



# STUDENT HANDBOOK

ARKANSAS STATE UNIVERSITY-MOUNTAIN HOME

1600 S College St, Mountain Home, AR 72653 | 870-508-6100

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## **CHAPTER 1**

### **WELCOME TO ARKANSAS STATE UNIVERSITY-MOUNTAIN HOME**

Dear Students,

Welcome to Arkansas State University-Mountain Home (ASUMH)! ASUMH is recognized as a leader among community colleges and we're so glad you've chosen us as the institution to further your education. It is our privilege to offer you a quality education in a supportive learning environment. Our knowledgeable, caring faculty and staff are here to guide you academically and provide personal assistance when needed.

The Student Handbook presents an overview of the opportunities, services, and expectations at ASUMH. The handbook will direct you to campus resources and information that are essential to your success. We recommend that you become familiar with this handbook and refer to it during your time with us.

Again, welcome to ASUMH! We encourage you to take advantage of every opportunity and resource to successfully complete your educational goals.

Sincerely,

ASUMH Department of Student Services

### **1.1 MISSION, VISION, AND CORE VALUES**

#### **PURPOSE**

The chief purpose of this official Handbook is to establish guidelines that protect the rights of students as members of the Arkansas State University—Mountain Home community, and to outline responsibilities, obligations, and expectations for students necessary to ensure the success and stability of these policies. For program specific guidelines, students should refer to the individual program manuals.

#### **ASUMH VISION**

Creating Opportunities-Changing Lives

#### **ASUMH MISSION**

It is the mission of ASUMH to L.E.A.D. through educational opportunities. Lifelong Learning, Enhanced Quality of Life, Academic Accessibility, and Diverse Experiences.

#### **STUDENT AFFAIRS MISSION**

In support of the ASUMH vision and mission, and in partnership with all campus departments, ASUMH Student Affairs provides support and services for students, enabling them to gain access to opportunities and to succeed in their educational, social, career, and personal goals.

## **EQUAL OPPORTUNITY/AFFIRMATIVE ACTION STATEMENT**

ASUMH is an equal opportunity institution and will not discriminate based on race, color, religion, sex, national origin, age, disability, marital status, veteran status or other unlawful factors in employment practices or admission and treatment of students. The facilities and services of ASUMH are accessible to the disabled.

ASUMH is committed to offering all students, employees, applicants for employment, and other interested parties the rights and protections afforded by federal and state laws.

## **STUDENT RESPONSIBILITY STATEMENT**

Students enrolled at ASUMH are expected to study this handbook carefully and to become familiar with all policies, procedures, and regulations of the university. Knowledge of the information contained in the handbook is the responsibility of each student.

The provisions of this handbook are subject to change at any time and should be considered for informational purposes. This handbook does not constitute a contract between the university and the student. Students enrolled in some ASUMH programs or activities may also have a manual of separate policies, procedures, and regulations for that program or activity.

## **1.2 OFFICIAL COLLEGE COMMUNICATIONS**

The ASUMH student email is the official means of communication with students.

Important college-related information will be sent to the student's ASUMH student email account. Students are expected to check their email on a frequent and consistent basis to stay current with college communications. Types of communication include, but are not limited to, financial aid information, bills, payment deadlines, inclement weather closings, and student activities/events. The ASUMH student email system can be accessed through [asumh.edu/banner](http://asumh.edu/banner).

## **CHAPTER 2**

### **ACADEMIC POLICIES AND PROCEDURES**

The Office of the Registrar manages all student academic records. For more information on academic policies, credits, and classes, please refer to the ASUMH Course Catalog on the ASUMH website.

#### **2.1 RECORDS POLICY**

Arkansas State University-Mountain Home respects the privacy of our students and complies with all federal regulations regarding education and privacy issues.

##### **ARKANSAS STATE UNIVERSITY SYSTEM - FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA) POLICY**

The Family Educational Rights and Privacy Act (FERPA) requires institutions of higher education to strictly protect the privacy rights of all students, who are or who have been attendants. Information contained in the student's education records can be shared only with those persons or entities specified within the Act.

The Office of the Registrar maintains a copy of the full text of the Family Educational Rights and Privacy Act of 1974, posts electronic information on the Family Educational Rights and Privacy Act (FERPA), and processes all Family Educational Rights and Privacy Act (FERPA) requests and challenges. Information on directory information, the types of student records maintained at Arkansas State University-Mountain Home, disclosure policy in relation to student consent, the procedures for gaining access to records, and the procedure for challenging the contents of those records are available in the Office of the Registrar.

##### **ARKANSAS STATE UNIVERSITY-MOUNTAIN HOME FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT POLICY (FERPA)**

The Family Educational Rights and Privacy Act (FERPA) requires that institutions of higher education strictly protect the privacy rights of all students who are or who have been in attendance. Information contained in the student's education records can be shared only with those persons or entities specified within the Act. The law also provides that students have the right to review their education records for the purpose of making any necessary corrections. The Office of the Registrar maintains a copy of the full text of the Family Educational Rights and Privacy Act, posts electronic information on the Family Educational Rights and Privacy Act, and processes all Family Educational Rights and Privacy Act requests and challenges.

#### **2.2 DEFINITIONS**

##### **ARKANSAS STATE UNIVERSITY SYSTEM**

Arkansas State University System means all the campuses within the Arkansas State University System, now and in the future.

## **STUDENT**

Student means an individual who attends or has attended classes at ASUMH. This policy does not apply to the records of applicants for admission who are not accepted to ASUMH nor does it apply to applicants who are accepted, but choose not to attend ASUMH.

## **EDUCATION RECORD**

Education records are those records, files, documents, and other materials which contain information directly related to a student and are maintained by ASUMH or a person acting for ASUMH.

## **DIRECTORY INFORMATION**

Directory Information is designated to be the student's name; local and permanent physical addresses; electronic mail addresses; telephone listings; photographs and electronic images; date and place of birth; major field of study; participation in officially recognized activities and sports; weight and height of members of athletic teams; dates of attendance; degrees and awards received; and the most recent previous educational agency or institution attended by the student.

### **2.3 DISCLOSURE OF EDUCATIONAL RECORDS**

Arkansas State University-Mountain Home will utilize the following process to implement the provisions of the Family Educational Rights and Privacy Act.

#### **DISCLOSURE WITH STUDENT CONSENT**

A student may consent in writing to the disclosure of education records. The student's written consent must be signed, dated, and specify which records are to be disclosed, to whom, and for what purpose. The consent must be delivered to the Office of the Registrar. The student may retract the consent in writing at any time. Proper proof of identity may be required by the Office of the Registrar before consent is retracted.

#### **DISCLOSURE WITHOUT STUDENT CONSENT**

ASUMH may disclose education records without the student's written consent to any school official within the institution with a legitimate educational interest. School officials include administrators, supervisors, faculty members, instructors, support staff, members of the Board of Trustees, persons with whom ASUMH has contracted for special tasks (e.g., National Student Clearinghouse), and college committee members. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility. School officials of ASUMH are considered to be within the institution for the purposes of the Federal Educational Rights and Privacy Act (FERPA) and may exchange education records without student consent so long as they have a legitimate educational interest.

- Disclosure without student consent may also be made to other persons and entities as allowed by the Federal Educational Rights and Privacy Act.
- Faculty sponsors of registered honor societies may have access to student education records for the sole purpose of determining eligibility for membership on the basis that they



are acting in an official college capacity that is integral to the educational function of ASUMH.

- The parents of students may exercise rights under the Federal Educational Rights and Privacy Act if the student is claimed as a dependent by the parents for income tax purposes. Dependency must be proven by submission of a copy of income tax returns.

## **DISCLOSURE OF DIRECTORY INFORMATION**

Directory information may be disclosed to any person or entity without student consent unless the student submits a completed request for non-disclosure of directory information form to the Office of the Registrar. If a student elects not to allow disclosure of directory information, ASUMH cannot share information regarding the student with any person or entity including prospective employers, licensing agencies, government agencies, the media, and others. The student may retract the directory information non-disclosure in writing at any time. Proper proof of identity may be required by the Registrar's office before the directory information nondisclosure is retracted.

## **INSPECTION, REVIEW, AND CORRECTION OF EDUCATION RECORDS**

Students have the right to inspect and review their education records except for specific exclusions contained within the Family Educational Rights and Privacy Act. A student should contact the Office of the Registrar to arrange for inspection, review, and correction of an educational record. The Registrar may charge a fee for copies of any education records.

## **OWNERSHIP OF EDUCATION RECORDS**

Education records are the property of ASUMH. Education records, including transcripts and diplomas, will not be released to any student who has a delinquent financial obligation to the College.

## **2.4 FALSIFICATION OF DOCUMENTS**

Falsification or alteration of any College document or document submitted for the purpose of admissions or financial aid is cause for cancellation of admission. If a misrepresentation is discovered after a candidate is admitted and registered, an administrative hearing will be conducted by the Dean of Students to determine if the student is responsible for falsification of documents. If it is determined that the student is responsible for falsification of documents, the student will be administratively withdrawn from the college. Appeals for falsification of documents must be made in writing to the Vice Chancellor for Student Affairs within five (5) business days. After reviewing the information, the Vice Chancellor for Student Affairs shall make a determination on the appeal.

## **2.5 ACADEMIC ADVISORS**

The Arkansas State University - Mountain Home academic advising mission is to create a partnership between students and advisors that empowers students to define, plan, and achieve their academic goals, promote career readiness, personal and civic responsibility, and lifelong learning. Faculty advisors also direct students to information relating to financial aid, testing, and other academic programs. Advising is a continuous and consistent development between advisor and advisee that focuses not just on the upcoming class schedule but the whole student. Both

advisors and students play an active role in the process. When everyone in the process is responsible, the student is more likely to have a successful and meaningful college experience; however, students are ultimately responsible for managing their own academic programs.

## **2.6 REGISTRATION**

Each student is assigned an academic advisor. Students should frequently consult with their advisor concerning educational goals, including courses, majors, and degree programs. The DegreeWorks software serves as a guide when selecting courses within a specific major. The name of the academic advisor is posted in Banner Self-Service.

After students prepare their schedule with their academic advisor, they may register for classes in Banner Self-Service. Registration is only permitted at scheduled times, which are published in the ASUMH Academic Calendar and the ASUMH Course Catalog, both published under the Students tab on the ASUMH website.

**IMPORTANT:** Federal Aid will only pay for classes that are required for the student's declared major as listed in the degree plan of the catalog year assigned to that student.

## **2.7 CLASS ATTENDANCE**

At Arkansas State University-Mountain Home regular attendance is essential for student success. Instructors monitor attendance in seated classes by checking roll and completion of coursework. Online class attendance is based on participation in the class as evidenced by students turning in assignments, participating in discussion boards, or corresponding via email. Excessive absences may be penalized, including failure of the course, at the discretion of the instructor. Make-up work is at the discretion of the instructor.

Students should follow the appropriate withdrawal process through the Office of Student Affairs. Failure to attend class does not constitute an official withdrawal. Students should be aware that non-attendance could affect financial aid resulting in loss of financial aid eligibility and possible repayment of funds awarded.

