or certified mail or electronic University mail address.
- 8** The hearing officer's "grievance decision" shall contain a statement of the facts, findings of fact with respect to the matters at issue and recommended corrective actions.
- 9** If notice of appeal of the hearing officer's decision is received by the Title IX Coordinator within five (5) class days of receipt of the decision, another hearing shall be scheduled the grievant request an appeal with the University President. In the hearing, the burden of proof is on the grievant.
- 10** The respondent has the right to testify in his or her own behalf, to present evidence and witnesses, to hear and question adverse witnesses, and to rebut administrative or hearing committee by his or her peers. The judgment of the hearing officer shall be based solely on the evidence presented in the hearing.
- 11** The Title IX Coordinator shall do a follow-up and monitor each case brought to a hearing on the designated form.

*\*Source: U.S. Department of Education, Office for Civil Rights, Title IX Grievance Procedures: An Introductory Manual, 1987.*



## TITLE IX

### SEXUAL ASSAULT AND RAPE POLICY

This policy is applicable to heterosexual and same-sex concerning sexual assault and rape. Sexual assault is defined as any unwanted touching of a sexual nature. This includes but is not limited to:

- Unwanted kissing, touching or fondling
- Penetration with a finger or a foreign object
- Rape (vaginal or anal intercourse, oral or genital contact)

These acts constitute sexual assault when they are attempted or committed through force, threat, or intimidation; when the perpetrator has been informed that his/her actions are unwanted; or by taking advantage of the victim's incapacity or helplessness caused by alcohol or other drugs.

Rape is defined as "unlawful sexual intercourse by force or deception." A person is responsible of rape in the first degree when one intentionally engages in sexual intercourse with another person without consent.

Alabama State University categorization of rape is as follows:

#### ■ **Stranger Rape**

The sexual assault of an individual by someone the victim does not know.

#### ■ **Acquaintance Date Rape**

The sexual assault of an individual by someone the victim knows, usually an acquaintance or a date. Date rape is the most common type of rape occurring on college or University campuses, but the least frequently reported.

#### ■ **Group/Gang Rape**

The sexual assault of an individual by multiple perpetrators. Many gang rapes on college campuses occur in residence halls, fraternity houses or at off-campus parties and in vehicles.

### THE STATE OF ALABAMA'S RAPE CRIMINAL LAWS

In the case of rape allegations and findings, you should be aware that besides sanctions that are rendered by Alabama State University, the state of Alabama also has criminal laws that are applicable, including:

#### ■ **Rape in the first degree**

A person commits the crime of rape in the first degree if: he or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or

he or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being physically helpless or mentally incapacitated; or he or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.

#### ■ **Rape in the first degree is a Class A felony**

Rape in the second degree: A person commits the crime of rape in the second degree if: Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex. He or she engages in sexual intercourse with a member of the opposite sex who is incapable of consent by reason of being mentally defective.

#### ■ **Rape in the second degree is a Class B felony**

Sodomy in the first degree: A person commits the crime of sodomy in the first degree if: he engages in deviant sexual intercourse with another person by forcible compulsion; or he engages in deviant sexual intercourse with a person who is incapable of consent by reason of being physically helpless or mentally incapacitated; or he, being 16 years old or older, engages in deviant sexual intercourse with a person who is less than 12 years old.

#### ■ **Sodomy in the first degree is a Class A felony**

Sodomy in the second degree: A person commits the crime of sodomy in the second degree if: he, being 16 years old or older, engages in deviant sexual intercourse with another person less than 16 and more than 12 years old. He engages in deviant sexual intercourse with a person who is incapable of consent by reason of being mentally defective.

#### ■ **Sodomy in the second degree is a Class B felony**

### UNIVERSITY POLICY ON SEXUAL HARASSMENT

Alabama State University is firmly committed to providing an environment that is free of discrimination. Sexual harassment is reviewed as a form of sex discrimination and most reprehensible offense, whether committed on or off campus. Alabama State University will vigorously investigate and impose sanctions when investigation confirms that sexual harassment has occurred. The University is especially sensitive to this matter where students are involved and will not hesitate to impose the maximum disciplinary sanction where warranted. Deliberate false accusations of sexual



harassment will not be condoned and will result in disciplinary action being taken against anyone who knowingly makes a false report.

## SEXUAL HARASSMENT DEFINED

Here at Alabama State University, we define sexual harassment as any unwelcome sexual advances, requests for sexual favor and other verbal or physical conduct of a sexual nature when

(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic decisions, (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions or academic decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile or offensive working or academic environment or the assignment of better academic grades or favorable consideration for academic or social advancement. Sexual harassment may be of a heterosexual, same-sex or transphobia in nature and may consist of the following:

- sexually suggestive language;
- derogatory sexual comments;
- unsolicited touching of the body;
- outright solicitation of sexual intercourse;
- subtle pressure for sexual favors or social encounters;
- demands for sexual favors or social activity accompanied by threats or insinuations that failure to submit will adversely affect one's employment, wages, work conditions or academic advancement;
- demands for sexual favors or social activity accompanied by implied or direct promises that submission will result in better job treatment or academic advancement; and,
- patting or pinching.

## REPORTING INCIDENTS OF SEXUAL HARASSMENT

A student who believes he or she has experienced sexual harassment can report the allegation to the Title IX Coordinator, Student Conduct Officer, their designee under the Division of Student Affairs and Enrollment Management or the Department of Public Safety. A formal investigation of the matter will begin

when a written complaint is filed. If charges of sexual harassment are formally filed against any officer of the University who serves at or above the level of an area Vice President or the Director of Intercollegiate Athletics, the Assistant Vice President for Human Resources shall within 10 days report that fact and the results of any preliminary investigation to both the President and the Chairman of the Board of Trustees.

