

Title IX - Party Rights, Resources, and Information

The University of Alaska (UA) is committed to providing a safe and respectful campus environment, free from discrimination on the basis of sex, as required by Title IX. This commitment extends to admissions and employment. Inquiries about the application of Title IX may be referred to a UA Title IX Coordinator, the U.S. Department of Education, or both.

To effectuate UA's responsibilities under Title IX, UA Board of Regents' Policy and Regulation (BOR P&R) Chapter 01.04 (available at <http://alaska.edu/bor/policy-regulations/>) defines prohibited behavior and details the administrative grievance process (including inquiries, investigations, hearings, and appeals) which the university uses if prohibited behavior is alleged to have occurred. Although in some instances law enforcement may separately be involved with a matter, UA's Title IX Offices do not conduct criminal investigations. This document highlights information contained within Chapter 01.04, including the rights of both parties and available resources.

Everyone has the right to a learning and working environment free of unlawful discrimination, including sexual harassment. Sexual harassment is defined in BOR P&R 01.04.010 to include:

1. A university employee, agent, or contractor conditioning the provision of an aid, benefit, or service of the university on an individual's participation in unwelcome sexual conduct;
2. Unwelcome sex- or gender-based conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the university's education program or activity; or
3. Sexual assault, dating violence, domestic violence, or stalking, as defined in regulation.

Misconduct which does not meet the definition of sexual harassment will be addressed under different UA BOR Policies and Regulations.

Key Terms:

- "Complainant" is used to refer to an individual reported to be the victim of conduct that could constitute unlawful discrimination, regardless of whether the individual filed a complaint or is otherwise seeking disciplinary action.
- "Respondent" is used to refer to an individual reported to be the perpetrator of conduct that could constitute unlawful discrimination.
- "Parties" is used to refer to both complainants and respondents, collectively.

Seeking Help: Everyone has the right to report any conduct which they reasonably believe constitutes sex- or gender-based discrimination. (In addition to a UA Title IX Office, reports of discrimination may be made to the Department of Education's Office for Civil Rights.) No

university official may take disciplinary or other adverse action against a person for reporting what they believe to be discriminatory behavior, even if it is determined the reported behavior was not a violation of BOR Policies and Regulations. Assistance addressing unlawful discrimination is available to everyone; neither party is required to resolve an allegation directly with the other party.

Outside of the UA grievance process, a complainant may pursue law enforcement assistance by filing a separate report with a law enforcement agency. In most circumstances, a UA Title IX Office will not file a report with law enforcement, but may, upon request, assist in connecting a complainant with the proper law enforcement agency. **Anyone who feels at risk of imminent harm should immediately call 911.**

Supportive Measures: As detailed in BOR P&R 01.04.070, the parties have the right to receive reasonably available and appropriate supportive measures (e.g., assistance accessing confidential counseling or advocacy services; academic support; on-campus escorts; university no contact orders; and adjustments to classes, housing, and work environments) upon request. A formal complaint is not required to receive supportive measures, and they may be requested or changed at any time, without any fee to the party.

Either party may request supportive measures by contacting the **UAS Title IX office at (907) 796-6371 or uas.equity@alaska.edu**

Counseling:

- Registered students at UAS can call the Student Resource Center at (907) 796-6000 or email uas.info@alaska.edu to schedule an appointment.
- If you are a faculty or staff member, counseling services are provided through the Deer Oaks Employee Assistance Program (EAP) at (888) 993-7650.

Formal Complaints: As outlined in BOR P&R 01.04.060, the university will not proceed with an investigation under BOR P&R Chapter 01.04 unless a formal complaint is submitted by a complainant or a Title IX coordinator. A formal complaint must be physically or electronically signed, allege sexual harassment (as defined in BOR P&R 01.04.010), and request an investigation. A complainant may later request withdrawal of their formal complaint, but dismissal of a complaint under that circumstance is within the Title IX coordinator's discretion.