When an absence is unavoidable, students should always notify instructors. In some cases, the instructor may notify the Registrar's Office requesting an administrative withdrawal after an excessive number of absences. Students who do not attend class the first 10 days of the semester will be administratively withdrawn.

Students should always check with the instructor or the course syllabus regarding the number of absences allowed and requirements for late or missed assignments. Students must utilize their available absences for any cause which requires them to miss class including, but not being limited to, illness, emergency, or religious observances.

## **2.8 INCLEMENT WEATHER**

In the case of inclement weather, the college may close or delay opening. If a delay is issued, only the classes after the delayed opening time will be held that day. All classes prior to the delayed opening time will be cancelled. Any student not able to make it to campus due to hazardous road conditions should contact their instructor(s).

Campus closures or delays will be announced in the following ways:

- **RAVE Emergency Alerts.** ASUMH will send an ASUMH alert through the RAVE system in the form of phone calls, text messages, and email to students, faculty and staff.
- **Website Notification** on the home page of the ASUMH website.
- **Social Media Announcements** will also be posted on the ASU-Mountain Home Facebook and Instagram pages.
- **Media.** Notifications are sent to local media outlets including KTLO in the event of closures.

## 2.9 COMMENCEMENT/ GRADUATION

Students are encouraged to file an online Intent to Graduate Form during the semester prior to the expected date of graduation. Following the filing of this form, the Registrar's office will evaluate the degree requirements and contact the student with degree completion/commencement information. For information related to commencement, contact the Office of Student Affairs.

## 2.10 COMPUTER TECHNOLOGY ACCESSIBILITY

The following links provide information on the accessibility statements for the basic technologies for most courses. Additional specific required technologies that are course specific will be provided by the course instructor in a separate posting or included in the course syllabus. If additional accessibility information or accommodations are needed, contact the campus Student Services Coordinator at (870) 508-6278.

Technology	Accessibility Statement Link	Statement to Learners
Canvas Learning Management System	<a href="https://www.instructure.com/accessibility">https://www.instructure.com/accessibility</a>	N/A
Adobe Acrobat Reader	<a href="http://www.adobe.com/accessibility/products/acrobat/faq.html">http://www.adobe.com/accessibility/products/acrobat/faq.html</a> Adobe® Acrobat® software addresses the needs of both users with disabilities and authors of accessible content. The new features and enhancements and free Adobe Reader® software enable users with disabilities to access, read, and use Adobe PDF documents and forms across multiple languages more easily. And the improved tools for generating, reviewing, and enhancing PDF files available in the Acrobat family make it easier than ever for authors to create and distribute electronic content that is optimized for accessibility.	Adobe Acrobat allows you to access, read, and use PDF documents.

Technology	Accessibility Statement Link	Statement to Learners
Microsoft Office software	<a href="https://www.microsoft.com/en-us/accessibility/">https://www.microsoft.com/en-us/accessibility/</a>	Microsoft Office software products have accessibility options that allow you to personalize your use from design, to display, to delivery.
Google Online Programs/Sites /Browsers (YouTube, Chrome, Google Drive, Calendar, email)	<a href="https://belonging.google/in-products/disability-innovation/">https://belonging.google/in-products/disability-innovation/</a>	Includes product help tips that can be used with a screenreader

## TECHNOLOGY RECOMMENDATIONS AND ACCESS

Help desk services are available by emailing [helpdesk@asumh.edu](mailto:helpdesk@asumh.edu) or by phone at (870) 508-6223. The recommended browser for ASUMH students is Microsoft Edge, Mozilla FireFox, or Google Chrome.

The following are minimal hardware recommendations for ASUMH students:

Both PC/Mac: 512GB - M.2 NVMe internal solid-state drive

- PC System:
  - Windows 11 (64 bit)
  - Intel Core 7 or higher
  - Intel's 8th generation chip or higher (7th Gen and below will not install Windows 11)
  - TPM 2.0 is required for Windows 11 (this is a hardware security module)
  - 16 gigabytes of RAM (16GB) or higher
- Mac System:
  - MacOS 13 (Ventura) or later: (lockdown browser requires MacOS 10.15 or later)
  - 8GB Memory (16GB is preferred)
  - CPU: 2019 models or earlier - Intel processor 7<sup>th</sup> Gen or later
  - CPU: 2020 models or later - Apple Silicon

Students may access available software by using the student assigned email.

## **2.11 BANNER STUDENT SELF-SERVICE**

Banner Student Self-Service is our student information system and can be found linked on the ASU-Mountain Home website. Banner Student Self Service may be accessed at [asumh.edu/banner](http://asumh.edu/banner).

Within Banner Student Self-Service, students may access a variety of information and student services including:

- Accept Financial Aid awards
- Register for classes
- View class schedules
- Add or drop a class
- View account holds
- View an unofficial transcript
- Pay a student account balance through TouchNet
- Set up Direct Deposit through TouchNet

## **2.12 CANVAS**

Canvas is the Learning Management System used by students taking online classes through ASUMH. Once registered, students have access to Canvas through <https://asumh.instructure.com/>

For Canvas assistance, there is a Canvas Help Desk available at 833-741-0031 or the ASUMH IT Help Desk can be contacted by email at [helpdesk@asumh.edu](mailto:helpdesk@asumh.edu) or by phone at 870-508-6223.

## **CHAPTER 3**

### **STUDENT INFORMATION AND SERVICE RESOURCES**

#### **3.1 ASUMH STUDENT FOOD PANTRY**

ASUMH's food pantry in Gotaas Hall serves as a food pantry for students and their families. All kinds of essentials are available for students to access, including toiletries and diapers.

#### **3.2 BOOKSTORE**

The ASUMH Bookstore is located on the second floor of Roller Hall. In addition to providing required textbooks both new and used, the bookstore also provides college clothing, supplies, gifts, and refreshments. For additional information, call (870) 508-6114.

#### **3.3 CAREER COUNSELING**

Career counseling is available to help students identify occupational options which best match their aptitudes and interests. A variety of tools and inventories is available to help students learn more about themselves, as well as about the world of work and specific occupations. Students are encouraged to visit the Student Success Center on the 3<sup>rd</sup> floor of Roller Hall for more information.

#### **3.4 CAREER PATHWAYS**

The Career Pathways Initiative provides educational and employability training to student parents to promote the earning of a marketable, post-secondary educational credential for entry into a high-demand occupation. Career Pathways seeks to help modest-income parents gain workplace skills leading to economic self-sufficiency and reduced reliance on public assistance. Career Pathways recognizes the importance of meeting the needs of our students as well as our area businesses and industries and is dedicated to delivering learning experiences and financial support services to strengthen the educational attainment and the employability skill level of our area workforce. The Career Pathways office is located on the first floor of Roller Hall in R103. For more information about Career Pathways at ASUMH, contact 870-508-6201 or email [bhutcheson@asumh.edu](mailto:bhutcheson@asumh.edu).

#### **3.5 DISABILITY SERVICES**

Students with disabilities should contact the Americans with Disabilities Act (ADA) Coordinator before attending class. Students with disabilities may reach the ADA Coordinator on the 3<sup>rd</sup> floor of Roller Hall Room R314, or by calling (870) 508-6278. The ADA Coordinator is responsible for making arrangements for reasonable accommodations for students according to Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. See Appendix B for the complete text of Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

#### **3.6 ED COULTER STUDENT EMERGENCY FUND**

The Ed Coulter Student Emergency Fund provides one-time, limited financial assistance to students at Arkansas State University Mountain Home to enable those students to complete their course work. The ECSE Fund does not replace federal or state financial aid or scholarships, but is meant to assist a student in completing his or her semester or course should an unexpected financial hardship arise. The application form may be found in Banner.

### 3.7 FINANCIAL AID

Financial aid may be in the form of loans, grants, scholarships, employment opportunities or a combination of any of these. The criteria listed below are used to determine student eligibility for Federal Financial Aid programs at ASUMH. Students must meet the following requirements:

1. Financial need as determined by the Free Application for Federal Student Aid (FAFSA) need analysis. Apply online at [www.studentaid.gov](http://www.studentaid.gov).
2. The Arkansas Division of Higher Education (ADHE) administers state scholarship and grant programs. The FAFSA is required for state aid programs. Create your account and apply for state aid at: [sams.adhe.edu](http://sams.adhe.edu).
3. Admission as a regular student. Apply online at [www.asumh.edu](http://www.asumh.edu)
4. Enrollment in a Financial Aid eligible associates degree or technical certificate program. View programs at [www.asumh.edu/programs](http://www.asumh.edu/programs)
5. Evidence of satisfactory academic progress according to the ASUMH Satisfactory Academic Progress Policy: <https://asumh.edu/pages/main/412/satisfactory-academic-progress>
6. Completion of documents when necessary, as found in Banner Student Self Service

A student is ineligible to receive financial assistance if the individual owes a refund to any of the federal student aid programs, is in default on a student loan, or does not meet the requirements under ASUMH's Satisfactory Academic Progress Policy.

For further information refer to the Financial Aid Section of the ASUMH catalog.

### 3.8 FITNESS CENTER

The fitness center is located in the lower level of Integrity First Hall. All current ASUMH students have access to the Fitness Center. Student access hours may vary by semester, depending on the scheduling of classes. Student hours will be emailed at the beginning of each semester and posted on the door outside of the Fitness Center. Students must check in with the attendant on duty at each visit. At the initial visit, they must provide a current ASUMH ID and sign a PAR-Q waiver.

### 3.9 FOOD AND DRINK REGULATIONS

Food and drink are allowed in the academic classrooms at the discretion of the individual instructor. However, food and drink are not allowed in the academic computer labs and the science labs.

Food and drink are allowed in the conference rooms and the lobbies of the five (5) academic buildings.

Drinks are allowed in the Norma Wood Library in lidded containers only. However, drinks are not allowed at the computers. Food is not allowed in the library.

Drinks are allowed in McMullin Lecture Hall for scheduled events when arrangements are made in advance with the Office of Finance and Administration. Food is not allowed in the lecture hall.

After eating and drinking activities, the facilities must be left clean and ready for the next function and/or class. Faculty, staff, and students who abuse the guidelines of this policy will have their

privileges revoked. The Vice Chancellor for Academic Affairs will be responsible for the enforcement of the classroom and library food and drink regulations.

### **3.10 FOOD SERVICES**

The OwlCove Eatery is the campus food service, providing breakfast and lunch Mondays through Thursdays. Groups may also contract with the OwlCove for food services outside of the OwlCove Eatery. Vending machines are located in the OwlCove.

### **3.11 LEISURE SPACES**

Various locations on campus offer space for students to relax and socialize:

- Gaston Lobby located on the 2nd floor of Roller Hall
- Hurd Student Center located on the 2nd floor of Roller Hall
- Pattee Plaza located outside the Hurd Student Center
- Lobbies of Dryer, McClain, Integrity First, and Gotaas Halls
- Integrity First 3rd Floor

### **3.12 LOST AND FOUND**

Lost and Found items may be turned in to the Student Information Desk off the Gaston Lobby of Roller Hall.

