

# SEX DISCRIMINATION/SEXUAL HARASSMENT POLICY AND PROCEDURES

## I. GENERAL POLICY GUIDELINES

### A. Policy Statement – Notice of Nondiscrimination

It is the policy of AOMA to comply with Title IX of the Education Amendment of 1972, which prohibits discrimination based on sex (including sexual harassment and sexual violence) in the institution's educational programs and activities.

In accordance with federal and state law, AOMA prohibits discrimination on the basis of sex, including sexual harassment and sexual violence. These will not be tolerated, and individuals who engage in such conduct will be subject to disciplinary action. AOMA encourages students, faculty members, staff members, and visitors to promptly report discrimination based on sex (including sexual harassment and sexual violence.)

### B. Scope

This policy applies to visitors, applicants for admission to or employment with AOMA, and students and employees of AOMA.

### C. Definitions

#### 1. *Sex discrimination*

"Sex discrimination" including sexual harassment, is defined as conduct directed at a specific individual or group of identifiable individuals that subjects the individual or group to treatment that adversely affects their employment or education on account of sex.

#### 2. *Sexual harassment*

"Sexual harassment" is any unwelcome direct or indirect, verbal or physical conduct that is made a condition of employment or education, is a basis for employment or education decisions, or creates an offensive atmosphere that inhibits work or learning performance.

"Hostile Environment" includes any situation in where there is harassing conduct that is sufficiently severe, pervasive/persistent, and patently offensive so that it alters the conditions of education or employment, from both a subjective (the complainant's) and an objective (reasonable person's) viewpoint. The determination of whether an environment is "hostile" must be based on all the circumstances. These may include:

- The frequency of the conduct
- The nature and severity of the conduct
- Whether the conduct was physically threatening
- Whether the conduct was humiliating
- The effect of the conduct on the complainant's mental or emotional state
- Whether the conduct was directed at more than one person

- Whether the conduct arose in the context of other discriminatory conduct
- Whether the conduct unreasonably interfered with the complainant's educational or work performance
- Whether the speech or conduct deserves the protections of academic freedom

### 3. *Physical conduct*

Physical conduct that, depending on the totality of circumstances present, including frequency and severity, may constitute sexual harassment includes, but is not limited to, unwelcome intentional touching, or deliberate physical interference with or restriction of movement.

### 4. *Verbal conduct*

Verbal conduct is defined as oral, written, or symbolic expressions that personally describe or are personally directed at a specific individual or group of identifiable individuals, and are not necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea.

Verbal conduct that, depending on the totality of circumstances present, may constitute sexual harassment includes but is not limited to:

- Explicit or implicit propositions to engage in sexual activity
- Gratuitous comments, jokes, questions, anecdotes, or remarks of sexual nature about clothing or bodies
- Gratuitous remarks about sexual activities or speculation about sexual experiences
- Persistent, unwanted sexual or romantic attention
- Subtle or overt pressure for sexual favors
- Exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars, or other materials
- Deliberate, repeated humiliation or intimidation based upon sex

The examples on this list are rarely, if ever, necessary to an argument for or against the substance of any political, religious, philosophical, ideological, or academic idea.

Constitutionally protected expression cannot be considered harassment under this policy.

### 5. *Sexual assault*

Any unwanted sexual contact (touching, kissing, fondling, or intercourse) committed without consent of the individual or against an individual who cannot reasonably consent.

### 6. *Consent*

- Ongoing – must seek consent for every step of sexual activity
- Active agreement – must seek nonverbal (active participation) and verbal consent
- Respectful & Honest
  - *“Consent can be given by word or action, but nonverbal consent is less clear than talking about what you want and what you don’t. Consent to some form of*

*sexual activity cannot be automatically taken as consent to any other sexual activity. Silence – without actions demonstrating permission – cannot be assumed to show consent. You will do well to keep in mind that under this policy, “No” always means “No,” and “Yes” may not always mean “Yes.”*

### *7. Stalking*

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for his or her safety or the safety of others
- Suffer substantial emotional distress

Source: 42 USCS § 13925(a)

### *8. Dating Violence*

Any unwanted sexual contact (touching, kissing, fondling, or intercourse) committed without consent of the individual or against an individual who cannot reasonably consent.

