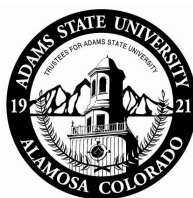


POLICY NUMBER: 700-01-01
CHAPTER: Administration Policies: Safety
SUBJECT: Sexual Misconduct



ADAMS STATE UNIVERSITY
Part II: Administration Policy
Chapter 700-01: Administration Policies: Safety Policies

Policy Number: 700-01-01
Subject: Sexual Misconduct
Effective Date: Revised February 09, 2022
Supersession: N/A
Office of Primary Responsibility: Office of Equal Opportunity and Law Enforcement

Policy Statement

Adams State University (ASU) does not discriminate on the basis of sex in the education programs and activities that it operates, and Adams State University is prohibited from such discrimination pursuant to Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-88) and implementing regulations (34 C.F.R. Part 106). This prohibition extends to admissions and employment. Inquiries regarding the application of Title IX and implementing regulations may be referred to the Title IX Coordinator identified herein, to the Assistant Secretary of the U.S. Department of Education, or both.

Adams State University prohibits Sexual Harassment.

ADAMS STATE UNIVERSITY'S SEXUAL MISCONDUCT POLICY FOR STUDENTS:

ASU strives to create and maintain a safe environment in which all members of the University community are treated equally, with dignity and respect. Sex discrimination in any form, including sexual misconduct, is not tolerated at ASU. Sexual misconduct is contrary to the values of the ASU community and is strictly prohibited. All members of the ASU community are expected not to infringe on the rights of others. Sexual misconduct is not simply inappropriate behavior; it is against the law. The University complies with federal law and regulations, including but not limited to, Title IX, the Violence Against Women Act, and the Clery Act. Because of the unique nature of sexual misconduct allegations and because federal law directs how the University responds to such allegations, reports of sexual misconduct are handled differently than other allegations of ASU Student or Employee Conduct violations. This policy is intended to foster a climate that encourages prevention and reporting of sexual misconduct. The University will respond to reports of sexual misconduct, will strive to take prompt and effective steps reasonably intended to stop any form of sexual misconduct, eliminate any hostile environment, prevent its recurrence and as appropriate, remedy its effects. The prohibition against sexual misconduct applies to conduct that occurs on campus, as well as some conduct that occurs off-campus, including on-line or electronic conduct. This policy also applies to conduct occurring in the context of an education program or activity of the University. Violations of this policy may be subject to disciplinary action, up to and including dismissal from the

University, as applicable. Any disciplinary action may become part of a student's academic record. In addition, there may be a separate criminal investigation, with appropriate charges filed. The University will consider appropriate potential action regarding third-party conduct that is alleged to have violated this policy, such as an order under the University's Persona Non Grata policy; however, those options may be limited depending on the circumstances.

This Policy is not intended to, nor does it, create a contract between Adams State University and community members.

Purpose

This policy is intended to foster a climate that encourages prevention and reporting of sexual misconduct. The University will respond to reports of sexual misconduct, will strive to take prompt and effective steps reasonably intended to stop any form of sexual misconduct, eliminate any hostile environment, prevent its recurrence and as appropriate, remedy its effects.

The prohibition against sexual misconduct applies to conduct that occurs on campus, as well as off-campus conduct, including on-line or electronic conduct. This policy also applies to conduct occurring in the context of an education program or activity of the University, regardless of the location of the University program or activity.

Violations of this policy may be subject to disciplinary action, up to and including dismissal from the University, as applicable. Any disciplinary action may become part of a student's academic record. In addition, there may be a separate criminal investigation, with appropriate charges filed. The University will consider appropriate potential action regarding third-party conduct that is alleged to have violated this policy, such as an order under the University's Persona Non Grata policy; however, those options may be limited depending on the circumstances.

Definitions

- A. Complainant: an individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.
- B. Education Program or Activity: includes locations, events, or circumstances over which Adams State University exercised substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the Institution.
- C. Formal Complaint: a document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that Adams State University investigate the allegation of Sexual Harassment.
- D. Good Cause: a situation or circumstances, beyond the control of a party, which makes compliance with the time frames established in this policy difficult or impossible. Examples of good cause include, but are not limited to, illness or injury, delay caused by 3rd party, and previously scheduled travel that cannot be reasonably rescheduled.
- E. University Reporting Authority (URA): refers to an employee who has the obligation to report alleged Sexual Harassment and any alleged Retaliation to the Title IX Coordinator.
- F. Party: means Complainant or Respondent.