Participation: Parties may choose to participate in the grievance process, but are not required to do so. Upon being contacted regarding the grievance process, parties should promptly communicate their preference to the Title IX Office. If a party does not respond to communications from the Title IX Office, it may be presumed the party has elected not to participate. Complainants may request that the university not investigate a report which identifies them as a potential complainant; however, in some instances implicating broader university concerns, the Title IX Coordinator may choose to file a formal complaint and initiate an investigation despite non-participation of the complainant. If a formal complaint is filed, but one or more parties is not participating, the grievance process will nevertheless proceed.

Honesty: Misrepresenting the truth during a university investigation and/or making false statements to any university official or office is a violation of the Student Code of Conduct for students under BOR Regulation R.09.02.020(2)(b) and is subject to Corrective Action for employees under BOR Policy P.04.07.040.

Informal Resolution: As detailed in BOR P&R 01.04.120, any party may request to use the university's informal resolution process (which may involve, for instance, mediation, training, restorative justice, developmental opportunities, or apologies) to resolve a formal complaint any time after the formal complaint is filed but before a determination of responsibility has been made. (However, informal resolution may not be used to resolve allegations of sexual harassment involving an employee respondent and a student complainant.) As long as all parties agree in writing to attempt the informal resolution process, the formal grievance process will stop and the informal resolution process will begin. If any party no longer wishes to use informal resolution, the informal resolution process will end and the formal grievance process will resume.

Privacy: As detailed in BOR Policy P01.04.050, the university takes steps to preserve the privacy of those involved in the Title IX grievance process. However, complete privacy may not be possible in some circumstances, especially in cases where the university must take action to protect the safety of others.

Amnesty for Student Conduct: As detailed in BOR Policy P01.04.060.E, the university provides amnesty for conduct that would otherwise warrant minor sanctions under the Student Code of Conduct (e.g., under-age drinking or prohibited drug use) as long as the conduct is related to a report of sexual misconduct. Although not sanctioned, students granted amnesty may be required to complete related educational programs, and a pattern of amnesty requests can result in a decision by the student conduct administrator not to repeatedly extend amnesty to the same person.

Advisors: Each party has the right to use an advisor of their choice, and may bring the advisor with them to any meetings related to the grievance process, including interviews, hearings, and appellate proceedings. (Bargaining unit employees also have the right to bring a union representative to any meetings related to the grievance process.) A party's advisor may be anyone, including a friend, relative, student, faculty or staff member, advocacy organization staff member or volunteer, union representative, or attorney; but any cost associated with an advisor of choice is the party's responsibility. If a hearing is held, each participating party must have an advisor present because parties are not permitted to directly ask cross-examination questions. If a party does not have an advisor at the time the investigative report is released, an advisor will be appointed by the university for the purpose of the hearing, at no expense to the party.

Retaliation: As detailed in BOR Policy P01.04.100, everyone involved in the Title IX grievance process has the right to be free from retaliation. Threats or other forms of intimidation or retaliation against complainants, respondents, witnesses, investigators, or anyone else involved

in the grievance process will constitute a violation of university policy and may be subject to separate administrative action.

Grievance Process: As described in more detail in BOR P&R 01.04.160, during the grievance process respondents are presumed not responsible for alleged conduct until a determination regarding responsibility is made. Additionally, the burden of gathering evidence rests on the university and not on the parties; however, the parties may present relevant witnesses and evidence to the investigator. Upon the conclusion of the investigation, the parties will be given the opportunity to review and respond to all evidence obtained during the investigation which is related to the allegations, then the investigator will write a report summarizing the evidence. The parties will also be given the opportunity to respond to the report before a live hearing is held. At the hearing, each party will have the opportunity to cross-examine, through their own advisor, any other participating parties and witnesses. (No statements from nonparticipating persons will be considered by the decision-maker.) After the hearing, the decision-maker will issue a written determination deciding whether university policy has been violated, using the preponderance of the evidence standard, and if there is a finding of responsibility, announcing discipline and remedies.

Timeliness: The Title IX Office conducts the grievance process in a prompt, fair, and impartial manner. 180 days is considered a reasonably prompt timeframe for addressing a formal complaint, including time for filing and resolving appeals and participation in any informal resolution processes. However, factors such as the complexity of the allegations, the availability of the parties and administrators, and outside disruptions may sometimes cause a delay. Either party may contact the Title IX Coordinator for updates regarding the status of a formal complaint, investigation, hearing, outcome, or appeal.