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship shall be determined based on a consideration of the following factors:

- Length of relationship
- Type of relationship
- Frequency of interaction between persons involved in the relationship

Source: 42 USCS § 13925(a)

Texas Code 71.0021: "Dating violence" means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault, or that is a threat that reasonably places the individual in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself.

### *9. Domestic (Family) or Intimate Partner Violence*

Crimes of violence committed by current or former spouse or intimate partner; share a child in common; is or has cohabitated with; or another person similarly situated. (Texas Code 47.004)

### *10. Prohibited Conduct*

Throughout this document, “prohibited conduct” shall refer to any and/or all of the abovementioned actions that fall within the scope of Title IX of the Education Amendments of 1972, the Violence Against Women Reauthorization Act of 2013 (VAWA) and its implementing regulations, and Texas State legislation including but not limited to SB212.

## **D. Process Overview**

This process includes an investigation phase undertaken by the Title IX office. Following an investigation, a decision will be made about whether to charge a respondent with prohibited conduct. For matters that are not charged, the matter could proceed to a review of evidence if a party requests such a review. Responsibility for charged conduct is decided by a panel which will involve the President/CEO and relevant director. In matters in which an outcome is reached (either by not charging a matter or by proceeding to a decision on a charge by the panel, parties have a right to appeal the outcome.

## **II. GENERAL PROCEDURES**

### **A. Reporting**

A person who believes that he or she has been subjected to prohibited conduct should report the incident to any AOMA official, administrator, or supervisor. Students, employees, and campus visitors are encouraged to report such incidents to the Title IX coordinator. Incidents can also be reported electronically at: <https://www.aomalife.com/reporting>

Incidents should be reported as soon as possible after the time of their occurrence; however, Title IX has no statute of limitations. No person is required to report sex discrimination or sexual harassment to the alleged offender.

AOMA's Title IX Coordinator is:

Stephanee Owenby  
Title IX Coordinator/Senior Director of Operations  
4701 Westgate Blvd. Bldg. C  
Austin, TX 78745  
512-492-3076  
[sowenby@aoma.edu](mailto:sowenby@aoma.edu)  
[titleix@aoma.edu](mailto:titleix@aoma.edu)

AOMA's Title IX Deputy is:

Lora Bowers  
Title IX Deputy/HR Contractor  
[Lora.bowers@h2r-solutions.com](mailto:Lora.bowers@h2r-solutions.com)  
[titleix@aoma.edu](mailto:titleix@aoma.edu)

### **B. Referral Responsibility**

Every AOMA employee is responsible for promptly reporting to the campus Title IX coordinator any incidents of prohibited conduct that come to their attention. AOMA defines "promptly" as within five business days after the incident is brought to the employee's attention.

Appropriate training is provided to the Title IX Coordinator, Title IX Deputy, and all responsible employees.

### **C. Reporting Options**

#### **1. If you have been the victim of a Title IX incident:**

Victims of assault, domestic violence, or other conduct that could also constitute a crime under Texas law are strongly encouraged to both report the incident to the police by calling 911, and to take advantage of institutional support services available to them. Every effort will be made to assist victims and to protect their rights.

Institutional support services available include the following:

- YWCA Greater Austin - (512) 326-1222
- Kaleidoscope - (512) 981-8787
- SAFE Austin - 24/7 SAFEline, Call: 512-267-SAFE (7233) or Text: 737-888-7233

Unless the alleged victim is a minor or there is a belief that there is an imminent threat of harm to self or others, reporting a Title IX concern to one of these resources will not lead to an AOMA or police investigation. However, victims will be informed of the range of legal options available.

Victims are also encouraged to do one or both of the following:

- Report to the institution:

Stephanee Owenby  
Title IX Coordinator  
4701 Westgate Blvd. Bldg. C  
Austin, TX 78745  
512-492-3076  
[sowenby@aoma.edu](mailto:sowenby@aoma.edu)  
[titleix@aoma.edu](mailto:titleix@aoma.edu)

- Report to law enforcement (APD or another agency) by calling 911. This allows the victim access to Victim Assistance Program funds and services.

Although these entities might work together, the investigations are separate and parallel processes.