- G. Respondent: an individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.
- H. Retaliation: intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulation, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy.
- I. Sexual Harassment: conduct on the basis of sex that satisfies one or more of the following:
 - 1. An employee of Adams State University conditioning the provision of an aid, benefit, or service of Adams State University on an individual's participation in unwelcome sexual conduct;
 - 2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the Institution's Education Program or Activity; or
 - 3. Sexual assault as defined in 20 U.S.C. § 1092(f)(6)(A)(v), dating violence as defined in 34 U.S.C. § 12291(a)(1), domestic violence as defined in 34 U.S.C. § 12291(a)(8), or stalking as defined in 34 U.S.C. 12291(a)(30).
- J. Supportive Measures: non-disciplinary, non-punitive individualized services offered to the Complainant or Respondent. Supportive Measures are discussed in further detail in Section IV., C. below.
- K. Title IX Coordinator: Ana Guevara, Student Union Building room 327, 719-587-8213, anaguevara@adams.edu. For the purpose of this Policy, actions to be taken by the Title IX Coordinator may be completed by the Title IX Coordinator's designee. The contact information for the Title IX Coordinator will be updated as necessary as a technical amendment to this policy.

Procedures

A. Jurisdiction/Applicability

The provisions of this Policy apply to all reported instances of alleged Sexual Harassment that meet the Title IX definition of Sexual Harassment, that occur while the Complainant is in the United States and is participating in, or attempting to participate in, an Education Program or Activity of the Institution.

B. Reports of Alleged Sexual Harassment

- 1. At any time, any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of sex discrimination), in person, by mail, by telephone, or by electronic mail to the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

2. Any University Reporting Authority (URA) who receives a report of alleged Sexual Harassment must promptly report the alleged Sexual Harassment to the Title IX Coordinator.
3. Upon receiving a report of alleged Sexual Harassment, the Title IX Coordinator will promptly:
 - a. Inform the Complainant of the method for filing a Formal Complaint.
 - b. Inform the Complainant of the availability of Supportive Measures with or without the filing of a formal complaint.
 - c. Offer Supportive Measures to the Complainant, the Respondent, or both, as detailed in Section C below.

C. Supportive Measures

1. The Title IX Coordinator will ensure that Supportive Measures are offered to the Complainant and/or the Respondent as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent. Supportive Measures may be offered before or after the filing of a Formal Complaint, or where no Formal Complaint has been filed.
2. The purpose of Supportive Measures is to restore or preserve equal access to the Institution's Education Program or Activity without unreasonably burdening the other Party. Supportive Measures include measures designed to protect the safety of all Parties or the Institution's educational environment, as well as measures designed to deter sexual harassment.
 - a. Supportive Measures may include, but are not limited to:
 - 1) Counseling
 - 2) Extensions of deadlines or other course-related adjustments for the student requesting the extension or the adjustment.
 - 3) Modifications of work or class schedules for the student requesting the modification.
 - 4) Campus escort services
 - 5) Mutual restrictions on contact between the Parties
 - 6) Changes in work or housing locations for the student requesting the change.
 - 7) Leaves of absence
 - 8) Increased security and monitoring of certain areas of the campus.
 - 9) Other similar measures.