### **3.13 NORMA WOOD LIBRARY**

Occupying the 1st floor of Roller Hall, the Norma Wood Library houses an open-shelf collection that includes reference and circulating books, videos, DVDs, journals and newspapers. Twenty-five (25) public-access computers support Internet access, word processing, spreadsheet, and database applications. Online services offer students access to full-text journal articles and eBooks, streaming educational videos, test preparation materials and more.

Library personnel will gladly offer one-on-one training as well as group instruction. If students need help finding library resources-- physical or digital--the library staff is happy to assist in person, online, or by telephone at (870) 508-6112.

During the spring and fall semesters, library hours are Monday through Wednesday 7:30 a.m. - 8:00 p.m., Thursday 7:30 a.m. - 5:00 p.m. and Friday 7:30 a.m. - 2:00 p.m. During the summer sessions and when classes are not in session, library hours are as posted. The library is closed on Saturday and Sunday.

The library conference rooms may be used by university employees and students or guests accompanied by an employee or student for school or non-commercial purposes. They may also be used by off-campus organizations for non-commercial purposes. However, the library conference rooms may only be reserved by employees or students. Otherwise, the rooms may be used on a first-come, first-served basis for approved purposes.

Rooms may not be reserved more than 90 days prior to the event and must be reserved at least one (1) day prior to event.



Student identification cards are made in the library. ASUMH has a limited number of laptops that can be loaned to students temporarily for completing coursework. These laptops are intended for emergency or unexpected circumstances where a student does not have access to their own personal computer to finish their class for the semester.

### **3.14 PARKING**

Free parking is available to everyone. There is no paid or assigned parking. Handicapped parking is available. Unauthorized vehicles parked in a handicapped space will be towed. In addition to being available in each of the larger parking lots, handicapped spaces are located directly behind Integrity First Hall and in the portico and in the circle drive of Roller Hall. Bicycle racks are located at Roller Hall, behind Integrity First Hall, and at The Vada Sheid Community Development Center.

### **3.15 PHYSICAL AND MENTAL HEALTH**

ASUMH does not offer health services on campus, but there are resources in the community that students may consult if these services are needed. ASUMH staff are available to listen to and assist students with concerns regarding college-related issues. Referrals are made to appropriate agencies when warranted.

### **3.16 SCHOOL HOURS**

Specific class times are set at the time of registration. Administrative offices are normally open Monday through Thursday, 7:30 a.m. to 5:00 and 7:30 a.m. to 2:00 p.m. on Fridays, excluding holidays and special events. Summer hours may vary. Class schedules and academic calendars are available on the ASUMH website, [www.asumh.edu](http://www.asumh.edu)

### **3.17 SECURITY**

ASUMH Campus Police Department strives to provide a safe and secure environment for students, faculty, staff, and guests. The ASUMH Campus Police Department is partnered with the community and law enforcement agencies to ensure it maintains one of the safest campuses in the nation. Safety and crime prevention on the ASUMH campus is everyone's responsibility. Students, faculty, staff, and guests are encouraged to report crimes or suspicious activity to the ASUMH Campus Police Department, Mountain Home Police Department, and/or the ASUMH Vice Chancellor of Finance and Administration.

ASUMH Campus Police Department contact information:

- From a campus phone: extension 300 or dial 9-911
- Off campus phone: (870) 508-6300 or dial 911
- Email: [security@asumh.edu](mailto:security@asumh.edu)

### **3.18 TESTING SERVICES**

Services for tests and testing programs are available in the ASUMH Testing Center. All tests are conducted with authorizations and acknowledgements of all partnering organizations, corporations, and testing institutions. Any individual testing will be under constant visual monitoring by testing center supervision or through video and audio surveillance equipment. The

testing center is located in Roller Hall Room R201 and can be reached at (870) 508-6209 or [testing\\_center@asumh.edu](mailto:testing_center@asumh.edu).

### **3.19 TUTORING: THE SCHLIEMANN LEARNING CENTER**

The Schliemann Tutoring Center at Arkansas State University-Mountain Home is located inside the Norma Wood Library on the first floor of Roller Hall. We offer in-person as well as virtual tutoring, free of charge to students enrolled at ASUMH. Fill out the Tutoring Request Form to schedule a tutoring session. If you have a need for tutoring outside of regular Tutoring Center hours, contact the Tutoring Center. You can also call or stop by the Tutoring Center to schedule a session.

Walk-in tutoring requests are allowed during Tutoring Center hours when tutors are available, but we suggest that students make an appointment in advance to be sure time can be dedicated to their session.

Tutoring sessions are designed to help students develop their skills not only in the classroom, but for studying in general. Tutoring methods tailor activities to students' learning needs and styles, empowering them to take responsibility for both their successes and their failures. We hope that as students accomplish this, they will gain an increase in confidence and the ability to learn independently, and ASUMH will enjoy the accomplishment of greater student success and retention. The Tutoring Center can also help students familiarize themselves with ASUMH Banner, Canvas, MyMathLab and other computer programs that are used in their course studies.

## **CHAPTER 4**

### **CAMPUS ORGANIZATIONS AND ACTIVITIES**

#### **4.1 STUDENT ORGANIZATIONS**

ASUMH offers a number of robust and diverse student organizations. The current organizations may be found in Appendix A.

#### **4.2 STUDENT PUBLICATIONS, SOLICITATIONS FOR FINANCIAL SUPPORT, AND ACTIVITIES GUIDELINES**

Student organizations should notify the Vice Chancellor for Student Affairs of all planned publications and activities. Raising money through fundraising or soliciting donations should be pre-approved through the Director of Development and the Vice Chancellor for Student Affairs and a donation request form should be completed. Student organizations wishing to request travel funds for leadership, development, or general club purposes must do so through the Vice Chancellor for Student Affairs.

#### **4.3 SIGNS, POSTERS, AND PROMOTIONAL MATERIALS**

Posting of signs, posters, and other promotional materials must be approved by the Student Activities Coordinator, the Dean of Students, or the Vice Chancellor of Student Affairs.

#### **4.4 FORMATION OF NEW ORGANIZATIONS**

New student organizations may be formed on the campus as the need develops. No group may be officially formed until a petition to create a student organization has been completed through the Office of Student Affairs. The petition will set forth the objectives of the organization, membership requirements, proposed constitution and by-laws, proposed faculty sponsors, membership dues, and names of charter members. This completed request will be submitted to Student Affairs Committee for approval through the Shared Governance process.

If at any time during the academic year an organization becomes inactive, the group must follow the same guidelines as stated above to be formally recognized again. Also, they must wait until the beginning of the following semester to become active on campus.

Students must have a cumulative grade point average of 2.0 to be an active member of a university sponsored club or organization. No student who is on academic or disciplinary probation or who is enrolled for fewer than three semester hours of credit at ASUMH may serve as an elected officer of a campus organization unless approved by the Vice Chancellor of Student Affairs and the club sponsor. A cumulative grade point of 2.0 and a grade point average of 2.0 for the previous semester are pre-requisites to holding any office. All student organizations must have at least one advisor. All student organization events must be scheduled with the Student Activities Coordinator.

#### **4.5 ASUMH ATHLETICS**

##### **INTERCOLLEGIATE SPORTS**

ASUMH participates in Intercollegiate sports. Baseball, softball, and cross country, represent our local university in the National Junior College Athletic Association and compete in Region II.

## **ASUMH CLUB SPORTS**

The ASUMH Club Sports program provides all students with an opportunity to participate in organized sporting events and take part in various leisure activities. This participation is governed only by the students' time and interest. In addition to providing activities, equipment and facilities for students. Ability is not important; all a person needs is an interest in the activity and the desire to have fun participating. Currently, ASUMH has two active club sports: Bass Fishing and eSports. ASUMH's Bass Fishing team competes in Major League Fishing and the Bassmaster College Series.

## **ELIGIBILITY REQUIREMENTS**

Members of intercollegiate athletes are ineligible to participate in club sports for the calendar year unless written permission is given to the club sport coach from their coach. Individuals classified as red shirts, or those training with a varsity team shall be treated as an intercollegiate team member. A Red Shirt Athlete is defined as anyone who is delaying their participation in a particular collegiate sport in order to lengthen their eligibility in future academic years. A red shirt athlete or player working out with a team for more than two weeks will be considered an intercollegiate athlete for the entire season.

## **4.6 STUDENT USE OF FACILITIES**

ASUMH facilities are made available to recognized student organizations when scheduling permits. In order to be a recognized organization, groups must be listed in the Student Handbook or hold a letter of approval from the Vice Chancellor for Student Affairs. ASUMH reserves the right to refuse use of its facilities to any group or individual if deemed in the best interest of the institution. The University also retains the right to cancel any contract for noncompliance by written notice to the contractor. All events must have prior approval of the Vice Chancellor of Finance and Administration. Events requiring use of ASUMH facilities must be scheduled with the Office of Finance and Administration.

## **4.7 CIVIC ENGAGEMENT**

**Martin Luther King, Jr. Birthday.** ASUMH encourages all students and campus employees to engage in "Acts of Kindness" to honor Dr. King by assisting those in need, encouraging fellow citizens, and radiating positivity. Various charity opportunities are available

**Constitution Day.** Constitution Day is a Federal observance to recognize the adoption of the United States Constitution. It is observed annually on September 17, the day the U.S. Constitutional Convention signed the Constitution in 1787. This national day honoring the Constitution gives the campus community a chance to reflect on and celebrate it.

**Listen At Lunch.** Listen at Lunch is a monthly program that offers opportunities to celebrate various "months," from Black History Month to Native American Month to Women's History Month.

**Cultural Opportunities.** ASUMH offers a variety of cultural opportunities for both the campus and community.

**Jim And Jill Gaston Lecture Series.** The Gaston Lectures are open to students and the community free of charge. Lectures are held each fall and spring semester. For information about upcoming lectures, contact the Office of Communications and Institutional Development at (870) 508-6214.

**The Arvest Bank Concert Series.** The concert series is open to students and the public at no charge. Concerts are held each fall and spring semester. For information about upcoming concerts, contact the Office of Communications and Institutional Development at (870) 508-6214.

**Terre Ware Book Author Lecture Series.** The Terre Ware Book Author Lecture series features authors discussing their writing for the community and to further develop ASUMH's students' understanding of good literature and story-telling.

#### **4.8 THE ARTS**

**Art Gallery.** The ASUMH Art Gallery, on the second floor of the Sheid, opened in March of 2014. It is made possible by a partnership between ASUMH and the Ozark Regional Arts Council.

**Rembrandt Collection.** On the first floor, 13 etchings by Dutch master Rembrandt van Rijn created in the 17th century are featured. The selected works, on long-term loan to ASUMH from an anonymous collector, are of a Biblical theme and are located on the north end of the Dale Bumpers Great Hall.

**Warren Haley Japanese Art Collection.** A collection of Haley's cloisonne art is on permanent display in the Haley Family Conference Room, located on the second floor of the Sheid. The collection includes Sumida vases from the mid-1800s, brilliant red pigeon-blood vases from the 1920's, porcelain figurines and kimonos, to name a few.

