

ADMINISTRATIVE POLICY: Students

Equal Opportunity, Non-Discrimination, Sexual Harassment and Title IX

Last Reviewed: May 2019

Responsible University Officer: Chief Diversity Officer

Policy Owner: Chief Diversity Officer

Policy Contact: Chief Diversity Officer



POLICY STATEMENT

It is the policy of Upstate Medical University to provide equal opportunity in employment and educational programs for qualified persons; to prohibit discrimination based on age, race, color, disability, marital status, national origin, religion, sexual orientation, veteran status, sex, or any other category protected by law, and to promote the full realization of equal employment and educational opportunity through a positive and continuing program in accordance with existing Federal and State statutes and regulations.

Upstate Medical University prohibits discrimination on the basis of any protected category as specified by Federal and State laws in the recruitment and employment of faculty, staff, and students and in the operation of any of its programs and activities.

PROCEDURES

- Title IX of the Educational Amendments of 1972 explicitly prohibits sex discrimination in education programs and activities. This includes sexual harassment, sexual violence, and other forms of non-consensual sexual activity. Inquiries regarding the Title IX and reports of violations should be directed to the Title IX Coordinator.
- The Title IX Coordinator is available to address inquiries regarding this policy and its application. The Chief Diversity Officer and Dean of Student Affairs, are also available to address your matters. Individuals may inquire about their options and/or file a written complaint by contacting the Office of Diversity and Inclusion or the Office of the Dean of Student Affairs to arrange an appointment. Written complaints must be filed with the Chief Diversity Officer within 180 calendar days following the alleged discriminatory act or the date on which the complainant first knew or reasonably should have known of such act. More detailed information regarding the Discrimination Complaint Procedure can be found by visiting the website at http://www.upstate.edu/diversityinclusion/complaint/complaint_process.php.
- If the complainant is dissatisfied with the University's response to the alleged discrimination, the complainant may, at any time during the internal process, file a complaint with the appropriate State or Federal agency, as referenced in the Discrimination Complaint Procedure.

DEFINITIONS AND PROHIBITED ACTS AND BEHAVIORS

- Harassment on the Basis of Protected Characteristic(s) other than Sex/Gender - Harassment based on sex, race, color, age, religion, or national origin (including an individual's ancestry, country of origin, or that of the individual's family members, or ancestors), disability, sexual orientation or other protected characteristics may be oral, written, graphic, or physical conduct relating to an individual's protected characteristics that is sufficiently severe, pervasive, or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the educational institution's programs or activities, or terms, conditions, or status of employment.
- Sexual Harassment in the Educational setting is defined as: Unwelcome conduct of a sexual nature. Sexual harassment can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual harassment of a student denies or limits, on the basis of gender, the student's ability to participate in or to receive benefits, services, or opportunities in the educational institution's program.
- Retaliation - An employee or student who participates in the procedure has the right to do so without fear of retaliation. It will be made clear that retaliation against an employee, a student, or a witness who filed a discrimination complaint will result in appropriate sanctions or other disciplinary action as covered by collective bargaining agreements, and/or University policies.

VICTIMS' RIGHTS

When a member of the Upstate community has been the victim of an act of misconduct which violates the physical and/or mental welfare of an individual, the victim should expect that the student conduct system shall respond in a caring, sensitive manner which allows the victim to utilize the student conduct process unimpeded, while still maintaining the rights of the accused student. Victim status is typically associated with crimes of violence, such as sexual assault, rape, physical assault, hazing, sexual harassment, and harassment.

The following rights shall be provided to victims of applicable offenses:

1. A victim has the right to be treated with dignity and compassion by the student conduct body, and by all persons involved in the disciplinary process.
2. A victim has the right to information pertaining to the campus student conduct process and appropriate referrals for information on the criminal process.
3. A victim has the right to information pertaining to counseling assistance available to them.
4. A victim has the right to assistance throughout the student conduct process, including the right to have an advisor present at all proceedings.
5. A victim has the right to due process protections including the right to written notification of a hearing, the right to hear all information presented, the right to present information and witnesses, the right to notification of the final results of a hearing (for victims of crimes of violence or non-forcible sexual offenses).
6. A victim has the right to testify from another location as long as it does not infringe upon the rights of the accused student to have a fair hearing.
7. A victim has the right to have any unrelated past behavior excluded from the hearing process. The student conduct body shall determine what constitutes unrelated behavior.
8. A victim has the right to provide a written impact statement to the student conduct body. The victim impact statement will remain a part of the record through all levels of appeal.
9. A victim has the right to not have their identity released by the student conduct process in relation to campus and other media, and from all other uninvolved parties.
10. A victim has the right to expect to be free from intimidation and harassment throughout the student conduct process.
11. A victim has the right to request that campus personnel take the necessary steps reasonably available to prevent unwanted contact or proximity with an alleged assailant(s).
12. In cases where the victim is a victim of sexual harassment, sexual assault, rape and/or sexual violence only, the victim has the right to appeal the finding or sanction as described in the Code of Student Conduct.

Options - Victims have several options for resolving complaints:

1. A student may file a complaint with the Dean of Student Affairs Office and initiate charges in the student conduct system. These proceedings are confidential.
2. A student may press charges through the criminal process. In order to do so, a victim should contact University Police if the incident took place on campus. For off-campus reports, contact the appropriate police agency.
3. A student may elect to file complaints with both the student conduct system and through the criminal process. Pursuing both options is not a form of "double jeopardy", as this concept only applies to criminal proceedings.

Upstate Medical University maintains an interest in the welfare of its community members regardless of the status of parallel criminal or civil cases. More information regarding harassment and discrimination complaints including definitions, processes and procedures, and additional resources can be found here: <http://www.upstate.edu/diversityinclusion/complaint/> or from the Upstate Title IX Coordinator and Affirmative Action Officer, Rm. 711, Jacobsen Hall, Phone: 315-464-5234, email address: diversity@upstate.edu.

RESPONSIBILITIES

Student policies and their effectiveness are reviewed annually as the Student Handbook is updated.