3. Supportive Measures do not include disciplinary sanctions. The Formal Resolution Process, as detailed in Section 7 below, must be completed before disciplinary sanctions may be imposed on a Respondent.
4. Adams State University may remove a Respondent from its Education Program or Activity on an emergency basis if the Institution:
 - a. Undertakes an individualized safety and risk analysis;
 - b. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal; and
 - c. Provides the Respondent with notice and an opportunity to challenge the decision immediately following the removal.
 - d. Hearing. The hearing shall be held within seven (7) days (Saturdays, Sundays, and holidays excluded) after the student has been notified of the temporary suspension unless the student agrees in writing to a longer period. A student will be notified in writing of any temporary suspension assessed. A temporary suspension will become a part of the student's education record.
5. Adams State University may place a non-student employee Respondent on administrative leave during the pendency of the Formal Resolution Process set forth in Section 7 below.
6. Adams State University will maintain as confidential any Supportive Measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of Adams State University to provide the Supportive Measures.
7. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

D. Fair and Equitable Process

1. No individual designated as a Title IX Coordinator, investigator, Adjudicator, Appeal Decisionmaker, or person designated to facilitate an informal resolution process may have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
2. Adams State University will not make credibility determinations based on a person's status as a Complainant, Respondent, or witness.
3. A Respondent is presumed not responsible for alleged conduct until a determination regarding responsibility is made at the conclusion of the Formal Resolution Process set forth in Section 7 below.
4. Throughout the processes described herein, Adams State University will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence.
5. The processes described herein are subject to the reasonably prompt timeframes stated. These timeframes may be extended for good cause upon written notice to the Parties

setting forth the reason for such extension. Good cause may include considerations such as the absence of a Party, a Party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities.

E. Formal Resolution Process

1. Formal Complaint

- a. A Formal Complaint may be filed by a Complainant or by the Title IX Coordinator.
- b. A Formal Complaint may be brought to the attention of the Title IX Coordinator by contacting the Student Union Building room 327 for Director Ana Guevara, 719-587-8213, or anaguevara@adams.edu or the Student Union Building room 325 for Delilah Chavez, 719-587-8224 or delilahchavez@adams.edu.
- c. Adams State University will investigate the allegations in a formal complaint.

2. Dismissal

- a. The Title IX Coordinator will dismiss a Formal Complaint, and no investigation will be conducted under this policy, if:
 - 1) The conduct alleged in the Formal Complaint would not constitute Sexual Harassment even if proved; or
 - 2) The conduct alleged in the Formal Complaint did not occur within the Jurisdiction/Applicability of the policy, as described in Section A above.
- b. The Title IX Coordinator may dismiss a Formal Complaint, or any allegations therein, at any time during the investigation or hearing, if:
 - 1) The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein;
 - 2) The Respondent is no longer enrolled or employed by the Institution;
 - 3) Specific circumstances prevent Adams State University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.
- c. The dismissal of a Formal Complaint under Section 7.2.1 of this Policy does not preclude Adams State University from conducting an investigation or taking action under the Student Code of Conduct or the employee Anti-Discrimination policy with regard to conduct that is not subject to this Policy.
- d. Upon dismissal of the Formal Complaint or any allegations therein, the Title IX Coordinator will promptly send written notice of the dismissal and the reasons therefore simultaneously to the Parties.

3. Consolidation

- a. The Title IX Coordinator may consolidate Formal Complaints as to allegations of Sexual Harassment where the allegations of Sexual Harassment arise out of the same facts or circumstances.

4. Timeframe for Conclusion

- a. Adams State University will make a good faith effort to complete the formal resolution process, including the hearing but excluding appeals, within an average of sixty to ninety days without jeopardizing the rights of a Party.

5. Formal Resolution Process

- a. The Formal Resolution Process is subject to the timelines set forth herein, with the date of the filing of the Formal Complaint set as "Day 1." Deviations from this timeline may occur due to variables in each investigation. Any deviation will generate a notification email to the parties stating that the deviation will occur, what prompted the deviation (within the boundaries of FERPA), and the new timeline.

Day 1 – Formal Complaint is filed

Day 5 – Dismissal Determination/Written Notice Issued

Day 15 – Interviews Begin

Day 30 - Investigative Evidence Produced

Day 40 – Written response to investigator submitted

Day 50 – Investigative Report Issued

Day 60-80 – Hearing

Day 90 – Initial Decision issued

b. Written Notice

- 1) Upon receipt of a Formal Complaint, the Title IX Coordinator will issue written notice of allegations to the Respondent and Complainant, if known. The written notice will be provided to each Party with sufficient time to prepare a response before any initial interview. The notice of allegations will include:
 - i. Notice of this policy and the processes within this policy described in Section 7 above;
 - ii. The identities of the Parties involved, if known;
 - iii. The conduct allegedly constituting sexual harassment;
 - iv. The date and location of the incident, if known;
 - v. A statement that the Respondent is presumed not responsible for the alleged conduct;

