

Alderson Broaddus University's Policy Prohibiting Discrimination and Harassment

Alderson Broaddus University is committed to providing and maintaining a learning and working environment that is free from any form of illegal discrimination or harassment in accordance with federal, state and local law, including Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title VI and Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Americans with Disabilities Amendments Act, the Age Discrimination in Employment Act, the West Virginia Human Rights Act, and their implementing regulations. Specifically, the University prohibits discrimination or harassment on the basis of sex, age, race, color, national origin, ancestry, blindness, disability, religion, veteran status or any other characteristic protected by federal, state and local law.

Such discrimination or harassment will not be tolerated from anyone, including faculty members, staff members, students, visitors, contractors, vendors or any other individuals providing services to the University. Any student or employee of the University who has a complaint of discrimination or harassment prohibited by this policy should use the complaint procedure set forth in this document.

Definitions

Unlawful Discrimination – Unlawful discrimination includes treating an individual differently than another individual with respect to the terms and conditions of employment or education on the basis of **the individual's sex, age, race, color, national origin, ancestry, blindness, disability, religion, veteran status or any other characteristic protected by federal, state and local law.**

Harassment – Harassment includes any type of unwelcome conduct, whether written, verbal or physical, that has the effect of creating a hostile, intimidating or offensive environment based upon a **person's sex, age, race, color, national origin, ancestry, blindness, disability, religion, veteran status or any other characteristic protected by federal, state and local law.**

Sexual Harassment – Sexual harassment is defined as sexual advances, requests for sexual favors, and other inappropriate verbal, written or physical conduct of a sexual nature where (1) submission to such **conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;** (2) submission to or rejection of such conduct by an individual is used as the basis for employment or education decisions affecting the individual; or (3) such conduct has the purpose or effect of substantially interfering with an **individual's academic or professional performance or creating** an intimidating, hostile or offensive work or educational environment. This includes any form of sexual violence or misconduct.

Sexual Misconduct – May include, but is not limited to, rape, forcible sodomy, forcible oral copulation, sexual assault with an object, sexual battery, forcible fondling, threat of sexual assault, sexual violence, domestic violence, dating violence and stalking.

Sexual Violence – Physical sexual acts engaged without the consent of the other person or when the other person is unable to consent to the activity. Sexual violence includes sexual assault, rape, battery, and sexual coercion, domestic violence, dating violence, and stalking.

Domestic Violence – Abuse committed against an adult or a minor who is a spouse or former spouse, cohabitant or former cohabitant, a person similarly situated under domestic or family violence law, anyone else protected under domestic or family violence law, or someone with whom the abuser has a child, has an existing dating engagement relationship, or has had a former dating or engagement relationship.

Dating Violence – Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined **based on the reporting party's statement and with consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.**

Stalking – Defined as behavior in which a person repeatedly engages in conduct directed at a specific person that places that person (1) in reasonable fear of his or her safety or the safety of others; or (2) to suffer substantial emotional distress.

Complainant – The individual who was allegedly subject to unlawful discrimination or harassment.

Respondent – The individual who is accused of subjecting the Complainant to unlawful discrimination or harassment.

Business Days – Includes days when the University is open and excludes weekends and holidays when the University is closed.

Title IX

In accordance with the requirements of Title IX, the University does not discriminate on the basis of sex in its education programs and activities. Questions regarding Title IX may be referred to the **University's Title IX Coordinator or to the Office of Civil Rights of the United States Department of Education. The University's Title IX Coordinator can be contacted as follows:**

Amy Kittle, Title IX Coordinator
101 College Hill Rd.
Philippi, WV 26416
304.621.1316
kittleal@ab.edu

Confidentiality In order to comply with Family Educational Rights and Privacy Act (FERPA), Title IX, other state and federal laws and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the investigation process is not open to the general public. Accordingly, documents prepared during the investigation may not be publicly disclosed, except, as may be authorized/required by law or per the terms of these procedures and/or if necessary to provide for the defense of the University.

The Title IX/AA/EEO Coordinator attempts to balance the needs of the parties for privacy with the institutional responsibility of ensuring a safe educational environment and workplace. Confidentiality is an aspiration, but is **not always possible or appropriate. An individual's request regarding the**

confidentiality of reports of discrimination or harassment, including, but not limited to, sex offenses, **will be considered in the dual contexts of the institution's need to conduct a thorough investigation and ensure a working and learning environment that is free from discrimination, harassment or sexual misconduct and the rights of the accused to be informed of the allegations and their source.** Some disclosure will be necessary to ensure a complete and fair investigation and to insure that the institution meets its obligation under Title IX. The institution may be limited in response and investigation if confidentiality is requested.

Complaint Procedure

Any suspected incidents of discrimination or harassment should be immediately reported in writing to **the University's Title IX Coordinator. If the complaint involves the Title IX Coordinator, or if the person raising the complaint does not feel comfortable addressing it to the Title IX Coordinator, the complaint should be reported in writing to the Vice President for Administration.** Any questions regarding Title IX compliance should be directed to the Title IX Coordinator.