**Ron Switzer And Jim McClure Marbles.** The Switzer/McClure family donated a world-class collection of Greek and Roman marble busts and statues of the type collected by young people on a European Grand Tour.

## **CHAPTER 5**

### **STUDENT CONDUCT POLICIES AND PROCEDURES**

#### **5.1 FREEDOM OF EXPRESSION POLICY**

1. Purpose: This Operating Procedure is adopted to comply with Act 184 of 2019 as well as the First Amendment of the United States Constitution.
2. Definitions: This Operating Procedure adopts and incorporates the terms and definitions set forth in Section 6-60-1003 of Act 184 of 2019.
3. Freedom of Expression
  - a. Expressive activities are allowed on all outdoor areas of campus subject to the reasonable time, place, and manner restrictions set forth in this Operating Procedure as well as all applicable state and federal laws. The campus shall not create free speech zones or other designated outdoor areas of campus outside of which expressive activities are prohibited. The campus maintains a position of neutrality as to the content of any protected speech.
4. Outdoor Areas of Campus. All outdoor areas of campus shall be deemed a public forum for members of the campus community. This does not include outdoor areas where access by a majority of members of the campus community is restricted.
5. Expressive Activities. Expressive Activities are those enumerated by Act 184 as well as all forms of expression protected by the First Amendment to the United States Constitution.
6. Lawful Limitations on Expressive Activities
  - a. Members of the campus community who want to engage in noncommercial expressive activities may do so freely in the outdoor areas of campus so long as that member's conduct is 1) not unlawful, 2) does not materially and substantially disrupt the functioning of a state supported institution and 3) does not materially and substantially disrupt another person's expressive activity.
7. Freedom of Association
  - a. The campus shall not deny a student organization any benefit or privilege that is available to another other student organization or otherwise discriminate against an organization based on the expression of that organization.
8. Use of Campus Property for University Sponsored Activities and Events
  - a. All outdoor areas, owned and operated by the campus, shall be made available for use by the University for University sponsored activities and events. Official university activities and events on campus have precedence over all other events and activities taking place on campus. Any expressive activity that occurs at a location reserved for a University sponsored activity or event shall be accommodated at another outdoor area of campus so long as the accommodation is consistent with this policy.
9. Prohibited Activities
  - a. The right to engage in Expressive Activities under this Operating Procedure does not include the right to engage in the following:
    - i. Obstructing vehicular or pedestrian traffic.
    - ii. Engaging in unlawful activity.
    - iii. Engaging in activities that create a clear and present threat to public safety.

- iv. Engaging in true threats and expression directed to provoke imminent lawless actions and likely to produce imminent lawless actions.
  - v. Engaging in unlawful harassment.
  - vi. Utilizing sound amplification devices.
  - vii. Posting unapproved materials on University property.
10. Damage to Property owned by the Campus
- a. Any damage to campus property caused by individuals and/or groups engaging in Expressive Activity are the financial responsibility of the individuals and/or groups who caused the damage to the property.
11. Commercial Speech
- a. This policy does not apply to commercial speech. Off -campus individuals and organizations are not allowed to conduct or solicit commercial sales or distribute commercial pamphlets, handbills, circulars, newspaper, magazine and other written material on campus. Parties having a contract with the campus authorizing commercial advertising shall be allowed to distribute or post commercial material in accordance with the terms of their contract.

## 5.2 STANDARDS OF STUDENT CONDUCT

All members of the academic community are responsible to secure, respect, and protect a superior learning environment. Positive and effective relationships between ASUMH employees and students are essential to the university's function. These relationships are founded on mutual respect, understanding, and a common dedication to the educational process. ASUMH strives to secure, respect, and protect the learning environment. The following standards of student conduct are part of the collective expectation of the members of this community relative to personal conduct:

**Civility** - Members of a learning community interact with others in a courteous and polite manner even when expressing differing viewpoints. Members of the community are expected to respect the values, opinions and feelings of others.

**Ethical Behavior** - The pursuit of higher education is a privilege. Associated with that privilege is an obligation to aspire to a set of principles and values that demonstrate a commitment to fairness, honesty, empathy, and achievement.

**Morality** - Members of a learning community commit to the ideals of appropriate human conduct. This conduct seeks to harm no one and attempts to be a positive contributor in every interaction.

**Respect** - Every member of this community should seek to gain and demonstrate respect. Members should hold one another in high regard. Each individual should conduct himself or herself in a manner worthy of that regard, which is gained by decent and correct behavior.

The learning community at Arkansas State University- Mountain Home does not intend to be prescriptive regarding the personal beliefs and value systems of its members. However, this community does believe that it has a right to expect its members to demonstrate personal responsibility and integrity in word and deed. When the conduct of any member falls outside the bounds of civil, moral, and ethical behavior, that member can expect the community of Arkansas

State University - Mountain Home to call such conduct into question. The university reserves the right to discipline students or student organizations for inappropriate actions that occur on or off the campus during campus-sanctioned activities to secure compliance with these obligations. Students failing to maintain these obligations may be asked to leave the academic community. Students are expected to comply with all university policies and procedures.

Enrollment at ASUMH is voluntary and optional; therefore, entrance into the academic community on this campus indicates that the students have accepted responsibility for their behavior and understand that they must adhere to the appropriate rules and regulations regarding their conduct. Students are expected to use the ASUMH Student Handbook to become familiar with policies on student conduct, and they are expected to obey all applicable federal, state, and local laws.

ASUMH reserves the right to discipline or dismiss any student whose behavior on or off campus constitutes an infraction of these policies or laws, especially those which are considered harmful to the institution or to other students, staff, or faculty. Student conduct is a matter of concern because the goal of ASUMH is to provide a learning community where all members may pursue educational goals without interference and with confidence that their safety, health, and welfare are secure.

### **5.3 UNIVERSITY JURISDICTION**

The University has jurisdiction over any student or student organization alleged to have violated the Standards of Student Conduct on campus, off campus, or through virtual activity. For the purpose of the student conduct process, a "student" is defined as any person who is registered for study at Arkansas State University - Mountain Home for any academic period. Persons who are not officially enrolled for a particular term but who have a continuing student relationship with, or an educational interest in, Arkansas State University- Mountain Home are considered "students."

### **5.4 INHERENT AUTHORITY**

The University reserves the right to take necessary and appropriate action to protect the safety and well-being of the campus community and its members.

### **5.5 INTERIM ADMINISTRATIVE ACTION**

The Vice Chancellor of Student Affairs or his/her designee may defer procedural due process and enforce an interim action if necessary to maintain safety or order regarding student conduct including, but not limited to, suspension. The Vice Chancellor for Academic Affairs or her/his designee may defer procedural due process and remove a student from a class to maintain order regarding academic behavior. Any student who has had interim action taken against him/her will be afforded a hearing before either the Student Conduct Appeal Committee or the Student Academic Appeal Committee within 5 business days.

### **5.6 STUDENT CONTACT INFORMATION**

All students are responsible for maintaining their current address, email address, and phone number with the Office of Admission. It is also the student's responsibility to frequently monitor campus e-mail and the university web site, as these electronic means of communication are the university's most effective and efficient ways to disseminate important information to the campus



community. Campus e-mail is the primary means of communication from the Office for Student Affairs. Appearance notifications, hearing notifications, and decision notifications will be mailed and/or emailed to the student's address.

## **5.7 MODIFYING THE STANDARDS OF STUDENT CONDUCT**

The University reserves the right to amend the Standards of Student Conduct at any time. Every effort will be made to communicate any changes made to the university community at least ten days prior to policy change.

## **5.8 POLICY INTERPRETATION**

The Vice Chancellor for Student Affairs or his/her designee is the final authority in defining and interpreting the Non-Academic Standards of Student Conduct and conduct procedures.

The Vice Chancellor for Academic Affairs/Provost or his/her designee is the final authority in defining and interpreting the Academic Standards of Student Conduct

## **5.9 STUDENT ACADEMIC CONDUCT AND RIGHTS**

The student, as a member of the academic community, has both rights and responsibilities. The most essential right is the right to learn, and the university has a duty to provide for the student those privileges, opportunities, and protections that best promote the learning process. The student has a responsibility to other members of the academic community to refrain from interference with the rights of others and provide honest representations of his/her own work. These are essential to the purposes and processes of the University.

The student shall have the right to an academic environment that is inclusive of all students without regard for race, national origin, gender, disability, ethnicity, sexual orientation, age, or religion.

The student shall be free to take reasoned exception to data and views offered in the classroom and to express differences of opinion without fear of penalty.

The student has a right to protection against improper disclosure of information concerning grades, health, or character that an instructor acquires in the course of his/her professional relationship with the student.

The student has the right to accurate and clearly stated information in order to determine the following aspects:

1. The general requirements for establishing and maintaining an acceptable academic standing
2. His/her over-all academic standing
3. The graduation requirements for a particular curriculum and major
4. Academic regulations appropriate to one's field of study

ASUMH promotes and expects academic integrity, honesty, and professional behavior among all members of the college community. Violations of these requirements for academic conduct are considered serious and may result in disciplinary action or severe penalties being drawn against the student.

## 5.10 AREAS OF STUDENT MISCONDUCT

Student Areas of Misconduct are divided into two categories: Academic Misconduct and Non-Academic Misconduct.

## 5.11 ACADEMIC MISCONDUCT

The University considers the following infractions as Academic Misconduct. The following sanctions may be imposed for Academic Misconduct and do not represent an exhaustive list:

**PLAGIARISM.** Plagiarism is the act of using the ideas, research, or words of another person or of artificial intelligence without acknowledging the source.

- **Disciplinary Action against Plagiarism.** Faculty members may respond to cases of plagiarism in different ways. These include but are not limited to:
  - returning the paper or other item for reworking and/or a lowering of the grade
  - assigning a failing grade on the paper or other item
  - assigning a failing grade in the course
  - initiating disciplinary procedures [This process will follow the non-academic misconduct procedures for adjudication.]
  - initiating procedures to have the student expelled from the University [This process will follow the non-academic misconduct procedures for adjudication.]

**CHEATING.** Cheating is an act of dishonesty with the intention of obtaining and/or using information in a fraudulent manner. Cheating includes, but is not limited to;

- observing and/or copying from another student's work
- having another person perform classwork on behalf of the student or turning in or representing another's work as his/her own
- giving or receiving unauthorized assistance during an examination period
- using unauthorized information during an examination period
- using, buying, selling, stealing, transporting, or soliciting the contents of an exam or other assignment not yet taken or completed by the student or others
- using for credit in one class a term paper, report, or other assignment for credit in another class without permission from the instructors involved
- altering grades or other official records
- improperly collaborating on work when instructed to work independently
- engaging in the unauthorized use of artificial intelligence to complete assignments or exams
- **Disciplinary Action against Cheating.** Faculty members may respond to cases of cheating in different ways. These include but are not limited to
  - taking the exam or other coursework from the offender and awarding no credit
  - taking the exam or other coursework from the offender and awarding a failing grade on that exam or assignment
  - taking the exam or other coursework from the offender and awarding a failing grade for the course

- initiating disciplinary procedures that may result in suspension or expulsion from the University [This process will follow the non-academic misconduct procedures for adjudication.]