- vi. A statement that a determination regarding responsibility is made at the conclusion of the formal resolution process;
 - vii. A statement that Parties may have an advisor of their choice, who may be, but is not required to be, an attorney;
 - viii. A statement that Parties may inspect and review evidence;
- 2) A participant knowingly makes a false statement or knowingly submits false information during this process is prohibited pursuant to and consequences will be determined by:
- i. Adams State University Student Code of Conduct: Code of Conduct section 6; or
 - ii. Professional Personnel Handbook section IV. Procedures for Discrimination Complaints subsection D.7., or
 - iii. Adams State University Faculty Handbook Section XII. Grievance & Complaint Procedure subsection E. Complaint Grievance Procedure subsection 8. Abuse of Power.
- c. If, during the course of an investigation, Adams State University decides to investigate additional allegations about the Complainant or Respondent relating to the same facts or circumstances but not included in the earlier written notice, Adams State University will provide notice of the additional allegations to the Parties whose identities are known.
6. Advisor
- a. Each Party has the right to have an advisor of her or his choice, but Parties are not required to have an advisor except as described in Section 8 below.
 - b. The advisor may be, but need not be, an attorney.
 - c. The advisor may be present at any proceedings that are part of the formal resolution process. If a Party wishes to have an advisor present at a proceeding, Adams State University will work within reason to schedule the proceeding so the advisor may attend, without unreasonably delaying the progress of the formal resolution process.
 - d. Except as described in 8 below, a Party's advisor may not speak on behalf of the Party.
7. Investigation
- a. Adams State University will investigate the allegations in a Formal Complaint.
 - b. The Institution, and not the Complainant or the Respondent, has the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility.
 - c. Adams State University cannot access, consider, disclose, or otherwise use a Party's records that are made or maintained by a health care professional acting in his or her

professional capacity, and which are made or maintained in connection with the provision of treatment to the Party, unless Adams State University obtains that Party's voluntary written consent to do so for the resolution process.

- d. During the investigation, each Party has an opportunity to present witnesses and evidence to the investigator. Each party will have the opportunity to review the report and provide a response. At the discretion of the investigator witnesses may be re-interviewed to resolve areas of critical disagreement. If witnesses are re-interviewed parties will be given another chance to review that portion of the report and respond.
 - e. The investigator will provide written notice of the date, time, location, participants, and purpose of any investigative interview or other meeting to any Party whose participation is invited or expected. Participants will be given at least 7 days' notice of any interview, and participants may be granted an additional 7 days upon request. However, additional delays will only be granted upon a showing of good cause.
 - f. Prior to conclusion of the investigation, the Title IX Coordinator/Investigator will send to each Party and to each Party's advisor, if any, all evidence obtained as part of the investigation, whether or not Adams State University intends to rely on such evidence in reaching a determination regarding responsibility, that is directly related to the allegations raised in the Formal Complaint.
 - g. Each Party may submit a written response, which the investigator will consider prior to conclusion of the investigation and completion of the investigative report.
 - 1) The written response, if any, must be submitted to the Title IX Coordinator/Investigator by the deadline designated by the Title IX Coordinator/Investigator, which will be at least ten days after the Title IX Coordinator/Investigator sends the evidence to the Party, unless the deadline is extended for good cause.
 - h. The Investigator will create an investigative report that fairly summarizes relevant evidence.
 - i. The Investigator must conduct an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence.
 - j. At least ten days prior to the scheduled hearing, the Title IX Coordinator will send to each Party and to each Party's advisor, if any, the investigative report.
 - 1) Each Party may submit a written response, which the Title IX Coordinator will submit to the Adjudicator for consideration at the hearing.
 - 2) The written response, if any, must be submitted to the Title IX Coordinator by the deadline designated by the Title IX Coordinator, unless the deadline is extended for good cause.
8. Hearing
- a. General Conduct of the Hearing