## INVESTIGATING INCIDENTS OF SEXUAL HARASSMENT

Prior to initiating an investigation, the Title IX Coordinator will notify the accused person(s) of the sexual harassment charge and of the impending investigation. The investigation will be non-adversarial. Therefore, attorneys for neither side will be permitted. The investigation committee will be composed of three disinterested members. Two members will be appointed by either of the two, divisional vice presidents. The third member will be selected by the two members appointed by the Vice Presidents. If the two cannot agree on naming a third member, the Title IX Coordinator will name the third member. If the sexual harassment charge involves a student, at least one member of the committee will be a student appointed by the Student Conduct Officer or their designee under the Division of Student Affairs and Enrollment Management.

The committee will interview and obtain relevant testimony from any and all persons who may have knowledge of the matter within 90 days of notification. Upon completion of the investigation, the committee will compile its findings, formulate recommendations and forward its report through the Title IX Coordinator to the Student Conduct Officer or their designee under the Division of Student Affairs and Enrollment Management.

### Retaliation

Alabama State 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 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



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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 maybe considered a violation of University policy

The Title IX Coordinator shall maintain all information pertaining to a complaint or investigation in secure files. Alabama State 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 to University Officials

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:

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

A student who has experienced gender based misconduct may disclose information regarding the misconduct to any member of the Alabama State University community. If a student survivor reports to another student, faculty or staff member that a sexual assault has occurred, the survivor should be strongly urged to report the event to one of the departments listed as on-campus resources. University Police, Counseling Services, Health Services, the Vice President of Student Affairs and Enrollment Management, the Title IX Coordinator, and the Violence Against Wo(men)

Program Director are just several areas in which an incident can be reported. However, students should be aware that not all employees are required to maintain confidentiality. Prior to the start of the conversation, the employee should inform the student of his/her confidentiality status.

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

- Ensure the safety of the student survivor.
- Encourage the student survivor to seek immediate medical treatment if injured.
- If the survivor was sexually assaulted and desires a confidential rape exam, they 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 or her hair, or change clothes in order to protect 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.
- If a dating or domestic violence offense occurs, the Family Sunshine Center may be contacted.
- If a stalking offense occurs, the victim will be referred to the Alabama State University Police Department and/or the One Place Family Justice Center.
- 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.
- Advise the student survivor of his or her right to, or not to notify or seek assistance from off-campus law enforcement, the Title IX Coordinator and University Police.
- Advise the student survivor of his or her right to receive or reject counseling assistance or medical treatment for the purpose of gathering evidence for subsequent prosecution.
- 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.

## **PREGNANCY AND PARENTING**

Federal law, as informed by and explained in Title IX, prevents institutions from discriminating against students who are pregnant or parenting. **To learn more about your rights, then please visit: <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-know-rights-201306-title-ix.html>.**

For the safety of the mother and child, prenatal medical services are not provided in the Health Center. The student who is expecting is encouraged to consult with her prenatal provider concerning regular check-ups and medications.

At this time, Alabama State University does not provide family living housing.

## **VIOLENCE AGAINST WO(MEN) PROGRAM: “M.O.V.E.”**

Alabama State University’s Violence Against Wo(men) Program, titled M.O.V.E., is under the auspices of the University Counseling Center. 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 Student Conduct. 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 crisis to survivors of such offenses by providing information regarding their rights and access to on and off-campus support resources.

## **EDUCATIONAL PROGRAMS**

Alabama State University is committed to providing preventive, informative and supportive programs for members of the University community. Campus-wide programs coordinated by the Violence Against Wo(men) Program, University Police and the Division of Student Affairs and Enrollment Management 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 arrival, 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 ongoing programs. Additionally, the sexual misconduct police are linked to the online training as well.





**OFF-CAMPUS RESOURCES**

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

**ON-CAMPUS RESOURCES**

Department	Contact	Location	Availability
ASU University Police	334-229-4400	1452 Carter Hill Road	24 Hours
ASU Counseling Services	334-229-4382 334-229-4894	John G. Hardy Student Services Center, #C-155	8 a.m.-5 p.m.
ASU Health Center	334-229-4436	Simpson Hall, Basement	8 a.m.-5 p.m.
Title IX Coordinator	334-229-4867	John G. Hardy Student Services Center #C-164	8 a.m.-5 p.m.
Vice President for Student Affairs and Enrollment Management	334-229-4241 334-229-4233	John G. Hardy Student Services Center, Suite C119	8 a.m.-5 p.m.
“VAWP” Violence Against Wo(Men) Program	334-229-6767	John G. Hardy Student Services Center, # C-137	24 Hours

Note: Faculty and Non-instructional Staff are deemed responsible employees who may assist all students.

**TITLE IX DEPUTY LISTING**

Dr. Jason Cable	Athletics
Dr. Carly Johnson	Performing Arts/Band
Dr. Malinda Swoope	Student Affairs and Enrollment Management
Chief Kelvin Kendrick	Police Department
Dr. Rakesha Hines	Housing and Residence Life/International Affairs
Mr. Chris Johns	Counseling Center
Dr. Ronda Westry	Academic Center for Educational Success (A.C.E.S.)
Dr. Freddie Williams	Admissions, Recruitment and New Student Orientation