#### ***2. Time Frame for Making a Complaint***

There is no specific time frame for individuals who have experienced prohibited conduct to make a formal report pursuant to this process. Individuals are, however, encouraged to make a

report soon after the incident in question to maximize AOMA's ability to investigate and reach a finding.

## **D. Confidentiality and Reporting**

### *1. No Guarantee of Confidentiality*

Different people on campus have different reporting responsibilities and different abilities to maintain your confidentiality, depending on their roles. Due to various federal and state laws, it is not always possible to guarantee confidentiality regarding incidents of prohibited conduct. Under those laws, AOMA's decision to share information with others is subject to a balancing test that requires the institution to consider a range of factors. These include but are not limited to:

- Multiple reports of sexual violence relating to a single respondent
- A report that prohibited conduct involved a weapon, physical restraints, or battery
- The age of the complainant
- The availability of other institutional means to obtain relevant evidence
- When a request for confidentiality would preclude a meaningful investigation or potential discipline of respondent

Title IX requires responsible employees to promptly report incidents of sexual violence to the Title IX coordinator or deputy. AOMA defines "responsible employees" as those employees who are performing duties in furtherance of the institution's interests. AOMA defines "prompt reporting" as no more than five business days after notification of an incident.

### *2. Granting Confidentiality*

The complainant may ask AOMA not to disclose the complainant's identity to the respondent. Should a complainant make such a request for confidentiality, the Title IX coordinator will inform the complainant that AOMA's ability to respond to the allegations and investigate may therefore be limited if the request is granted. A complainant who initially requests confidentiality is not prohibited from later waiving confidentiality and requesting that AOMA conduct a full investigation.

### *3. Denying a Request for Confidentiality*

If the Title IX coordinator determines that AOMA cannot honor a request for confidentiality and must disclose the complainant's identity to the respondent in order to pursue an investigation, AOMA will inform the complainant before making this disclosure and put in place interim measures as necessary to protect the complainant and the AOMA community.

## **E. Reporting Options**

*1. Confidential Reporting Options:* If you desire that the details of the incident be kept confidential, AOMA offers confidential resources that can provide emotional support and counseling. A confidential resource is an individual who by law is exempted from the obligation to report an allegation of sexual violence to the Title IX office or to law enforcement. Confidential resources include the following individuals in the capacity of providing medical care, advice, counseling, or comfort:

- YWCA Greater Austin - (512) 326-1222
- Kaleidoscope - (512) 981-8787
- SAFE Austin - 24/7 SAFELine, Call: 512-267-SAFE (7233) or Text: 737-888-7233
- Any other off-campus rape crisis resources, counseling resources, chaplains, or members of the clergy.

*2. Non-confidential Reporting Options:* You are encouraged to speak to institutional officials to make reports of incidents, including but not limited to the Title IX Coordinator, Title IX Deputy, President/CEO, Vice President of Academics, Senior Director of Doctoral Programs, Senior Director of MAc Program, Director of DAC Program, or a member of Student Services. You have the right and can expect to have incidents of prohibited conduct to be taken seriously by AOMA when reported, and to have those incidents investigated and properly resolved through administrative procedures. Reporting does not mean that your report will not be confidential, but it does mean that people who know will be told, and information will be shared as necessary with investigators, witnesses, and the accused. The circle of people will be kept as tight as possible, to respect your rights and privacy. When the allegations described could be a crime under Texas law, AOMA staff members may also be required by Texas law to notify law enforcement.

Prohibited conduct by a faculty, staff member, or student, is a serious matter. Filing a complaint against someone for such inappropriate behavior is equally serious. The institution's objective in these situations is to resolve the matter with care and concern for the best interests of the person filing the complaint, the person against whom the complaint is being filed, and the institution.

A vice president will not be involved in the investigation or decision if the complaint is against the administrative officer.

## **F. Resolution Options**

A person who believes that he or she has been subjected to prohibited conduct and who seeks to take action may use either the informal complaint resolution process or the formal complaint resolution process, or both. The informal and formal resolution processes described in this policy are not mutually exclusive, and neither is required as a precondition for choosing

the other. If chosen, the informal process can be ended at any time and the formal process initiated; however, they cannot both be used at the same time.

