

ABRAHAM BALDWIN AGRICULTURAL COLLEGE

SEXUAL MISCONDUCT GUIDELINES & PROCEDURES

INAPPROPRIATE CONDUCT/SEXUAL HARASSMENT/ASSAULT/VIOLENCE

Abraham Baldwin Agricultural College (ABAC) is committed to maintaining a fair and respectful environment for living, work, and study.

In accordance with federal and state law and Board of Regents' policy, the College prohibits any member of the faculty, staff, administration, student body, volunteers or visitors to campus, whether they be guests, patrons, independent contractors, or clients, from harassing and/or discriminating against any other member of the College community because of that person's gender (sex) including inappropriate conduct, sexual harassment, sexual assault, and sexual violence.

ABAC does not condone and will not tolerate sexual misconduct or sexually exploitative or harassing behavior of any kind. Incidents of harassment and discrimination will be met with appropriate disciplinary action and sanctions, up to and including termination or expulsion from the College.

The College affirms its responsibility to respond promptly and effectively to unlawful discrimination, including sexual harassment and sexual violence:

- Take immediate steps to eliminate the sexual harassment or sexual violence, prevent its recurrence, and address its effects; and
- Support all students and employees with appropriate resources regardless of their status as complainant or accused.

Specifically, sexual inappropriate conduct/harassment/assault and violence against employees or students is prohibited and shall subject the offender to dismissal or other sanctions after compliance with procedural due process requirements. Unwelcome sexual advancements, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made explicitly or implicitly a term or condition of an individual's employment or academic standing; or
- Submission to or rejection of such conduct by an individual is used as a basis for employment or academic decisions affecting an individual; or
- Such conduct unreasonably interferes with an individual's work or academic performance or creates an intimidating, hostile, or offensive working or academic environment.

Sexual assault and sexual violence includes physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol, or due to an intellectual or other disability. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion. Sexual assault and sexual violence reports will result in both a criminal investigation and a timely institutional investigation. There is no geographical limitation to this policy. This applies to any complaint of sexual misconduct against a student or employee no matter the distance from campus.

PERSONS WHO MAY BE INVOLVED IN SEXUAL HARASSMENT

Sexual harassment most frequently occurs when a person in authority harasses someone with less power, e.g., faculty member and student, administrator and faculty member, supervisor and staff member. However, it is possible for a person with less power to harass a person in authority. Sexual harassment may also take place between persons of the same status, e.g., faculty-faculty, student-student, staff-staff. It may take place between persons of the opposite sex, or between persons of the same sex.

REPORTING OF ISSUES AND CONFIDENTIALITY

The college encourages all students and employees to immediately report issues of inappropriate conduct and harassment based upon protected factors including gender or sex.

Victims of sexual assault or violence should immediately report issues to the ABAC Police Department or call 911 if off campus. Victims who report sexual assault and violence will not be subject to normal Student Judiciary Process sanctions for drug and alcohol violations.

Counseling and support are available through ABAC confidential employees who will not divulge information to authorities; this includes both the Director and the Professional Counselor in the Office of Student Development and Counseling.

Other reporting resources include ABAC responsible employees who will maintain as much confidentiality as possible, but must report issues to authorities. This includes all Managers, Deans and Department Heads, Academic and Department Administrative Assistants, Community Assistants (CA's), and employees within the ABAC Student Health Center.

ACADEMIC FREEDOM AND FREEDOM OF EXPRESSION

ABAC is committed to protecting, maintaining and encouraging both freedom of expression and full academic freedom of inquiry, teaching, service, and research. However, these freedoms come with a responsibility that all members of the education community benefit from these freedoms without intimidation. In recognition and support of academic freedom for faculty in the pursuit of teaching, academic freedom and freedom of expression shall be strongly considered in investigating and reviewing complaints and reports of discrimination and/or harassment. However, raising issues of academic freedom and freedom of expression will not excuse behavior that constitutes a violation of federal legally protected areas which include gender and sex, USG Policies, and ABAC Sexual Misconduct Guidelines & Procedures.

PROHIBITION AGAINST RETALIATION

Students and employees who, in good faith, report what they believe to be discrimination or harassment, or who cooperate in any investigation, will not be subjected to retaliation. Any student or employee who believes he or she has been the victim of retaliation for reporting discrimination or harassment or cooperating in an investigation should immediately contact the Title IX Coordinator. Any person who makes a fraudulent report is a violation and subject to sanctions. Any person found to have retaliated against a person who has cooperated in an investigation will be in violation and will be subject to disciplinary action.

Sexual Misconduct by students and other inappropriate conduct involving protected factors (race, color, national origin, gender or sex, disability, religion, age, veteran status, and genetic information) will be investigated by the Dean of Students/Deputy Title IX Coordinator outside of the Student Judiciary System. Complaints involving employees will be investigated by the Director of Human Resources.