- 1) A Hearing Officer will serve as the Adjudicator at the formal hearing.
 - i. The Hearing Officer will conduct a live hearing. Prior to the hearing, the Hearing Officer will review the investigative report and the written responses provided by the Parties, if any.
- b. The hearing may occur in person. If either Party, or the University, submits a request no later than 10 days prior to the scheduled hearing, the hearing will occur virtually in a manner allowing the participants to simultaneously see and hear the party or witness answering questions.
- c. Hearings will be recorded. Hearings will be recorded in either an audio, audio-visual, or transcribed manner and will be made available to the Parties for inspection and review.
- d. Standard of Evidence
 - 1) The determination of responsibility will be made by the Hearing Officer using the preponderance of the evidence standard.
 - i. Preponderance of the Evidence is the standard of evidence which means the alleged conduct is more likely than not to have occurred. This is the standard used for violations of the ASU student code of conduct, the Professional Personnel Handbook and of the ASU faculty handbook.
- e. Relevant Evidence Considered
 - 1) In making a determination of responsibility or sanctions, the Hearing Officer may only consider relevant evidence.
 - 2) Relevant evidence is evidence having any tendency to make the existence of any fact that is of consequence to the determinations to be made more probable or less probable than it would be without the evidence.
- f. The Hearing Officer will not consider:
 - 1) Evidence about the Complainant's sexual predisposition or prior sexual behavior, except that the Hearing Officer may consider:
 - i. Evidence about the Complainant's prior sexual behavior, when offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant; or
 - ii. Evidence concerning specific incidents of the Complainant's prior sexual behavior with respect to the Respondent, when offered to prove consent.
 - 2) The Hearing Officer will not draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.
 - 3) Information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

- 4) The Hearing Officer must conduct an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence
- 5) Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.

g. Witness Examination

- 1) The Hearing Officer will allow each Party's advisor to examine witnesses.
- 2) Cross examination may not be conducted by either Party. Cross examination may only be conducted by an advisor acting on a Party's behalf.
- 3) If a Party wishes to ask cross examination questions of a Party or witness and does not have an advisor, Adams State University will select and provide an advisor to the Party, free of charge, for the limited purpose of conducting cross examination.
- 4) Only relevant cross-examination questions may be asked of a Party or witness.
- 5) Before a Party or witness answers a question, the Hearing Officer will determine whether the question is relevant and explain any decision to exclude a question as not relevant.

9. Remedies/Sanctions

- a. The Hearing Officer for the Formal Hearing will make a determination of sanctions based on the totality of circumstances determined during the hearing.
- b. Remedies are designed to restore or preserve equal access to the Institution's Education Program or Activity. Remedies may be disciplinary or punitive and need not avoid burdening the Respondent. The Title IX Coordinator is responsible for the effective implementation of remedies.
- c. Sanctions are intended to restore or preserve access to the educational program or activity, the safety of the campus community as a whole, and the education and discipline of the Respondent.
- d. If a Respondent is found responsible for Sexual Harassment under this Policy, basic University Sanctions for infractions of University policies will be utilized. The basic University sanctions for infractions of University policies, once assessed, are made a part of a student's education record. The sanctions are embodied in a system of warning, probation (with or without conditions), restitution, disciplinary suspension, dismissal and expulsion that need not be administered progressively but which should bear a reasonable relationship to the severity of the misconduct. Temporary suspension may be imposed during the pendency of disciplinary or criminal actions, but it is an administrative action intended to protect the campus community, not a disciplinary sanction. Possible sanctions include:
 - 1) Disciplinary Warning. Officials of the University responsible for discipline may give warnings for minor infractions in student conduct. These warnings may be given verbally or in writing and are a notice to the student that continuation or

repetition of the misconduct shall be cause for more severe disciplinary action, up to and including expulsion from the University. A student shall be notified in writing of any verbal warning issued. Such warning will become part of the student's education record.