Regardless of whether the informal or formal resolution process is followed, AOMA is committed to working with a complainant throughout to accommodate his or her safety, in whatever way feels best to him or her. These interim measures will be determined on a case-by-case basis and may include but are not limited to: academic accommodations, a Director's "No Contact" Order, escorts, stay-away letters/campus bans, etc.

### **III. RESOLUTION PROCEDURES**

Informal resolution may be an appropriate choice when the prohibited conduct involved is not of a serious or repetitive nature, and in which disciplinary action is not required to remedy the situation. No formal investigation is involved in the informal resolution process; however, an informal internal investigation may be conducted at the discretion of the Title IX office.

A request for informal resolution should be made to either the Title IX office or the office of the President/CEO, who shall determine whether the nature of the problem is such that it can be resolved on an informal basis, and if so, which office will do so. Methods for informal resolution may include but are not limited to: coaching the respondent on how to directly address a situation which is causing a problem; mediating the dispute with the parties; aiding in the modification of a situation in which the offensive conduct occurred; assisting a department or division with the resolution of a real or perceived problem; or arranging a documented meeting with the respondent that involves a discussion of the requirements of the sex discrimination and sexual harassment policy.

In an informal resolution situation, the respondent is not entitled to know who made the complaint or any details of the complaint. Findings regarding responsibility, as well as any general action taken by AOMA to prevent future recurrences of such situations, will be conveyed to both complainant and respondent in writing. However, the complainant's identity and the specific details of the complaint will not be shared with the respondent, and specific details of any resolution actions taken with the respondent will not be shared with the complainant.

Formal resolution may be an appropriate choice when the prohibited conduct involved is of a serious or repetitive nature, and disciplinary action is required to remedy the situation. A formal and impartial investigation is involved in this process, with both parties having the opportunity to share evidence and bring forward witnesses.

A request for formal resolution should be made to either the Title IX office or the office of the President/CEO, who shall begin the formal investigation process. Methods for formal resolution may include but are not limited to: disciplinary action; expulsion; termination.

In a formal resolution situation, the respondent is entitled to know who made the complaint and to review both the complaint and any evidence presented in full. Findings regarding responsibility, as well as the specific actions taken by AOMA to prevent future recurrence of such situations, will be conveyed to both complainant and respondent in writing. In addition, the complainant will receive written notification of any disciplinary actions leveled against the respondent.

#### **IV. COMPLAINT PROCEDURES**

##### **A. Definitions**

###### *1. Complaint*

“Complaint” is defined as a signed document alleging sex discrimination, including sexual harassment under this policy.

###### *2. Complainant*

“Complainant” is defined as a person who submits a written complaint alleging sex discrimination, including sexual harassment under this policy.

###### *3. Respondent*

“Respondent” is defined as the person alleged to be responsible for the prohibited discrimination or sexual harassment alleged in a complaint.

##### **B. Complaint Procedure**

###### *1. Complaints*

Complainants may report directly to the Title IX coordinator or through the AOMA Life website, which provides access to a secure and confidential reporting resource,

<https://www.aomalife.com/reporting>

To report a concern, contact the Title IX office at:

Stephanee Owenby

Title IX Coordinator

4701 Westgate Blvd. Bldg. C

Austin, TX 78745

512-492-3076

[sowenby@aoma.edu](mailto:sowenby@aoma.edu)

[titleix@aoma.edu](mailto:titleix@aoma.edu)

The Title IX coordinator or responsible employee will ask for the following information from a complainant:

1. Name of complainant
2. Contact information, including address, telephone number, email address. **This information WILL NOT be released to the respondent.**
3. Name of responding party (if known)
4. Date of the incident
5. Date of report
6. To whom the report was made
7. Location of the incident
8. Time of the incident
9. Nature of the incident or conduct
10. Names of any witnesses
11. Any other relevant information complainant can provide

When AOMA staff members designated as responsible employees (see Section C, Confidentiality and Reporting) are made aware of a Title IX concern, these individuals are required to report them to the Title IX office within 5 business days. The Title IX coordinator will review the concern and follow up as appropriate. When the report comes from a responsible employee, the Title IX coordinator will ask for the information described above and additionally request:

1. Name of the responsible employee
2. Name of person who reported incident to responsible employee
3. Date of report to the responsible employee

If a complaint is directed against an individual who would otherwise play a role in investigating and attempting to resolve the complaint, the function assigned to that person will be delegated to another person.