- A. *Definition of Sexual Misconduct.* Sexual misconduct encompasses a broad range of unwelcome behaviors that are committed without consent or by force, intimidation, coercion, or manipulation. The term includes, but is not limited to, criminal sexual assault, sexual harassment, sexual exploitation, and sexual intimidation. +Sexual misconduct can be committed by men or women, and it can occur between people of the same or different sex.
- B. *Consent.* Consent is a freely and affirmatively communicated willingness to participate in particular sexual activity or behavior, expressed either by words or clear, unambiguous actions. "Non-consent" means without either explicit verbal consent or overt action clearly expressing consent. Such signals of consent must be mutual and ongoing, as well as offered freely and knowingly. If at any time during a sexual interaction any confusion or ambiguity should arise on

the issue of consent, the sexual initiator should stop and clarify the other individual's willingness to continue. Non-communication constitutes lack of consent.

C. *Persons unable to give consent.* By definition, the following conditions cause a person to be unable to give consent:

1. Persons who are asleep or unconscious;
2. Persons incapacitated by drugs, alcohol, or medication;
3. Persons who are unable to communicate consent due to a physical or mental impairment;
4. Persons who have been threatened or coerced into giving their consent; or
5. Persons under the age of 16.

Engaging in sexual activity with someone who is unable to give consent is considered by law to be sexual misconduct. Indications of consent are irrelevant if the person is incapacitated. When there is ambiguity about whether consent has been given, a person can be charged with, and found responsible for, committing a sexual assault or another form of sexual misconduct.

Examples of incapacitation include, but are not limited to, being highly intoxicated, passed out, or asleep. Consumption of alcohol, in and of itself, does not relieve a person of the responsibility to obtain ongoing consent.

Victims of sexual assault or violence will not be subject to student alcohol or drug offenses with Student Judiciary System.

D. *Examples of Sexual Misconduct.* Sexual misconduct may vary in its severity and consists of a range of behaviors or attempted behaviors. Sexual misconduct includes, but is not limited to, the following examples of prohibited conduct as further defined below:

1. sexual assault (paragraph E)
2. sexual harassment (paragraph F)
3. sexual exploitation (paragraph G)

E. *Definition of sexual assault.* Sexual assault is a form of sexual misconduct and represents a continuum of conduct that includes non-consensual sexual contact between an individual and another person. Examples of sexual assault under this policy include, but are not limited to, the following behaviors, if non-consensual:

1. Sexual intercourse;
2. Any sexual touching, including penetration, with any object. Sexual touching is contact of a sexual nature, however slight;
3. Touching of intimate body parts such as mouth, genitalia, groin, breast, buttocks, inner thighs, or any clothing covering them;
4. The removal of another person's clothes;
5. Touching a person with one's own intimate body parts;
6. Compelling another to touch one's intimate body parts.

F. *Definition of sexual harassment.* Sexual harassment is a form of misconduct that includes verbal, written, or physical behavior of a sexual nature, directed at someone, or against a particular group, because of that person's sex, or based on gender stereotypes when that behavior is unwelcome. Sexual harassment may include unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome conduct of a sexual nature where:

1. Submission to or tolerance of such conduct is made either an explicit or implicit term or condition of employment or student admission, enrollment, participation, or programming;
2. Submission to or tolerance or rejection of such conduct is used as a basis for employment or for academic, athletic, or other educational decisions affecting an individual;

3. The conduct has the purpose or effect of substantially interfering with an individual's work or academic, athletic, or other educational performance; or
4. The conduct creates an intimidating, hostile, or offensive work or educational environment.

If in the past a person has welcomed sexual advances or other harassing conduct (whether sexual or otherwise) by active participation in or encouragement of such activity, he/she should specifically inform the alleged harasser if such conduct is no longer welcome in order for any subsequent conduct to be deemed unwelcome. However, failure to give such notice does not prevent ABAC officials from taking appropriate corrective and/or disciplinary action against the alleged harasser for his/her behavior.

- F. *Definition of sexual exploitation.* Sexually exploitative behavior which occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own benefit, or to benefit anyone other than the one being exploited. Examples of sexual exploitation include, but are not limited to, engaging in voyeurism; forwarding of pornographic or other sexually inappropriate material via email or other channels to non-consenting students/groups; and any activity that goes beyond the boundaries of consent, such as recording of sexual activity, letting others watch consensual sex, or knowingly transmitting a sexually transmitted disease (STD), including HIV, to another.

Student-Athlete Signature

Date

Parent/Guardian signature (if student-athlete is a minor) Date

July 2014