**OTHER.** Violating specific policies, procedures, guidelines, rules, or regulations related to or required for the student's academic program at ASUMH. These rules may be found in program manuals and course syllabi.

## **5.12 PROCEDURES FOR ACADEMIC APPEALS AND GRIEVANCES**

Should a student wish to make an academic appeal regarding a grade or disciplinary action, he or she must follow these steps:

**STEP 1:** The student contacts the faculty member and schedules a meeting to occur within five (5) working days of the incident. However, if the student feels he or she cannot discuss the issue with the faculty member, the student may proceed directly to STEP 2.

To ensure the ethical and fair use of AI-enhanced grading tools, students have the right to contest AI-detected issues and provide explanations or evidence to support their case through an established feedback mechanism.

**STEP 2:** If the student and the faculty member are unable to resolve the issue, the student may request a meeting with the faculty member's dean. The student must contact the dean and schedule a meeting to occur within 10 (ten) working days after the meeting with the faculty member.

If the faculty member in question is the dean of his/her division, another dean will replace the faculty member as mediator in this step.

**STEP 3:** If STEP 2 failed to resolve the issue, the student may request a meeting with the Vice Chancellor of Academic Affairs within 5 (five) working days of meeting with the dean.

**STEP 4:** If STEP 3 failed to resolve the problem, the student may submit a written complaint to the Student Academic Appeal Committee within 5 (five) working days of meeting with the Vice Chancellor of Academic Affairs. Within 10 (ten) working days of receiving the written complaint, the committee will hold individual hearings with the student and the faculty member. Within 5 (five) days of the last hearing, the committee will recommend a solution to the chancellor.

**STEP 5:** The Chancellor will make a decision and inform all parties of that decision within 5 (five) working days of receiving the recommendation of the Student Academic Appeal Committee. The decision of the Chancellor is final.

### **STUDENT ACADEMIC APPEAL COMMITTEE COMPOSITION**

The Student Academic Appeal Committee is composed of three (3) faculty members appointed by the Faculty Senate and two students appointed by the Student Government Association.

### 5.13 NON-ACADEMIC MISCONDUCT STANDARDS OF STUDENT CONDUCT

The following list is not exclusive and serves only as examples of specific actions constituting Non-Academic Misconduct.

1. **Accessory.** A student is an accessory if he or she aids another student in the commission of a violation of the Non-Academic Standards of Student Conduct or is present or fails to leave immediately a situation where a violation is occurring.
2. **Alcohol.** Sale, possession, manufacturing, distribution, consumption, or evidence of consumption of alcoholic beverages, on University Property or at University sponsored events, except as allowed by University policy.
3. **Bicycles, Skateboards, Skates.** The use of skateboards is permitted only on parking lots unless otherwise posted. Bicycles must be parked in bike racks and other designated areas.
4. **Cell phones.** Using phones or other technology in the classroom setting or at any other university function in a disruptive manner.
5. **Computer Misuse.** Misuse, abuse, and unauthorized use of computing resources, and/or use of computing resources for unauthorized purposes such as, but not limited to, destroying, modifying, accessing, or copying programs, records, or data belonging to the university or another user without permission, promoting or participating in licentious behavior, propagating obscene or pornographic material, and peer to peer distribution of copyrighted materials and/or illegal downloading of copyrighted materials, which are user violations of Federal Law.
6. **Damage to Property.** Damaging or destroying university property or the property of others, or actions that have the potential for such damage or destruction. Conduct which threatens damage or creates hazardous conditions.
7. **Disruption of Public Peace.** Behavior such as, but not limited to, acts that are against the public peace, order, health, or safety, or conduct which threatens or endangers any person. Engaging in overt physical acts which interfere with the normal or sponsored activities of ASUMH on or off the campus.
8. **Disruption of University Business.** Engaging in, leading, or inciting others to materially and substantially disrupt or obstruct teaching, research, administration or other University functions, operations or activities including, but not limited to, the blocking of access to the university's physical facilities, tampering with public utilities, or prevention of freedom of movement or expression by members of the University community.
9. **Disruptive Conduct.** Disrupting the regular or normal functions of the ASUMH community, including behavior which breaches the peace, limits the safety or violates the rights of others. Breaching the peace includes but is not limited to high volume speech that may or may not be offensive or inflammatory that can be heard in common areas of buildings such as hallways, classrooms, lobbies, or the cafeteria.
10. **Drugs.** Using, manufacturing, distributing, selling or illegally possessing of any quantity, whether usable or not, of any drug, narcotic or controlled substance, or drug paraphernalia without medical prescription under medical supervision. Misuse or abuse of prescription drugs or any chemical substance.

11. **Endangering Conduct.** Physical abuse, verbal abuse, threats, intimidation, coercion, and/or other conduct which threatens or endangers the health or safety of self or others.
12. **Failure to Comply.** Failure to comply with directions, verbal or written, of university officials, or those appointed to act on behalf of the university in the performance of their duties.
13. **False Accusations.** Knowingly, intentionally, or recklessly making false accusations of inappropriate behavior against another individual. Providing false or falsified information with intent of harming another student. Attempting to intimidate witnesses necessary to conflict resolutions pending with the University. Altering or destroying information necessary to conflict resolutions pending with the University.
14. **False or Fraudulent Information.** Furnishing false information to a University official. Forgery, alteration, taking possession of or the unauthorized use of University documents, records, keys, or identification without the consent or authorization of the appropriate University official.
15. **Fire/Emergency Threat.** Starting a fire or creating a fire hazard, including false alarms by setting off the fire alarm system, making a bomb threat, or creating a false emergency of any kind. Tampering With, misusing or damaging fire extinguishers, sprinkler heads, alarms, or other safety equipment.
16. **Gambling.** Gambling on or about University property without legal permit as an authorized state organization and approval from the Vice Chancellor of Student Affairs.
17. **Harassment.** Actions, whether physical, oral, written, electronic, through a third party or otherwise communicated, that have the purpose of creating a hostile or intimidating environment and which are directed at a specific individual or group.
18. **Hazing.** The ASUMH Non-Academic Misconduct Standards of Student Conduct's definition of hazing also applies to all registered organizations, intercollegiate athletic teams, and other groups (e.g., academic organizations). Hazing is defined as any mental or physical requirement, request or obligation placed upon any person that could intentionally or unintentionally cause discomfort, pain, fright, disgrace, injury or which is personally degrading for the purpose of initiation into, membership in, affiliation with, or as a condition of continued membership in, a registered organization, intercollegiate athletic team, or other group. A person's consent, whether expressed or implied, does not excuse or justify hazing under these standards.
19. **Invasion of Privacy.** Viewing, transmitting, recording, filming, photographing, producing, or creating a digital electronic file of the image or voice of another person without his/her knowledge and/or permission. This does not apply to the security cameras placed on campus by the University.
20. **Lewd, Obscene, or Indecent Behavior.** Any conduct that is offensive to accepted standards of decency, including exposing oneself or wearing attire that does not provide adequate coverage of the body.
21. **Littering.** Littering, including the improper disposal of trash.
22. **Policy Violation.** Violating policies, procedures, rules, or regulations included in any official publications of ASUMH.

23. **Recording Ethics.** Viewing, transmitting, recording, filming, photographing, producing or creating a digital electronic file of the image or voice of another person, including classroom settings, without his/her knowledge, or consent.
24. **Sexual Harassment.** Unwelcome sexual advances, requests for sexual favors or other verbal and physical conduct of a sexual nature when at least one of the following conditions is met:
  - a. Submission to such conduct is made either explicitly or implicitly as a condition of an individual's employment, membership or education;
  - b. Submission to or rejection of such conduct by an individual is used as the basis for evaluation in making employment, membership or academic decisions affecting the individual;
  - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's academic or work performance or creating an intimidating, hostile or offensive work, academic or living environment. See Title IX Policy for full details.
25. **Sexual Misconduct.** Sexual conduct without consent or sexual conduct that occurs after consent has been withdrawn. To constitute sexual misconduct, the sexual conduct must meet one of the following criteria:
  - a. the sexual conduct is not consensual;
  - b. the sexual conduct includes force, threat(s) or intimidation;
  - c. the sexual conduct occurs when the victim is mentally or physically impaired, such as when under the influence of alcohol or other drugs or when the victim is a minor. See Title IX Policy for full details.
26. **Theft.** Theft of any kind including, but not limited to, attempted theft, possession, sale or barter of, seizing, or concealing property of another person without his/her permission.
27. **Smoking.** Smoking of any kind is not permitted on University property.
28. **Tobacco and Electronic Smoking Devices.** ASUMH is a tobacco-free campus. All forms of tobacco and e-cigarettes, including, but not limited to, cigarettes, smokeless tobacco, cigars, pipes, dissolvable, and vapor devices, are prohibited on campus. This includes in buildings, on university property, in parking lots, and in vehicles on parking lots/streets owned by the university.
  - a. Any person who violates the tobacco free policy is subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). This policy shall be enforced by campus security.
29. **Unauthorized or illegal entry into a building, classroom, office, room, or vehicle.** Use or possession of any University key without proper authorization including duplication of any University key.
30. **Unauthorized use or possession of University property.**
31. **Violation of Law.** Arrest or citation for violation(s) of local, state, or federal law, which adversely affects the student's suitability as a member of the university community.
32. **Violations of Other University Regulations.** Violations of any university rule or regulations outside the Standards of Student Conduct.
33. **Weapons (see Weapons policy).**

## **5.14 NON-ACADEMIC CONDUCT POLICIES**

### **ALCOHOL POLICY**

ASUMH seeks to maintain an educational and working environment free from the influence of alcohol.

The unlawful manufacturing, distributing, dispensing, possessing or using of alcoholic beverages on any property owned or maintained by Arkansas State University - Mountain Home or as a part of university activity is strictly prohibited. Possession of any alcoholic beverages in educational facilities or recreational facilities is prohibited unless specifically authorized by the Chancellor for special events only and confirmed by written agreement setting out the terms controlling the use of university property for the special event. Under no circumstance shall any student or student group be authorized to possess alcoholic beverages in any educational facility or recreational facility. The sole exception to student possession of alcohol as set out above shall be for students of lawful age who attend a special event authorized by the Chancellor. This policy is adopted to comply with all current laws and regulations relating to the Federal Drug-Free Schools and Communities Act and the Drug-Free Workplace Act.

Students who violate this policy are subject to appropriate disciplinary action, up to and including dismissal. The university may refer violations to the appropriate state and federal authorities for criminal prosecution.

### **DRUG POLICY**

ASUMH seeks to maintain an educational and working environment free from the influence of unlawful drugs.