## *2. Acknowledgement*

Within five working days after receipt of a written complaint, the Title IX office will send the complainant a brief acknowledgement of the complaint, stating that the complaint will be evaluated, and advising the complainant that he or she will be contacted within a given time. The acknowledgement letter will include a copy of these complaint procedures.

## *3. Complaint Evaluation*

Once received, complaints will be evaluated by the Title IX office to determine that the allegations are plausible under the totality of the circumstances, and that, if true, would constitute sexual misconduct under this policy. If determined to not fall within the scope of this policy, the Title IX coordinator will inform the complainant in writing. The Title IX coordinator

will also identify the department head most able to address the complaint, and at that time offer the complainant the opportunity to redirect their complaint to that individual.

#### *4. Notification of Respondent*

If it is determined that AOMA will proceed with either a formal or informal complaint investigation, the Title IX office will notify the respondent of the complaint investigation in writing. This document shall be referred to as the Notice of Complaint.

#### *5. Investigation Responsibility*

The Title IX office, in conjunction with the President/CEO, is responsible for assigning formal investigators to gather information about complaints alleging sex discrimination and sexual harassment.

The Title IX office, in conjunction with the office of the Vice President of Academics, is responsible for conducting informal investigations of complaints against students alleging sex discrimination and sexual harassment.

The Title IX office, in conjunction with the President/CEO and the appropriate department head, is responsible for conducting informal investigations of complaints against nonstudents alleging sex discrimination and sexual harassment.

#### *6. Investigative Process and Findings*

The investigators will interview both the complainant and the respondent and persons who are considered to have pertinent and factual information related to the complaint. The investigators shall also gather and examine documents relevant to the complaint. Facts will be considered based on what is reasonable to persons of ordinary sensitivity and not on the sensitivity or reaction of an individual. Findings will be based on the totality of circumstances surrounding the conduct complained of, including but not limited to the context of that conduct, its severity, frequency, whether it was physically threatening, humiliating, or was simply offensive in nature.

#### *7. Representation/Support Person*

During the complaint process, the complainant and the respondent may designate and thereafter be accompanied by a support person of his or her choosing at meetings and interviews at which he or she is present; however, no representative may examine witnesses or otherwise actively participate in a meeting or interview. AOMA students and employees are expected to speak for themselves and express themselves, including in writing, on all matters relating to AOMA concerns, including Title IX related matters and prohibited conduct. Any support person who violates these expectations may be directed to resign as the support person. Only one support person will be allowed to accompany a party to a meeting or interview.

#### *8. Submission of Evidence*

During the complaint investigation process, the complainant and the respondent will provide the Title IX office with all documents relied upon regarding the issues raised in the complaint.

#### *9. Report of Findings and Recommendation – Complaints against Nonstudents*

- a. The investigator will provide a proposed statement of findings, copies of relevant documents, and any physical evidence considered to the Title IX office within thirty working days of receipt of the respondent's statement, unless unusual circumstances require more time.
- b. The Title IX office will provide a copy of this statement to the appropriate person to act on the complaint.
  - i. The appropriate person to act on complaints against faculty and staff members will be the director over the area where the respondent is employed. The appropriate person to act on complaints against contractors and visitors will be the director of operations. If a complaint is directed against a person who would otherwise act on a complaint, the function assigned to that individual will be delegated to another person.
- c. The Title IX office will promptly notify the complainant and the respondent that the investigation has been completed and attach a copy of the proposed statement of findings. Student identifiable information, if any, which is confidential by law, will be redacted. Within ten working days from the date of notification, the complainant and respondent may each submit, for consideration by the appropriate director, any comments and corrections they may have.
- d. Within fifteen days of the notification to the complainant and the respondent that the investigation has been completed, the Title IX coordinator, the appropriate director, and the investigator shall meet to discuss the findings and review the record, along with any comments and proposed corrections submitted by the complainant and respondent.
- e. Within fifteen working days from that meeting, the director shall meet with the President/CEO to determine which of the following actions is most appropriate:
  - i. Request further investigation into the complaint
  - ii. Dismiss the complaint if the results of the completed investigation are inconclusive or there is insufficient reasonable, credible evidence to support the allegation.
  - iii. Find that this policy was violated.
- f. If it is determined that this policy was violated, the appropriate director, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine a disciplinary action that is appropriate for the severity of the conduct. Disciplinary actions can include, but are not limited to, written reprimands, the imposition of conditions, reassignment, suspension without pay, and termination.
- g. The director shall inform the Title IX office in writing of his or her decision and actions taken. This document shall be referred to as the Outcome Letter.