If a Complainant fears for his or her safety on campus, the Complainant should notify the Title IX Coordinator. The Title IX Coordinator will assess the necessity of any interim remedies or accommodations to protect the safety of the Complainant or the community, including changing class schedules or living arrangements, or more serious measures such as interim suspensions or no-contact orders.

Informal Resolution

Alderson Broaddus University allows informal resolution options when the parties desire to resolve the situation cooperatively, or when inappropriate behavior does not rise to the level of violation of University policy as determined by the Title IX Coordinator, but nonetheless is adversely affecting the workplace or educational environment. Informal resolution may include an inquiry into the facts, but typically does not rise to the level of an investigation.

Informal resolution includes, but is not limited to, options such as referral to another campus office or program, mediation, separation of parties, referral of the parties to counseling programs, or conducting targeted educational and training programs. Situations that are resolved through informal resolution are usually subject to follow-up after a period of time to ensure that resolution has been implemented effectively. Steps taken by the Title IX Coordinator to help the parties achieve informal resolution will be documented. A Complainant has the right to end the informal resolution process at any time and request a formal investigation. Allegations of sexual misconduct cannot be resolved through the informal resolution process.

Investigation

If informal resolution is unsuccessful or if the Complainant opts not to participate in informal resolution, the Title IX Coordinator or the Vice President for Administration shall conduct a prompt, thorough and impartial investigation into the complaint allegations. The investigation shall include

interviewing the Complainant, the Respondent and any witnesses who are likely to have knowledge regarding the allegations. The investigator shall also review any documents or other tangible forms of evidence relating to the complaint allegations. Both the Complainant and Respondent may present any witnesses or other forms of evidence to be considered by the investigator. This investigation shall be completed within 60 business days of receiving the complaint, unless extenuating circumstances exist which make this timeframe unreasonable. In the event of such extenuating circumstances, to be determined in the sole discretion of the investigator, the Complainant and Respondent shall be informed in writing of the need for an extension of time to complete the investigation, not to exceed an additional 10 business days. Upon the conclusion of the investigation, the investigator shall issue a written determination stating that either the information gathered through the investigation does indicate that it is more likely than not that discrimination, harassment or other inappropriate misconduct occurred OR that the information gathered through the investigation does not indicate that discrimination, harassment or other inappropriate misconduct occurred. A copy of this determination shall be provided to both the Complainant and the Respondent within the same 24-hour period.

If the investigator determines that there was a violation of the University's Policy Prohibiting Discrimination and Harassment, the investigator shall make a recommendation to the Provost/Executive Vice President of Academic Affairs for appropriate corrective and disciplinary action to be taken, with the exception of discrimination cases involving third-party companies, in which case the investigator will make a recommendation to the President of the University. The Provost/Executive Vice President of Academic Affairs or the President, as applicable, shall decide the appropriate corrective and disciplinary action to be taken within five business days of receipt of the recommendation from the Title IX Coordinator. Refer to the Student Handbook for a list of possible sanctions.

Retaliation

There will be no retaliation against any individual who makes a good faith report of discrimination or harassment or participates in or cooperates with any investigation of alleged discrimination or harassment.

Appeal

If either the Complainant or Respondent objects to the findings of the investigator, he/she may file a written appeal to the Vice President of Administration or the Title IX Coordinator, whomever did not investigate the complaint, within 10 business days of receiving the written findings. After receiving the written appeal, the Vice President of Administration or the Title IX Coordinator shall convene a Hearing Committee comprised of the following persons: Vice President of Administration or Title IX Coordinator (whomever was not involved in the underlying investigation), Hearing Committee Chairperson; two faculty members to be appointed annually by the University President to serve on the Hearing Committee; and two staff members to be selected by the University President. The Hearing Committee Chairperson shall schedule a hearing on the appeal within ten business days of receiving the written appeal. At the hearing, both parties will be given an opportunity to make an opening statement, present witnesses, submit documents or other forms of tangible evidence and make a

closing statement. Within five business days of the conclusion of the hearing, the Hearing Committee **shall submit a written determination to the University President reflecting the Committee's** determination that either (1) the evidence presented does indicate that it is more likely than not that discrimination, harassment or other inappropriate misconduct occurred; (2) that the evidence presented does not indicate that it is more likely than not that discrimination, harassment or other inappropriate misconduct occurred; or (3) that the sanctions imposed were disproportionate to the scope of the discrimination. If the Hearing Committee determines that there was a violation of the **University's Policy Prohibiting Discrimination and Harassment**, the Committee shall make a recommendation to the University President for appropriate corrective and disciplinary action to be taken. The University President shall make the final decision as to the appropriate corrective and disciplinary action to be taken, if any, **within 10 business days of receiving the Hearing Committee's recommendation. Both parties will receive written notification of the Hearing Committee's decision** within the same 24-hour period.

Where a violation of this policy is found, the University will take necessary action to prevent further discrimination and/or harassment. The University will also remedy any discriminatory effects on a Complainant and others, as appropriate.

Approved March 15, 2016 by President's Cabinet