The unlawful manufacturing, distributing, dispensing, possessing or using of a controlled substance on any property owned or maintained by ASUMH or as a part of university activity is strictly prohibited. This policy is adopted to comply with all current laws and regulations relating to the Federal Drug-Free Schools and Communities Act and the Drug-Free Workplace Act. Students who violate this policy are subject to appropriate disciplinary action, up to and including dismissal. The university may refer violations to the appropriate state and federal authorities for criminal prosecution.

### **MEDICAL AMNESTY POLICY**

The safety and welfare of students is a University priority, and at times, students may need immediate medical assistance. However, students may be reluctant to get help because of concerns that their own behavior may be a violation of the student conduct code. To minimize any hesitation students or student organizations may have in obtaining help due to these concerns, the University has instituted a medical amnesty policy. This policy is applicable to the following parties: 1) a student requesting medical assistance for oneself; 2) a student requesting medical assistance for another person; 3) a student for whom medical assistance was provided.

When responding to any alcohol or drug violations, the University will consider a student's decision to request medical assistance, and in most cases, view the act of seeking medical assistance as good judgment, therefore not deserving of the typical sanctions. At a minimum, students or student

organizations should make an anonymous report that would put the student in need in contact with professional help. Examples where this policy may apply include:

1. A student is reluctant to call an ambulance when a friend becomes unconscious following excessive consumption of alcohol because the reporting student is under the age of 21 and was also consuming alcohol.
2. A student is reluctant to report that he/she has been sexually assaulted because he/she had been consuming alcohol and is under the age of 21. It is in the best interest of this community that victims choose to report to University officials. To encourage reporting incidents of sexual misconduct, the University pursues a procedure of offering victims of sexual misconduct limited immunity from being charged for any policy violations related to the sexual misconduct incident.

Although the University may choose not to impose disciplinary sanctions, the University may mandate educational options (such as alcohol and other drug assessments and attendance to alcohol education programs) in such cases. Once a student receives medical amnesty, any future amnesty is at the discretion of the Vice Chancellor for Student Affairs or his/her designee. The Vice Chancellor of Student Affairs or his/her designee also have discretion to determine that this policy does not apply in more serious situations, including criminal possession of drugs, property damage, and acts of violence.

## **COMPUTER RESOURCES AND REGULATIONS POLICY**

Information Technology resources are provided to support the academic, research, service, and campus life components of ASUMH. These resources are for the sole use of ASUMH students, faculty, staff and other authorized users to accomplish the mission of the university.

### **Rights and Responsibilities for Use of Campus Technology**

Arkansas State University- Mountain Home expects that users of campus computing and network facilities will respect the rights of other users as well as the integrity of the systems and related physical resources. Since electronic information is volatile and easily reproduced, users must exercise care in acknowledging and respecting the work of others through strict adherence to software licensing agreements and copyright laws. Because Arkansas State University - Mountain Home is a state agency, all information stored within or transmitted through systems and/or networks is considered public record and subject to disclosure under the Arkansas Freedom of Information Act unless exempt under the law.

Users do not own accounts on university computers, but are granted the privilege of exclusive use. The Electronic Communications Privacy Act authorizes system administrators and other university employees to access user data, activity, and information. By utilizing ASUMH computing and network resources, students give consent to accessing and monitoring by system administrators of any electronic communications, including stored and transmitted information, in order to enforce the ASU System Appropriate Use Policy or to protect the integrity of computer systems or the rights or property of the university. System administrators may examine or make copies of information and activities that are suspected of misuse or that have been corrupted or damaged.



User files may be subject to search by law enforcement agencies under court order if such files contain information that may be used as evidence in a court of law.

Computer and network usage and this policy are subject to the ASU System Appropriate Use of Technology Resources Policy, as approved by the Board of Trustees. This policy can be found at the following link: <http://www.asusystem.edu/about/policies>

## **Enforcement**

Minor infractions of this policy, when accidental, such as consuming excessive resources or overloading computer systems, are generally resolved informally by the person administering the accounts or network. This may be done through electronic mail or in-person discussion and education. Repeated infractions or misconduct may result in the temporary or permanent loss of computer access privileges or the modification of those privileges. More serious violations include, but are not limited, to unauthorized use of computer resources, attempts to steal passwords or data, unauthorized use or copying of licensed software, repeated harassment or threatening behavior. In addition, offenders may be referred to their sponsoring advisor, department, employer or other appropriate university office for further action. If the individual is a student, the matter may be referred to the Vice Chancellor of Student Affairs for disciplinary action. Any offense that violates local, state or federal laws may result in the immediate loss of all university computing privileges and will be referred to appropriate university offices and/or other law enforcement authorities.

## **Standards**

Conduct that violates this policy includes, but is not limited to, the activities in the following list:

- Unauthorized use of a computer account
- Using the campus network to gain unauthorized access to any computer systems
- Connecting unauthorized equipment to the campus network
- Unauthorized attempts to circumvent data protection schemes or uncover security loopholes. This includes creating and/or running programs that are designed to identify security loopholes and/or decrypt intentionally secure data
- Knowingly or carelessly performing an act that will interfere with the normal operation of computers, terminals, peripherals or networks
- Knowingly or carelessly running or installing on any computer system or network, or giving to another user a program intended to damage or to place excessive load on a computer system or network. This includes, but is not limited to, programs known as computer viruses, Trojan Horses and worms
- Deliberately wasting/overloading computer resources, such as printing too many copies of a document
- Violating terms of applicable software licensing agreements or copyright laws
- Violating copyright laws and their fair use provisions through inappropriate downloading, reproduction, or dissemination of copyrighted text, images, multimedia, etc.
- Forging the identity of a user or machine in an electronic communication

- Transmitting or reproducing materials that are slanderous or defamatory in nature or that otherwise violate existing laws or university regulations
- Initiating or propagating electronic chain letters. Inappropriate mass mailing. This includes multiple mailings to newsgroups, mailing lists or individuals, e.g. "spamming," "flooding," or "bombing"
- Displaying obscene or sexually harassing images or text in a public computer facility or location that can be in view of others
- Using university resources for commercial activity such as creating or advertising products or services for sale
- Using electronic mail to harass or threaten others. This includes sending repeated, unwanted e-mail to another user
- Attempting to monitor or tamper with another user's electronic communications, or reading, copying, changing or deleting another user's files or software without the explicit agreement of the owner.

## **WEAPONS POLICY**

### **Purpose**

The Arkansas State University System is dedicated to providing an educational and social climate, which is conducive to the safety of all members of the University community. Acts of violence on University campuses have proven that weapons pose a serious threat to the safety of persons and property.

### **Arkansas State University System Weapons Policy**

No person shall possess, discharge, or otherwise use any weapon at any campus, office, building, or event that is part of the Arkansas State University System, except as authorized by this policy. This prohibition extends to individuals having such weapons on their persons, including in briefcases, purses, handbags, backpacks, or other carrying cases; in personal vehicles or storage boxes contained in or affixed to their personal vehicles; or among other personal property or effects. Each System location shall post written notice of this prohibition. Exceptions to this prohibition are listed below.

### **Definitions**

Weapons include, but are not limited to, firearms (specifically including concealed handguns), explosive devices, hazardous chemicals (other than pocket-sized sprays used for personal protection), knives with blades longer than four inches, nun chucks, brass knuckles, lasers or other electrical stun devices, bows or cross bows, arrows, objects that propel projectiles, replicas of weapons (including water or toy guns), or any device or substance designed to or used to inflict a wound, cause injury, or incapacitate .

### **Exceptions**

These prohibitions do not apply to the following:

- To an officer of an Arkansas State University Police Department who is regularly employed by a campus in the University System and who has been authorized by the Campus Chief of Police, or designee, to carry weapons as outlined in the applicable Police Policy.
- To an employee authorized by the Campus Chief of Police to possess or use such a device during the time when the employee is engaged in University work requiring such a device.
- When an individual uses or possesses a weapon in connection with an educational, recreational, or training program, or an activity authorized by the appropriate University official and the Chief of Police and under the supervision of a University employee.
- During the time when the weapon is worn as part of a military or fraternal uniform in connection with a pre- approved public ceremony or parade. ,
- To non-University law-enforcement officers of legally established law-enforcement agencies that are required by their employer to carry their weapons at all times.
- To non-University law-enforcement officers of legally established law-enforcement agencies who are engaging in work on campus requiring a weapon as part of their official duties or who have obtained approval from the Campus Chief of Police or designee to carry their weapon on campus.
- During a theatrical performance where a realistic replica of a weapon is used.
- To equipment, tools, devices and materials, which are prescribed for use by authorized University employees as a condition of employment or class enrollment.
- To the use and possession of weapons for educational, instructional, and research activities under the supervision of appropriate faculty members.
- To weapons found in vehicles that are traveling through city-maintained streets within the campus proper.

The campus Chief of Police, applicable Vice Chancellor, or their designees, may impose restrictions upon individuals who are otherwise authorized to possess or use weapons pursuant to Section 4 of this policy when it is determined that such restrictions are appropriate under the circumstances .

### **Lawful Possession of a Weapon on Campus**

In 2017, Act 562 and Act 859 were signed into law. These new Acts allow a person, who meets certain qualifications, to carry a concealed handgun on a University campus. Effective September 1, 2017, a person in possession of a concealed carry license and who has also obtained an enhanced training endorsement from the Arkansas State Police may possess a concealed handgun on campus, subject to the restrictions as allowed by law. A concealed carry licensee may lawfully store a concealed handgun in his or her locked and unattended vehicle in a publicly owned and maintained parking lot.

A person who has a concealed carry license, along with an enhanced permit, may not possess a concealed handgun at the following locations:

- Locations where collegiate athletic events are taking place.
- Certain grievance and disciplinary meetings, initiated after at least twenty-four (24) hours' notice to participants, lasting no more than nine (9) hours, with posted notice of prohibition, and conducted in accordance with campus procedures.

- Daycare facilities.
- Other locations where possession of a concealed handgun is prohibited by state or federal law.

Employees of the ASU System may lawfully possess a concealed handgun on campus if they have a concealed carry license and they have obtained an enhanced training endorsement from the Arkansas State Police. An employee, who possesses a concealed handgun under this policy, is not acting in the course of or scope of their employment when carrying or using the handgun and is not entitled to workers' compensation benefits for injuries arising from his or her own negligent acts in possessing or using a concealed handgun and is not immune from personal liability with respect to possession or use of a concealed handgun.

### **Violations**

Any student violating this policy shall be subject to sanctions up to and including expulsion. Any employee violating this policy shall be subject to discipline through the process applicable to that employee, up to and including discharge.

Others violating this policy will be subject to prosecution under criminal laws and may be banned from Arkansas State University System campuses and events.