- h. If there is a finding of responsibility, the Title IX coordinator will have ongoing responsibilities to monitor the sanctions or disciplinary actions imposed, and to administer and adjust safety and administrative remedies for the parties.
- i. The Title IX office shall inform the complainant and the respondent of the decision made and actions taken in writing and shall attach a copy of the final statement of findings. Copies of the Outcome Letter, the attached statement of findings, and all relevant documents shall also be sent to the human resources department as appropriate.

*10. Report of Findings and Recommendation – Complaints against Students*

- a. The investigator will provide a proposed statement of findings, copies of relevant documents, and any physical evidence considered to the Title IX office within thirty working days of receipt of the respondent's statement, unless unusual circumstances require more time.
- b. The Title IX office will provide a copy of this statement to the Vice President of Academics.
- c. The Title IX office will promptly notify the complainant and the respondent that the investigation has been completed and attach a copy of the proposed statement of findings. Student identifiable information, if any, which is confidential by law, will be redacted. Within ten working days from the date of notification, the complainant and respondent may each submit, for consideration by the appropriate director, any comments and corrections they may have.
- d. Within fifteen days of the notification to the complainant and the respondent that the investigation has been completed, the Title IX coordinator, the Vice President of Academics, and the investigator shall meet to discuss the findings and review the record, along with any comments and proposed corrections submitted by the complainant and respondent.
- e. Within fifteen working days from that meeting, the Vice President of Academics shall meet with the President/CEO to determine which of the following actions is most appropriate:
  - i. Request further investigation into the complaint
  - ii. Dismiss the complaint if the results of the completed investigation are inconclusive or there is insufficient reasonable, credible evidence to support the allegation
  - iii. Find that this policy was violated
- f. If it is determined that this policy was violated, the Vice President of Academics, following consultation with the investigator or other knowledgeable persons as appropriate, shall determine a disciplinary action that is appropriate for the severity of the conduct. Disciplinary actions can include, but are not limited to, documented warning, the imposition of conditions, probation, suspension, and dismissal.
- g. The Vice President of Academics shall inform the Title IX office in writing of his or her decision and actions taken. This document shall be referred to as the Outcome Letter.

- i. As required by federal law, any disclosure of the findings and decision of the office of the Vice President of Academics will be governed by the provisions of the Family Educational Rights and Privacy Act.
- h. If there is a finding of responsibility, the Title IX coordinator will have ongoing responsibilities to monitor the sanctions or disciplinary actions imposed, and to administer and adjust safety and administrative remedies for the parties.
- i. The Title IX office shall inform the complainant and the respondent of the decision made and actions taken in writing and shall attach a copy of the final statement of findings. Copies of the Outcome Letter, the attached statement of findings, and all relevant documents shall also be sent to the human resources department as appropriate.

*11. Student Code of Conduct Special Provisions for Sexual Discrimination and Sexual Harassment, including Sexual Violence.*

Refer to Student Code of Conduct MAC process. Special provisions for sexual discrimination, harassment and sexual violence include:

- a. Timing. The institution will respond promptly when receiving a complaint of sexual discrimination, sexual harassment, or sexual violence. Investigations will take no more than sixty calendar days.
- b. Advisor/Advocate. All student parties to sexual misconduct complaints have the right to an advisor/advocate from the community to assist and support in connection with student conduct proceedings. Any advisors from outside the community must be approved by the Title IX office.
- c. Sexual History/Character. All parties to a complaint have the right not to face questions or discussion of their sexual history or character unless the hearing chair or administrative hearing officer decides that such information is highly relevant to determining whether the policy has been violated.
- d. Right to present own complaint or use proxy. Alleged victims have the right to present their own complaint if they want to, or to ask the institution to stand as complainant in their place.
- e. Right to be informed of Review (Appeal) Status. The parties will be informed by the Title IX office if any of the parties in the complaint requests an appeal.
- f. Right to Review (Appeal). All parties will have the right to a review of the outcomes of a hearing.
- g. Right to Equity. All parties will be treated with as much equity as possible during this process.