- 2) **Disciplinary Probation.** A student may be placed on disciplinary probation. Disciplinary probation shall be a final period of trial. It may include, but is not limited to, requiring the student to satisfy any of the following probationary terms or such other terms as deemed appropriate; maintain a stated academic standard, avoid further policy violations, undertake specified training and/or counseling, refrain from contact with specified person(s), make written and/or verbal apology, or engage in specified campus or community service. Students on disciplinary probation who violate policies may be subject to such terms and conditions as the discipline authority imposing it shall designate. A student shall be notified in writing of any disciplinary probation penalty assessed. A disciplinary probation penalty will become a part of the student's education record. Disciplinary probation will be monitored by the Title IX Coordinator. A student who fails to successfully complete all terms of disciplinary probation in the time period determined by the decision maker may be subject to additional sanctions, up to and including expulsion.
- 3) **Restitution.** A student may be required to pay restitution or perform services as a form of restitution. Such action is appropriate in any case in which the misconduct or violation has caused loss of or damage to property or injury to a person, or in which reparation for a particular act of misconduct may reasonably be made by payment of money or the performance of services. A student will be notified in writing of any restitution penalty assessed. A restitution penalty will become a part of the student's education record.
- 4) **Disciplinary Suspension.** A student may be suspended and/or banned from campus. Disciplinary suspension is normally for a stated period of time, at the end of which a student may apply for reinstatement. Conditions for reinstatement may be stipulated. Disciplinary suspension for an indefinite period may be stipulated, usually with the implication that a student must fulfill certain requirements before reinstatement will be considered. While under disciplinary suspension, the student is not entitled to attend classes, use University facilities, participate in University activities, or be employed by the University. A student will be notified in writing of any disciplinary suspension sanction assessed. A disciplinary suspension sanction will become part of the student's education record. A student who has been charged with misconduct may exercise the right to withdraw from the University. In such a case, a notation shall be made in the student's academic and education records that disciplinary action was pending and the student is not eligible for re-admission until the expiration of five (5) complete academic years.
- 5) **Disciplinary Dismissal.** A student may be dismissed from a program within the University. Dismissal is an unconditional termination of enrollment. The student may not apply for readmission to the program for a period of five (5) years unless another period is specified in the order of dismissal. A dismissal sanction will become part of the student's education record.

- 6) Expulsion. A student may be expelled from the University after having a hearing in which fundamental due process is afforded. Expulsion is permanent dismissal from the University. A student will be notified in writing of any expulsion sanction assessed. An expulsion sanction will become a part of the student's education record.
- 7) Temporary or permanent prohibition in some, or all, extra-curricular activities. This may include athletics, clubs, university sponsored outings, AS&F, GAB, or any other activity that is sponsored or funded, in whole or in part by Adams State University.

e. Employee Sanctions

The President may impose the following disciplinary sanctions:

- 1) Suspension
- 2) Demotion
- 3) Reassignment to a position with a substantial change in pay or benefits
- 4) Reduction in salary or reduction/denial of a salary increase
- 5) Ineligibility to serve on an official campus body
- 6) Dismissal
- 7) Apology
- 8) Reassignment to another position without substantial change in pay or benefits, additional supervision requirements, or other specific corrective or improvement measures reasonably related to the substantiated charges.
- 9) Verbal or written warning
- 10) Verbal or written reprimand
- 11) Participation in rehabilitation, remedial instruction, counseling, training or service-related activity.
- 12) Other reasonable actions specifically tailored to address the matter in question.

10. Written Determination

- a. After considering the investigative report, including any Party's written response to the investigative report, and all relevant evidence presented at the hearing, the Hearing Officer will issue a written determination.
- b. The Title IX Coordinator will provide the written determination simultaneously to the Parties.
- c. The written determination will include:
 - 1) Identification of the allegations potentially constituting Sexual Harassment;

- 2) A description of the procedural steps from the receipt of the Formal Complaint through the determination, including any notifications to the Parties, interviews, site visits, methods used to gather other evidence, and hearings held;
- 3) Findings of fact supporting the determination;
- 4) Conclusions regarding the application of [applicable policy] to the facts;
- 5) A statement of, and rationale for, the result as to each allegation, including:
 - i. A determination regarding responsibility;
 - ii. Any disciplinary sanctions imposed on the Respondent;
 - iii. Whether remedies will be provided to the Complainant;
- 6) Procedures and permissible bases for the Parties to appeal.
 - i. The written determination becomes final 14 days after it is sent to the Parties, unless an appeal is filed.