## **5.15 STUDENT MISCONDUCT INFORMATION AND PROCEDURES**

### **NON-ACADEMIC CONDUCT SANCTIONS**

Sanctions for Non-Academic Misconduct will be imposed by the Vice Chancellor for Student Affairs or his/her designee upon individuals, groups, or organizations that have been found responsible for violating the Standards of Student Conduct. The following sanctions may be imposed for Non-Academic Misconduct and do not represent an exhaustive list:

- **Educational Task** - Completion of a task which educates the student about and allows the student to learn from the misconduct.
- **Written Warning** - Official record that a student has been warned about behavior.
- **Removal of Property** - Required removal of property.
- **Restitution** - Reimbursement by the student to cover the cost of repair or replacement of damaged or misappropriated property.
- **Restriction of Activities or Privileges** - Restriction of active status or participation in any and/or all organized university activities other than required academic endeavors for a designated period of time. These restrictions may include, but are not limited to, denial of the right to represent the University in any way, access to facilities or individuals, and/or participation in extracurricular activities.
- **Fees** - Monetary requirements based on the resolution of a case.
- **Conduct Probation** - A period of time during which a student is on official warning that subsequent violations of university rules, regulations, or policies will result in a more severe sanction including suspension or expulsion from the University. A student placed on conduct probation is not considered to be in good standing with the university.

- **Conduct Suspension** - Temporarily canceling a student's enrollment at Arkansas State University-Mountain Home. A student cannot graduate while suspended. Once assigned this sanction, students are immediately removed from his/her classes and banned from university property. A student cannot enter university property during his/her term of suspension without prior permission from the AVCSA or designee. Any classes taken at another institution during this period of suspension cannot be transferred to Arkansas State University-Mountain Home.
- **Expulsion** - Permanently canceling a student's enrollment at Arkansas State University - Mountain Home. A dismissed student cannot re-enroll or graduate. Once assigned this sanction, students are immediately removed from his/her classes and banned from university property. A student cannot enter University property once dismissed without prior permission from the Vice Chancellor of Student Affairs or designee.
- **Revocation or Denial of Degree or Admission** - Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University standards.

ASUMH reserves the right to discipline or dismiss any student whose behavior on or off campus constitutes an infraction of these policies or laws, especially those which are considered harmful to the institution or to other students, staff, or faculty. Student conduct is a matter of concern because the goal of ASUMH is to provide a learning community where all members may pursue educational goals without interference and with confidence that their safety, health, and welfare are secure.

## 5.16 GRADUATED DISCIPLINE POLICY FOR CLASSROOM BEHAVIOR

Respect for other students' right to learn and an instructor's right to teach are key elements in academic success. Therefore, if a student's behavior is disruptive, an instructor has the right and obligation to make the student correct the behavior. The institution has a three-step process to address classroom offenses. A student may also engage in serious offenses that affect campus facilities or the campus community. The institution has discipline policies to address these types of behaviors.

**First Warning:** A student at this stage has become disruptive or behaved inappropriately. Through the Informal Resolution process, the faculty member warns the student that the behavior is unacceptable, either by immediately talking to the student, speaking to the student outside of class, or emailing the student. The faculty member follows up by completing a Student Discipline Form, noting the type of offense and what the faculty member did to address the situation and sends the form to the Vice Chancellor for Student Affairs or the Vice Chancellor for Academic Affairs (or official designee). The form will also be copied to the appropriate dean or academic supervisor. If in the same class period a student continues persistent and interruptive behavior after the faculty member has spoken to the student, the faculty member may ask the student to leave class. The faculty member then completes the Student Discipline Form, sending it to the Vice Chancellor for Student Affairs or the Vice Chancellor for Academic Affairs (or official designee) and the student is required to meet with the VCSA, VCAA, or official designee before being allowed to return to class. The form is also copied to the appropriate dean or academic supervisor.

**Second Warning:** This is the second stage of an Informal Resolution process. A student at this stage has not changed the disruptive or inappropriate behavior, but time may have passed since the first warning. The student receives a second verbal or written warning from the faculty member. The faculty member talks with the student or emails the student and explains the behavior is unacceptable. The faculty member completes a Student Discipline Form and sends it to the Vice Chancellor for Student Affairs or the Vice Chancellor for Academic Affairs (or official designee). The form is also copied to the appropriate dean or academic supervisor.

**Third Warning:** This is the first step in the Formal Resolution process for classroom offenses. The student has failed to correct a prior behavior or has engaged in two or three disruptive behaviors and been verbally warned by the faculty member or been sent an email. The faculty member asks the student to leave class. If the student refuses to leave class, the faculty member calls ASUMH police to escort the student from class. The faculty member completes a Student Discipline Form and sends the form to the Vice Chancellor for Student Affairs or the Vice Chancellor for Academic Affairs (or official designee).

After a third warning or after being asked to leave class by a faculty member, a student may not return to class until the Vice Chancellor for Student Affairs or the Vice Chancellor for Academic Affairs (or designee) has discussed the behavior with the student and the faculty member. If the faculty member agrees, the student may be readmitted to class under conditions outlined in a Disciplinary Probation Contract that the faculty member and Vice Chancellor for Student Affairs or the Vice Chancellor for Academic Affairs (or designee) agree on. If the faculty member disagrees or if the student fails to follow conditions established in the Disciplinary Probation Contract, the student may be dropped from the class. The student has the right to appeal being dropped from the class through the Academic Grievance Process.

A student dropped from a class or classes for disciplinary reasons should be aware that being dropped from class(es) may affect the student's financial aid. Students will not be reimbursed for a class if they are dropped for disciplinary reasons.

**Serious Offences.** These demand immediate attention and result in an immediate Formal Resolution. No prior warnings are necessary for these violations. Please note that this list is not all inclusive.

- Stealing
- Consuming alcohol including being drunk and/or disorderly
- Using illicit drugs
- Destructive behaviors toward property or individuals
- Misuse of college documents or records
- Abusive verbal behavior toward an instructor, student, or ASUMH employee including verbal abuse or threats
- Technology and Computer Violations (See ASUMH Computer Use Policies)
- Fire and Safety Endangerment

A faculty or staff member who observes a student engaged in a serious offense notifies the Vice Chancellor for Student Affairs, the Vice Chancellor for Academic Affairs, and/or a designated discipline officer. Immediate action is taken to place the student on disciplinary probation, and law

enforcement may be involved, depending on the offense. The seriousness of the offense may result in the student being suspended (disciplinary suspension) or expelled (Expulsion).

### **Disciplinary Probation**

The student's participation in college life is placed on a provisional basis for a specified period of time. The specific terms of the probation are outlined in a Disciplinary Probation Contract, indicating when the student may be on campus and what activities the student may engage in. The Vice Chancellor for Student Affairs or the Vice Chancellor for Academic Affairs (or designee) creates the individual Disciplinary Probation Contract for the student. The student may not be allowed to engage in campus activities, organizations, athletics, or school-sponsored travel. If the student breaks conditions in the Disciplinary Probation Contract, he or she may be suspended from a course or from ASUMH or be expelled. The student has the right to appeal being dropped from a class or being expelled through the Academic Grievance Process or Non-Academic Grievance Process, depending on the nature of the offense.

### **Disciplinary Suspension**

If the student's classroom behaviors are consistently disruptive in additional classes or the student breaks a Disciplinary Probation Contract, the student may be suspended from a class for the rest of the semester and earn an F on outstanding work or may be administratively dropped from a class. If the behaviors are outside the classroom, the student may be suspended from ASUMH for the rest of the semester and either earn Fs on outstanding course work or be administratively dropped from on-campus and/or online classes. The student may not be allowed to engage in campus activities, organizations, athletics, or school-sponsored travel. Students who continue disruptive classroom behaviors and disrupt other classes or campus life after suspension from one class may be suspended from all ASUMH classes for an additional semester. The student must then file a Disciplinary Appeal to seek readmission to ASUMH. The student has the right to appeal disciplinary suspension through the Academic Grievance Process or Non-Academic Grievance Process, depending on the type of offense.

Violations that may result in Immediate Expulsion include, but are not limited to, the following:

- Distributing or selling drugs or alcohol
- Indecent exposure, illicit sexual relations, perversions
- Violence or threat of violence toward others
- Violence or threat of violence toward the College
- Unlawful weapons possession
- Other criminal behavior

### **Expulsion**

Expulsion is reserved for students committing serious violations that involve physical or verbal abuse or assault or cause threat or damage to faculty, staff, other students, or the institution. Expulsion means the student will be separated from ASUMH permanently, becoming persona non grata. The student will not be allowed to engage in campus activities, organizations, athletics, or school-sponsored travel. If reparations for damages are needed, the student must pay them. If law enforcement needs to be involved, it will be notified. The student has the right to appeal

disciplinary expulsion through the Academic Grievance Process or Non-Academic Grievance Process, depending on the type of offense. While the appeal is in process, the student will not be allowed to attend in-person classes or come on the ASUMH campus.

#### **5.17 CONDUCT REFERRALS INFORMATION**

1. Any individual may refer a student to the Vice Chancellor for Student Affairs for non-academic misconduct charges. Conduct referrals should be delivered to the Office for Student Affairs as soon as the student has been identified as the alleged violator. Conduct referrals in regard to Sexual Discrimination should be referred to the Title IX Coordinator in the Office of Student Support Services.
2. Upon the receipt of a Conduct Referral, the Vice Chancellor for Student Affairs or designee will determine if sufficient information is present for student misconduct charges to be filed against the alleged violator. If charges are filed, written notification will be delivered by University email. The Vice Chancellor of Student Affairs or designee will determine the severity and whether immediate temporary measures are warranted to ensure campus safety. If warranted, these measures will be implemented immediately with notification to the Chancellor.
3. Any student who fails to attend a scheduled Case Resolution meeting may have a hold placed on institutional records until he or she has met with the Vice Chancellor of Student Affairs or designee and reached a resolution or until a Formal Conduct Hearing has been completed. This hold will prevent the student from accessing all services including but not limited to, requesting a transcript, registering for class, completing a degree, and borrowing materials from the library or utilizing student support services. The hold does not prevent the VCSA from proceeding with case adjudication in the absence of the student.
4. After studying all the pertinent information and documents, carefully examining any policies involved, and discussing the issue with the alleged violator and witnesses (if appropriate), the Vice Chancellor of Student Affairs shall decide if the preponderance of the evidence indicates that a violation has occurred. The Vice Chancellor of Student Affairs shall determine which of the following is an appropriate consequence:
  - a. Propose an informal resolution to the violator. A note will be placed in the student's discipline file indicating the student was counseled and this shall conclude the case. This resolution does not affect "good standing status" and cannot be appealed.
  - b. Prepare a formal written report that will be emailed to the student within 5 working days of the decision. A copy of this report will be placed in the student's discipline file indicating the student was officially warned. If the student accepts responsibility, this shall conclude the case. If the student does not accept responsibility or does not agree with the written report, the student has the right to appeal. The appeal process is outlined in the following pages.
  - c. Assign appropriate consequence and prepare a formal written report that will be placed in the student's discipline file. If the student accepts responsibility and agrees to the sanction or consequence, this shall conclude the case. If the student does not accept responsibility or does not agree with the consequence, the student has the right to appeal. The appeal process is outlined in the following pages.



- d. Refer the case to The Student Conduct Sub-Committee of the Student Affairs Shared Governance Committee to assign appropriate consequence and prepare a formal written report that will be placed in the student's discipline file. If the student accepts responsibility and agrees to the sanction or consequence, this shall conclude the case. If the student does not accept responsibility or does not agree with the consequence, the student has the right to appeal. The appeal process is outlined in the following pages.