*C. Withdrawal of a Complaint*

A complainant may notify the Title IX coordinator at any time that the complainant does not wish to proceed with the investigation and/or resolution process. If such a request is received,

the Title IX coordinator will inform the complainant that AOMA's ability to respond to the allegation may be limited if the allegations are withdrawn.

The Title IX coordinator will consider the factors in II.D in reaching a determination as to whether to terminate the investigation and/or resolution process. If the Title IX coordinator determines that the investigation will continue, the Title IX coordinator will notify the complainant of that determination in writing. The Title IX coordinator will include in that notification a statement that the complainant is not required to participate in the investigation and/or resolution process but that the process will continue.

## **V. RESPONSIBILITIES AND RIGHTS OF THE PARTIES AND WITNESSES**

During an investigation and hearing under this process, the parties and witnesses have the following responsibilities and rights.

### *A. Responsibilities of the Parties and Witnesses*

1. The responsibility to be truthful, to cooperate with the process, and to follow the directions of AOMA staff and agents responsible for administering this process.
2. The responsibility not to retaliate against or intimidate any individual who has reported a Title IX concern or who has participated as a party or witness in the process.
3. The responsibility to keep confidential (by not disseminating beyond Support Persons or advisors) documents and materials received from AOMA during this process and, as part of this responsibility, to destroy, when so directed by AOMA, all documents provided by the University, except for Outcome Letters.
  - a. A party may not distribute confidential materials obtained through the process and may not engage in retaliatory or intimidating conduct aimed at any other participants in the process. AOMA will investigate allegations of a party engaging in any of these prohibited acts. AOMA recognizes, however, that it cannot otherwise prevent parties from speaking openly both about the allegations and the process.

### *B. Rights of the Parties and Witnesses*

1. The right to be reasonably protected from retaliation and intimidation where one has reported a Title IX concern or participated as a party or witness in the process.
2. The right not to be disciplined for drug and alcohol violations (relating to voluntary ingestion) or similar policy offenses in connection with the reported incident that do not place the health or safety of any other person at risk.

### *C. Rights of the Parties*

1. The right to a Support Person to advise the party.

2. The right to receive a written Notice of Complaint that provides sufficient detail about the allegations and the applicable AOMA policies for the respondent to be able to respond and for both parties to understand the scope of the investigation.
3. The right to decline to give a statement about the allegations or attend a hearing.
4. The right to participate in the investigation, including by identifying witnesses and identifying and/or providing relevant information to the investigator.
5. The right to receive a written Outcome Letter or a no charge decision.
6. The right to object to the inclusion or exclusion of information or witnesses in the incident file, including requesting a review by alternate personnel.
7. The right to have the matter heard by a neutral panel consisting of three trained panelists who will determine the matter using a preponderance of the evidence standard and who will not prejudge the outcome of a case because there has been a charge.
8. The right to appeal the outcome.
9. The right to receive an Appeal Outcome Letter.

## **VI. APPEAL**

### *A. Parties' Right to Appeal*

The complainant or respondent may appeal the Outcome Letter. Each party may submit a written appeal of up to 6,000 words in length, to the President/CEO's office, which will be shared with the other party. The parties must submit the appeal within ten business days from the receipt of the Outcome Letter. Upon receipt of a party's appeal, the President/CEO will share it with the other party. Within seven business days after the appeal is shared, each party may submit a response of up to 3,000 words to the other party's appeal. The appealing party will have access to the other party's response to the appeal, but no further response will be permitted.

### *B. Grounds for Appeal*

The grounds for appeal are limited to the following:

1. Were there any procedural irregularities that substantially affected the outcomes of the matter to the detriment of the appealing party?
2. Was there any substantive new evidence that was not available at the time of the decision or investigation and that could not have been available based on reasonable and diligent inquiry that would substantially affect the outcome of the decision?
3. Is the decision on the findings one that a reasonable investigator or panel might have made?
4. For matters that proceeded to sanctions or disciplinary action, are the sanctions and/or actions ones that could have been issued by reasonable persons given the findings of the case?