11. Appeal

a. Appealable Issues

- 1) Either Party may appeal:
 - i. Dismissal of a Formal Complaint or any allegations therein; or
 - ii. A determination regarding responsibility.
- 2) No other issue may be appealed.

b. Bases for Appeal

- 1) A Party may only appeal on one or more of the following bases.
 - i. Procedural irregularity that affected the outcome of the matter;
 - ii. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
 - a) This basis for appeal is not satisfied simply because evidence was not presented during the proceedings, if the evidence was reasonably available at the time the determination was made.
 - iii. The Title IX Coordinator, investigator, or Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally, or the individual Complainant or Respondent, that affected the outcome of the matter.

c. Filing an Appeal

- 1) If a Party wishes to file an appeal, the Party must notify the Title IX Coordinator in writing no later than 14 days after the notice of dismissal or written determination is sent to the Party.
 - 2) The written appeal must state with specificity:
 - i. The issues being appealed; and
 - ii. The bases for the appeal.
 - d. Timeframe for Completion of Appeal
 - 1) Adams State University will make a good faith effort to complete the appeal within 30 days.
 - 2) The timeframe for completion of appeal may be extended for good cause. If the timeframe for completion of appeal is extended, the Title IX Coordinator will notify both Parties in writing of the delay or extension and the reasons for the delay or extension.
 - e. Appeal Procedure
 - 1) After receiving a timely written appeal, the Title IX Coordinator will notify the Parties in writing:
 - i. That the appeal was filed;
 - ii. The process for submitting a written statement in support of, or challenging, the issues being appealed.
 - 2) The appeal, including any written statements submitted by the Parties, will be considered by the Appeal Decisionmaker. The Appeal Decisionmaker may also consider the investigative report, including any Party's written response to the investigative report, all relevant evidence presented at the hearing, and the [audio recording] [audiovisual recording] [transcript] of the hearing.
 - 3) The Appeal Decisionmaker will issue a written determination of appeal, which will describe the result of the appeal and the rationale for the result.
 - 4) The Title IX Coordinator will provide the written determination of appeal simultaneously to the Parties.
 - f. The result of the appeal is final.
- F. Retaliation
1. Retaliation is prohibited.
 2. A report of alleged Retaliation may be made to the Title IX Coordinator in person, by mail, by telephone, or by electronic mail.
 3. Any University Reporting Authority who receives a report of alleged Retaliation must promptly report the alleged Retaliation to the Title IX Coordinator.

POLICY NUMBER: 700-01-01
CHAPTER: Administration Policies: Safety
SUBJECT: Sexual Misconduct

4. Allegations of Retaliation may be investigated and adjudicated under applicable Institution policies.

Responsibility

N/A

Authority

N/A

Related Policies

None

Related Stakeholders for Policy Review

N/A

History

Revised December 03, 2017
Revised July 22, 2020
Revised January 13, 2021
Revised February 09, 2022

Attachments

Attachment A: Resources for Students

Attachment A Resources for Students

Director of Title IX

ASU's Director of Title IX is responsible for monitoring the overall implementation of Title IX and responding to questions about Title IX. When this policy refers to the Title IX Director, it also refers to the Title IX's staff or designees.

Ana Guevara
Student Union Building, Room 327
Phone: 719-587-8213
Email: anaguevara@adams.edu

Dr. Henry Robinson, Vice President of Student Affairs
Office of Student Services, Richardson Hall, Suite 2-800
Phone: 719-587-7221
Email: hrobinson@adams.edu

ASU Counseling Services (Confidential Counseling)
Richardson Hall, Room 220
Phone: 719-587-7746

Tu Casa Domestic Violence/Sexual Assault Advocacy Organization 719-589-2465
Adams State University Police Department.....719-587-7901
Alamosa Police Department.....719-589-2548
Alamosa County Sheriff.....719-589-6608
San Luis Valley Mental Health Center.....719-589-3671
Colorado State Patrol Dispatch.....719-589-5807
Campus Ministries.....719-587-8213

ASU Counselors provide information and confidential support to assist students in making decisions about filing a formal complaint and seeking medical care or counseling. These resources can also assist students in managing the impact of sexual misconduct on their academic and social functioning.