



**Angelo State University**  
**Operating Policy and Procedure**

**OP 10.22: Anti-Discrimination Policy and Grievance Procedure for Students**

**DATE:** July 17, 2013

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to provide students with policy information and procedures to address concerns about discrimination.

**REVIEW:** This OP will be reviewed in July of odd-numbered years by the executive director of student affairs and the director of human resources with recommended revisions forwarded through the vice president of student affairs and enrollment management to the president by August 1.

**POLICY/PROCEDURE**

Angelo State University (ASU) does not tolerate discrimination or harassment of students based on or related to sex, race, national origin, religion, age, disability, status as a covered veteran, genetic information, or other protected categories, classes, or characteristics. While sexual orientation is not a protected category under state or federal law, it is ASU policy not to discriminate on this basis. Actions related to admission, discipline, housing, extracurricular, and academic opportunities shall not be made based on a student's protected status. Discriminatory behavior is prohibited regardless of the manner in which it is exhibited, whether verbally, in writing, or electronically displayed or conveyed.

Individuals who violate these policies and laws are subject to disciplinary action, up to and including expulsion.

**A. Definitions**

1. Discriminatory Harassment

Discriminatory harassment is verbal or physical conduct based on a student's sex, race, national origin, religion, age, disability, sexual orientation, genetic information, or other protected categories, classes, or characteristics and is so severe, persistent, or pervasive that it adversely affects the victim's education or creates an intimidating, hostile, abusive, or offensive educational environment that interferes with the victim's ability to realize the intended benefits of the university's resources and opportunities.

2. Sexual Harassment

Sexual harassment consists of sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that are unwelcome and expressly or implicitly impose conditions upon, threaten, or create an intimidating, hostile, or demeaning

environment of such a severe and pervasive nature as to interfere with an individual's (a) academic pursuits, (b) university employment, (c) participation in activities sponsored by the university or organizations related to the university, or (d) opportunities to benefit from other aspects of university life.

## **B. Reporting Concerns**

The campus Title IX coordinator is the executive director of student affairs. Students complaining of discriminatory and sexual harassment should contact the executive director of student affairs. Students complaining of discriminatory and sexual harassment in their employment capacity should contact the ASU Office of Human Resources.

## **C. Office of Civil Rights Complaints**

Nothing in this policy shall prevent a student from presenting a charge of discrimination or other grievance covered by this policy to an external agency, such as the United States Department of Education: Office of Civil Rights (OCR), 400 Maryland Avenue, SW, Washington, DC 20202-1100, Customer Service Hotline Number: (800) 421-3481, <http://www.ed.gov/ocr>.

## **D. Non-retaliation**

Retaliation is strictly prohibited against a person who files a complaint of discrimination or harassment in good faith, opposes a charge, testifies, or assists or participates in an investigative proceeding or hearing. Retaliatory harassment is an intentional action taken by an accused individual or allied third party, absent legitimate non-discriminatory purposes, that harms an individual as reprisal for filing or participating in a grievance process.

## **E. Confidentiality**

Confidentiality of both complainant and accused will be honored to such extent as is possible without compromising the university's commitment to investigate allegations of discrimination and harassment. The willful and unnecessary disclosure of confidential information by anyone, including the alleged victim, regarding discrimination and harassment complaints to any person outside of the investigation process may result in appropriate disciplinary measures against the offending party.

On campus, some resources may offer students confidentiality, sharing options and advice without any obligation to tell anyone unless the student so desires except should the resource fear for the student's safety, or the safety of others. If the student desires that details of the incident be kept confidential, the student should speak with the University Health Clinic and Counseling Services or an off-campus mental health or crisis resource. Additionally, students may speak to on- and off-campus members of the clergy and chaplains who will also keep reports made to them confidential.

## **F. Faculty/Staff and Student Relationships**

ASU is committed to the promotion of professional and educational relationships and open channels of communication among all individuals. The faculty/staff and student relationship is of the highest value and impacts a student's educational experience. Consensual amorous or sexual relationships between faculty and students in a faculty member's class or with whom the faculty member has an academic or instructional connection are prohibited.

Faculty/staff with direct teaching, training, supervisory, advisory, or evaluative responsibility over the student should recognize and respect the ethical and professional boundaries that must exist in such situations. If questions arise about conflict of interest situations involving faculty/staff and student relationships, they can be directed to the student's academic dean or the director of human resources.

#### **G. Dissemination of Discriminatory and Sexual Harassment Information**

ASU provides educational programs on discriminatory and sexual harassment via the Office of Student Life, Office of Student Services, Student Health Clinic and Counseling Services, and Office of Housing and Residential Programs. Victim resources and services are available in the Office of Student Services, Office of Student Life, Student Health Clinic and Counseling Services, University Police, Office of Housing and Residential Programs, and other campus offices and distribution locations.

#### **H. Grievances**

1. A grievance is a formal complaint pertaining to adverse actions taken on the basis of the student's protected status or other violation of law or ASU policy. A violation of a university policy alone does not necessarily constitute a violation of law or an action prohibited by law. Grievance processes are outlined in the *Student Handbook*.
2. This grievance process is applicable to all students who choose to complain about unlawful discrimination or other violations of the law that adversely affect their educational environment.
3. While potentially inappropriate, not all rude or offensive comments or conduct constitute sexual harassment or unlawful discrimination.
4. All grievance investigations and procedures will be non-adversarial in nature. The student filing the grievance may represent himself or herself or be accompanied by an advisor (for advisory purposes only, not for representation). The advisor must be a member of the university community or a family member. However, if a student is also the subject of a pending criminal investigation, indictment, or charge arising out of the same circumstances, he or she may be allowed to have an attorney serve as his or her advisor, at his or her own expense, to participate in the same manner as any other advisor. These procedures are entirely administrative in nature and are not considered legal proceedings.
5. The filing of a grievance shall not affect the ability of ASU to pursue academic and disciplinary procedures for reasons other than the student's filing of a grievance.

