

Title IX and Sex/Gender-Based Misconduct

Policy 112

1 Introduction

The purpose of this policy is to provide an administrative framework and oversight for reporting, investigating, adjudicating, and resolving Title IX and sex/gender-based sex-based misconduct (Prohibited Conduct) by members of the Appalachian State University ("Appalachian") community.

2 Scope

2.1 This policy applies to all members of the Appalachian community, including students, University employees (including, but not limited to, faculty and staff), and third parties (including, but not limited to, visitors, volunteers, and others) who participate in programs, activities, or conduct business on behalf of Appalachian.

2.2 This policy addresses prohibited conduct that occurs either: (a) in an education program or activity controlled by Appalachian; (b) on property owned or controlled by Appalachian; (c) in any building owned or controlled by a student organization that is officially recognized by Appalachian; or (d) on property owned or controlled by non-Appalachian entities or individuals that has an adverse or detrimental effect on Appalachian, its employees, students, or third parties.

2.3 Allegations of harassment and discrimination based on sex (including pregnancy), gender, gender expression, gender identity, and sexual orientation, including instances involving sexual assault/misconduct, dating violence, domestic violence, or stalking, are subject to this policy and Appalachian [Policy 110 – Discrimination and Harrassment](#). If there is a conflict between Appalachian [Policy 110 – Discrimination and Harrassment](#) and this policy for the statuses and conduct referenced in this subsection, then this policy shall be controlling.

3 Definitions

3.1 Title IX Prohibited Conduct

Any conduct that involves the sexual harassment or sex-based discrimination of an individual including instances involving quid pro quo harassment, sexual assault, dating violence, domestic violence, or sex-based stalking that occurred in the United States and in the University's education program or activity.

3.2 Sex/Gender-Based Prohibited Conduct

Any conduct that is not regulated by Title IX due to the location or nature of the incident and involves the sex/gender-based harassment or sex/gender-based discrimination of an individual including instances involving non-consensual sexual contact, non-consensual sexual intercourse, sexual exploitation, intimate partner violence, or stalking.

3.3 Retaliation

No University community member may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by these procedures, or because the individual has made a referral or complaint, provided information regarding a referral or complaint, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing under these procedures.

3.4 Prohibited Conduct

Engaging in acts of Title IX and/or Sex/Gender-Based Misconduct or Retaliation, as expressed in this policy.

3.5 Title IX Coordinator

The individual designated by the University, as expressed in this policy, with the primary responsibility for coordinating Appalachian's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent Prohibited Conduct under this policy.

3.6 Complainant

An individual alleged to be the victim of Prohibited Conduct under this policy.

3.7 Respondent

An individual reported to be the alleged perpetrator of Prohibited Conduct under this policy.

3.8 Formal Complaint

A document filed and signed by the Complainant or the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that Appalachian initiate an informal or formal resolution process.

3.9 Resolution Process

The Resolution Process refers to the entire span of actions and procedures commencing with Appalachian's initial receipt of a Formal Complaint of alleged Prohibited Conduct through final resolution and appeals, if any. This process incorporates, as needed and determined by the Title IX Coordinator, the initial review of complaints, assessments of needs for assistance or supportive measures, options for informal resolutions, initiation and completion of formal investigations, adjudication, sanctioning, and appeals.

4 Policy and Procedure Statements

4.1 Prohibited Conduct

All members of the Appalachian community are prohibited from engaging in Title IX and/or Sex/Gender-Based Misconduct or Retaliation (collectively, "Prohibited Conduct").

4.2 Allegations of Prohibited Conduct

All allegations notifying Appalachian of Prohibited Conduct shall be reviewed and addressed under the direction of the Title IX Coordinator, who shall work to ensure that appropriate and responsive actions are promptly implemented to effectively stop Prohibited Conduct, prevent its recurrence, and remedy any effects of discriminatory conduct.

4.3 Standard of Evidence

In any adjudication in the Resolution Process, the evidentiary threshold for finding a Respondent responsible for a violation of Prohibited Conduct is "preponderance of the evidence" (i.e., the weight and credibility of the evidence shows that it is more likely than not that a violation has occurred).

4.4 Training and Neutrality of Personnel

The Title IX Coordinator is responsible for training all Appalachian personnel involved in the assessment, investigation, adjudication, sanctioning, and appeals throughout the Resolution Process. These individuals shall receive annual training with respect to the Resolution Process and procedures, their respective responsibilities, and how to conduct themselves free of bias and with neutrality and professionalism.

4.5 Policy Implementation and Compliance

4.5.1 Appalachian's Director of Title IX Compliance shall serve as Appalachian's Title IX Coordinator and oversee all implementation of this policy pursuant to federal law and regulations. The Director of Title IX Compliance is responsible for the creation and implementation of procedures, consistent with this policy to address Prohibited Conduct. This policy and accompanying procedures supersede all prior existing policies and procedures for addressing and resolving allegations of Prohibited Conduct at Appalachian.

4.5.2 At minimum, the procedures for addressing allegations of Prohibited Conduct shall include: (1) the types and nature of conduct that constitutes Prohibited Conduct, (2) the processes and procedures to identify if an alleged Respondent of Prohibited Conduct has violated this policy by a "preponderance of the evidence," and (3) any other standards to meet federal and state law and regulations.

4.5.3 The Director of Title IX Compliance shall work in collaboration with the Office of Academic Affairs, the Office of Human Resources, and the Office of Student Affairs to review and publish Title IX and Sex/Gender-Based Misconduct procedures for the administration of all allegations of Title IX and Sex/Gender-Based Misconduct in compliance with applicable federal and state law, and UNC System policies.

4.5.4 Administration of this policy shall be consistent with applicable federal and state law and regulations, UNC System policies, and policies of the University.

4.6 Enforcement

Appalachian will enforce violations of this policy in accordance with applicable federal and state law, and UNC System policies. Violations of this policy, including but not limited to the engagement of Title IX and/or Sex/Gender-Based Misconduct or Retaliation, or a Mandatory Title IX Referrer, as identified in Appalachian Policy 110 – Discrimination and Harassment, failure to disclose Title IX and Sex/Gender-Based Misconduct or Retaliation, may result in grounds for disciplinary action, up to and including termination or expulsion.

5 Additional References

Title II, Civil Rights Act of 1964, as amended (42 U.S.C. 2000a, et seq.)
Title IV, the Violence Against Women Act, Violence Crime Control and Law Enforcement Act of 1994
Title VII, Civil Rights Act of 1964, as amended (42 U.S.C. 2000e, et seq.)
Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 701 et seq.)
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990
Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301, et seq.)
Pregnancy Discrimination Act of 1978 (95 U.S.C. 555, et seq.)

6 Authority

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.)
34 C.F.R. Part 106

7 Contact Information

Director of Title IX Compliance | Title IX Coordinator – 828-262-2144

8 Original Effective Date

August 14, 2020

9 Revision Dates

June 21, 2022