When composing appeals, parties should format responses following these four grounds as the organizational structure.

### *C. Appeal Decision*

An Appeal Officer will be assigned by the President/CEO. This officer will not be the director responsible for the decisions set out in the Outcome Letter. The Appeal Officer will provide the final appeal decision in writing no later than fifteen business days after the receipt of all appeal documents. This document shall be referred to as the Appeal Outcome Letter. As needed, the Appeal Officer will consult with the Title IX coordinator regarding the management of ongoing sanctions or disciplinary actions. The Appeal Officer may reject the appeal in whole or in part, may issue a new decision regarding responsibility, issue new or revised sanctions or disciplinary actions, or refer the matter to a new investigative panel.

## **VII. MISCELLANEOUS**

### *A. Employee Grievance of a Disciplinary Action*

Any employee disciplined pursuant to this policy may grieve that action by submitting a written grievance, within ten working days of the imposition of the disciplinary action, to the President/CEO's office. Ordinarily, the president will assign responsibility for review and action on the appeal of the director's action to another director; however, when required by unusual circumstances, the president may review and handle a grievance pursuant to this policy.

If the disciplinary action that is being grieved does not involve termination, demotion, or suspension without pay, the director who is assigned to review the grievance shall thoroughly review and finally decide the matter within thirty calendar days of its receipt unless unusual circumstances require more time.

If the disciplinary action that is being grieved involves termination, demotion, or suspension without pay of an employee, the director who is assigned to review the grievance shall follow the procedures for appealing such actions contained in that section. Complainants will be required to appear and testify at hearings that may be a part of such proceedings.

### *B. Retaliation Prohibited*

A student, faculty member, or staff member who retaliates in any way against an individual who has brought a complaint pursuant to this policy, or who has participated in an investigation of such a complaint, is subject to disciplinary action up to and including dismissal from AOMA.

### *C. Filing of False Complaints*

Any person who knowingly and intentionally files a false complaint under this policy is subject to disciplinary action up to and including dismissal from AOMA.

### *D. Effect on Pending Personnel Actions*

The filing of a sex discrimination, sexual harassment, or retaliation complaint will not stop or delay any evaluation or disciplinary action related to the complainant who is not performing up to acceptable standards or who has violated AOMA rules or policies.

The filing of a sex discrimination, sexual harassment, or retaliation complaint against an employee may delay consideration for promotion or positional advancement until such time as the complaint has been resolved.

*E. Relationship of Complaint Process to Outside Agency Time Limits*

The filing of a sex discrimination or sexual harassment complaint under this policy does not excuse the complainant from meeting the time limits of outside agencies.

*F. Title IX Grievance Procedures*

This complaint procedure shall also constitute the grievance procedure for complaints alleging unlawful sex discrimination required under Title IX of the Education Amendments of 1972. As used herein, "complaint" is synonymous with "grievance."

*G. Time Frames*

Time frames mentioned in these procedures may be extended for good cause, such as holidays or when classes are not in session, or when it is necessary to complete an investigation due to difficulties reaching witnesses or parties to the complaint.

*H. Documentation and Confidentiality*

AOMA shall maintain documents related to complaints under this policy as required by law. The Title IX office shall be primarily responsible for records related to complaints against students or nonstudents. The confidentiality of a complaint under this policy and all documents, correspondence, interviews, and discussions relating to the investigation of the information contained in a complaint will be maintained on a need-to-know basis to the extent permitted by law. Any person who knowingly and intentionally makes an unauthorized disclosure of confidential information contained in a complaint or otherwise relating to the investigation of a complaint under this policy is subject to disciplinary action up to and including dismissal from AOMA.

*I. Consensual Relationships*

Participation of a supervisor, teacher, or adviser in a consensual romantic or sexual relationship with a subordinate employee or student in all cases creates a prohibited conflict of interest. See AOMA's policy.

**Questions or requests for assistance regarding this policy should be directed to the Title IX Coordinator:**

**Stephanee Owenby  
Title IX Coordinator**

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