#### **I. General Grievance Policy**

A grievance is a formal complaint pertaining to adverse actions taken on the basis of the student's protected status or other violation of law or ASU policy. A violation of a university policy alone does not necessarily constitute a violation of law or an action prohibited by law. Procedures for handling specific concerns are outlined below.

1. Discriminatory Harassment

Students with grievances related to discrimination in the educational environment on the basis of race, national origin, religion, age, disability, sexual orientation, genetic information, or other protected categories, classes, or characteristics should review the Student Handbook sections on the Anti-Discrimination Policy and Grievance Procedures. Students complaining of discrimination in their employment capacity should proceed directly to the ASU Office of Human Resources.

2. Sexual Harassment

Harassment of students on the basis of sex is a violation of §106.31 of Title IX of the Education Amendments of 1972. The Title IX Investigator for students is the director of student services. Students with concerns about sexual harassment in the educational environment should review the Student Handbook sections on the Anti-Discrimination Policy and Grievance Procedures. Students complaining of sexual harassment in their employment capacity should proceed directly to the ASU Office of Human Resources.

3. Students with Disabilities

Students with grievances related to discrimination on the basis of a disability should review the Student Handbook sections on the Anti-Discrimination Policy and Grievance Procedures. The grievance process would include the director of student services. Any students seeking remedy on the basis of a disability must register as a disabled student with the Office of Student Services and must provide all required documentation of a disability. Students who are denied services or denied a specific accommodation request by the Office of Student Services may appeal the decision to the executive director of student affairs.

4. Employment

A student who wishes to pursue a grievance concerning employment with the university and who has not found satisfaction or resolution with his or her immediate supervisor or the person in charge of that department may contact the Office of Human Resources.

**J. Procedures for Reporting a Grievance**

1. Prior to filing a formal grievance, a student should attempt to resolve the situation by addressing the offending party in an informal manner and in an atmosphere of mutual respect or informally with the assistance of the Office of Student Services. A student is not required to contact the person involved if doing so is not practical, if the student is uncomfortable doing so, or if the student believes that the conduct cannot be effectively addressed through informal means. If the situation is not resolved by informal means, the student may file a formal grievance.

A student may also consult with the director of student services to determine if he/she wishes to file a formal grievance. Although the director of student services will undertake no official action on behalf of the student without a filed, signed complaint, the director may notify key personnel with a need to know about the allegation. However, other action may be taken by ASU as deemed appropriate. Such action may include conferring with supervisors or other administrators concerning inappropriate behavior occurring

within their area of responsibility, informing alleged offenders of ASU's policy, and educating departments and supervisors as needed on this and other policies.

2. A student having a grievance should submit a completed Student Grievance form, available on the Student Services website, to the director of student services within 30 business days from the date of the action giving rise to the grievance or within 30 business days of the conclusion of informal attempts to resolve the situation. Complaints filed after this deadline will be considered on a case-by-case basis. If the grievance involves the director of student services, the grievance should be presented to the Office of Human Resources.

A written grievance shall contain:

- (a) A clear and concise statement of the grievance;
  - (b) The date(s) the incident(s) took place;
  - (c) The name and contact information (if possible) of any witnesses or participants;
  - (d) The specific resolution sought by the student; and
  - (e) Additional relevant information to be considered in support of the grievance.
  - (f) Any changes to the grievance must be in writing.
3. Only one subject matter shall be covered in any one grievance.
  4. Upon receipt of a signed grievance, an investigation will be initiated by the director of student services, or designee, and the appropriate vice president will be notified that a grievance has been filed.
  5. The investigation may consist of the review of the grievance and any supporting documentation, examination of other relevant documentation, and interviews with relevant individuals. The extent of the investigation and its procedures will be determined by and at the discretion of the director of student services. The Office of Human Resources or other administrators may be consulted to assist with the investigation.
  6. After the investigation is complete, the director of student services will provide a written determination to the student who has filed the grievance, the accused parties, and the appropriate vice president.
  7. In the event a finding is made of a violation of this policy or other violation of the law, appropriate disciplinary action will be taken as determined by the appropriate administrator. Disciplinary action for students may include issuing sanctions, conditions, and restrictions in accordance with the Code of Student Conduct and may range from reprimands to expulsion. Disciplinary action for faculty and staff would be referred to the next senior level administrator and coordinated with the Office of Human Resources.
  8. Either the complainant or the accused may request a reconsideration of the case if any of the following occurs: (a) a procedural (or substantive) error occurred that significantly impacted the outcomes; (b) new evidence becomes available, previously unavailable

during the original investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included with the written request for reconsideration; (c) the disciplinary sanctions imposed are substantially disproportionate to the severity of the violation. The appeal should be submitted in writing to the executive director of student affairs within 10 days of the receipt of the final written determination. The resolution of the appeal will rest with the executive director of student affairs and the decision is final.

9. Any disciplinary action taken in connection with a grievance filed will be reported in writing to the director of student services at the time the disciplinary action is implemented.
10. At the conclusion of the investigation, the complaining party shall be advised that if the discrimination or unlawful activity persists, the student should contact the director of student services. Likewise, in the event the student believes unlawful retaliation for filing a grievance has taken place, the student should contact the director of student services and/or file a grievance for retaliation.