During the above appeal process, a student who has received a sanction of a suspension of ten {10} or more days or expulsion for non-academic misconduct may choose to be represented at the student's expense by a licensed attorney or, if the student prefers, a non-attorney advocate who, in either case, may fully participate during the appeal process.

### **5.18 NON-ACADEMIC STUDENT MISCONDUCT RECORDS**

Non-Academic Student Conduct Records will be maintained for seven years from the date of the last case resolution or two years post-graduation, whichever comes later. Any student record with an outstanding sanction, suspension, or dismissal will be kept indefinitely.

External release of non-academic misconduct records will occur in accordance with federal and state law.

### **5.19 FORMAL STUDENT CONDUCT APPEAL HEARING FOR NON-ACADEMIC VIOLATIONS**

If an alleged violator does not accept responsibility and/or the assigned consequence(s), then he or she may request a Formal Student Conduct Appeal Hearing for Non-Academic Violations.

### **5.20 FORMAL CONDUCT APPEAL HEARING GUIDING PRINCIPLES FOR NON-ACADEMIC VIOLATIONS**

1. An alleged violator will have at least 48 hours' notice of a hearing and the allegations asserted against him/her by written notification that will be delivered by University email.
2. An alleged violator may choose not to attend a scheduled hearing; however, the hearing will proceed in his/her absence if student received proper notification.
3. An alleged violator may choose not to answer a question at any time or not to speak during the hearing or not present information to a hearing body if he/she feels it is in his/her best interest.
4. A complete witness list must be turned into the Vice Chancellor of Student Affairs one university business day prior to the hearing- a minimum of 24 hours prior to the hearing. The alleged violator is responsible for notifying his/her witnesses of the time, date, and place of the hearing.
5. Students may request of the Vice Chancellor of Student Affairs in writing a list of all witnesses and access to all information regarding the charges against him/her. All information requests must be done in writing and allow a minimum of two (2) business days for the information to be compiled from time of request.
6. Determination of responsibility will be based upon a preponderance of the evidence or if it is "more likely than not" that a violation did occur.

7. The decision of the hearing officer/body will be verbally given to the alleged violator at the close of the hearing and written notification that will be delivered by University email.
8. No character witnesses or irrelevant information will be considered in a hearing.
9. During the above appeal process, a student who has received a sanction of a suspension of ten (10) or more days or expulsion for non-academic misconduct may choose to be represented at the student's expense by a licensed attorney or, if the student prefers, a non-attorney advocate who, in either case, may fully participate during the appeal process. (Arkansas General Assembly, Act 1194 of 2015, effective July 22, 2015)
10. All hearing participants are expected to act and speak appropriately during the hearing. Any hearing participant who becomes disruptive will be removed from the hearing and the hearing will proceed without him/her.
11. No recordings or tapes of hearings shall be made by any person other than the chair or the designated institutional official. The hearing recording will be maintained by the Vice Chancellor of Student Affairs for the appeal process only. A student will be given reasonable access to his or her hearing recording for the purposes of review with the understanding that no duplication of the recording shall be permitted. Requests for access to hearing recordings must be made in writing and provided to the Vice Chancellor of Student Affairs at least two (2) business days from the time of the request to make the appropriate arrangements.

#### **5.21 STUDENT CONDUCT APPEAL COMMITTEE COMPOSITION**

Student Conduct Appeal Committee is a subcommittee of the Student Affairs Committee and consists of faculty, staff, and students.

#### **5.22 FORMAL STUDENT CONDUCT APPEAL HEARING PROCESS FOR NON-ACADEMIC VIOLATIONS**

A student found responsible for a violation of university policy may request an appeal before the Student Conduct Appeal Committee. The formal request must be submitted in writing to the Vice Chancellor of Student Affairs within three working days of receipt of the original written decision. The hearing will be set within 10 working days of receiving the student's formal request for a hearing.

After review, the Student Conduct Appeal Committee may make one of three recommendations:

- Affirm the decision of the original hearing authority
- Reverse finding(s) of the original hearing authority
- Alter the sanction(s) of the original hearing authority

The recommendation of the Student Conduct Appeal Committee shall be submitted to the Chancellor who shall accept, reject, or modify the recommendation of the committee within ten (10) working days of receipt of the report from the committee. The decision of the Chancellor is final.

If the non-academic grievance is not resolved after exhausting ASUMH's grievance procedure, students may file a complaint with the Arkansas Department of Higher Education (ADHE). Students who wish to file a complaint should review the contact information listed below. These agencies usually require the student to exhaust the institution's internal complaint processes prior to filing a complaint or grievance.

**Arkansas Department of Higher Education (ADHE)** An out-of-state student may report an unresolved grievance (except for those related to grades or student conduct) by contacting ADHE. The student grievance web form may be accessed at: <https://adhe.edu/students-parents/student-grievance-form>

ADHE is Arkansas' state portal agency for the National Council for State Authorization Reciprocity Agreements (NC-SARA) and is responsible for the final resolution of student complaints against Arkansas institutions. If a complaint is received from an ASUMH student located outside of Arkansas, in accordance with the SARA complaint resolution process, ADHE will notify the SARA portal entity of the state in which the complaining student is located.

In addition to the formal grievance procedures, any written complaint, submitted via the electronic Student Complaint form, will be accepted and acted upon as long as it contains the student's name, contact information, a general description of the grievance and expected outcome. The resolution of grievances can be conducted with students in person, through phone or online via ASU-Mountain Home email.

Note: The Student Complaint Form and process is not intended to bypass the formal grievance processes for academic and non-academic issues.

### **5.23 STUDENT GRIEVANCE PROCEDURES**

Grievance Procedures fall in three categories. Student Grievances may be filed by students against staff or faculty for academic and non-academic issues. Faculty and Staff Grievances (also known as Conduct Referrals) may be filed by faculty or staff against students for academic and non-academic issues. Title IX Grievance procedures may be filed by or against any student or staff member at ASUMH. Students may file appeals as a response to these grievances.

College students are entitled to an accessible procedure for expressing dissatisfaction and communication with the administration to reconcile any college-related problems. Arkansas State University-Mountain Home has procedures for addressing written student complaints and is proactive with respect to student concerns.

Students are encouraged to resolve college-related problems through the informal and formal grievance process.

### **5.24 PROCEDURE FOR A STUDENT'S NON-ACADEMIC GENERAL GRIEVANCE**

1. A student who needs to file a grievance should complete and submit a grievance form within 10 days of the grieved incident. This form should be printed and submitted to the Vice Chancellor for Student Affairs, located on the 3rd floor of Roller Hall. When the form is received, the Vice Chancellor for Student Affairs will distribute the grievance form to the appropriate supervisor or dean.

2. The supervisor or dean will consider the grievance and will respond to the student with a resolution within 10 business days of receiving the grievance form.
3. If the supervisor/dean resolution fails to resolve the problem to the student's satisfaction, the student may request an appeal of the decision, which will be referred to the Student Grievance Appeal Committee for consideration.

### **5.25 FORMAL GENERAL GRIEVANCE APPEAL PROCESS**

If a student wishes to request an appeal to a grievance decision, a formal request must be submitted in writing to the Office for Student Affairs within 3 (three) working days of receipt of the original supervisor/dean resolution. The committee will convene within 10 (ten) working days of receiving the student's request for consideration.

After review, the Student Grievance Appeal Committee may make one of three recommendations:

- Affirm the decision of the original resolution(s);
- Alter the original resolution(s).

The recommendation of the Student Grievance Appeal Committee shall be submitted to the Chancellor who shall accept, reject, or modify the recommendation of the committee within ten (10) working days of receipt of the report from the committee. The decision of the Chancellor is final.

### **STUDENT GRIEVANCE APPEAL COMMITTEE COMPOSITION**

The Student Grievance Appeal Committee is composed of three (3) faculty members appointed by the Faculty Senate and two (2) students appointed by the Student Government Association.

## **CHAPTER 6**

### **TITLE IX GRIEVANCE ISSUES**

#### **6.1 TITLE IX OF EDUCATION AMENDMENTS**

Title IX is a comprehensive federal law that prohibits discrimination on the basis of sex in any federally funded education program or activity.

Title IX benefits both males and females, and is at the heart of efforts to create gender equitable schools. The law requires educational institutions to maintain policies, practices and programs that do not discriminate against anyone based on sex. Under this law, males and females are expected to receive fair and equitable treatment in all areas of public schooling including recruitment, admissions, educational programs, and activities, course offerings and access, counseling, financial aid, employment assistance, facilities and housing, health and insurance benefits, marital and parental status, scholarships, sexual discrimination and athletics. Arkansas State University has designated a Title IX coordinator for each campus. Any incidence of sexual discrimination including sexual harassment or sexual violence should be reported to the Title IX coordinator who will take prompt action to secure a full and equitable review. In the event the sexual discrimination allegation is against the Title IX coordinator, the report should be made to the Office of General Counsel. Contact information for each campus is located on the respective campus's website.

Please direct any questions or grievances regarding sexual discrimination or Title IX to:

Vice Chancellor of Student Affairs / Title IX Coordinator  
1600 South College Street, Mountain Home, AR 72653  
Roller Hall, R311  
Phone: (870) 508-6107  
Fax: (870) 508-6287

#### **6.2 GRIEVANCE ISSUES**

The Title IX (Sexual Harassment Discrimination) Grievance Procedure applies only to allegations of Sexual Harassment Discrimination occurring in the United States and in an educational program or activity of any campus within the Arkansas State University System, which is made by a person participating in or attempting to participate in an educational program or activity of the campus. Sexual Harassment Discrimination refers specifically to allegations of Sexual Harassment under Title IX, Sexual Assault, Stalking, Domestic Violence, and Dating Violence, as those terms are defined below (collectively, "Sexual Harassment Discrimination"). Sexual Harassment under Title IX is defined as unwelcome gender-based verbal or physical conduct and occurs when:

1. Submission to, or toleration of, such conduct is made a term or condition of instruction, employment, or participation in other university activities;
2. Submission to, or rejection of, such conduct is used as a basis for employment or education decisions affecting the individual; or
3. Such conduct is severe, pervasive, and objectively offensive such that it has the effect of

unreasonably interfering with an individual's education or employment performance.

Sexual Assault occurs when a person is subjected to an unwanted sexual act without consent. Sexual acts occur without consent when they are performed by force, in response to a threat, against a person's will, or where a person is incapable of giving consent due to minority, intellectual impairment, or use of mind-altering substances such as drugs or alcohol.

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others; or (B) suffer substantial emotional distress.

Domestic Violence is defined as felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Arkansas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Arkansas.

Dating Violence is defined as violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship, (ii) the type of relationship, and (iii) the frequency of interaction between the persons involved in the relationship.

### **6.3 REPORT OF SEXUAL HARASSMENT DISCRIMINATION**

Any employee, student, or visitor participating in or attempting to participate in an educational program or activity offered by a campus in the Arkansas State University System who believes he or she has been subjected to Sexual Harassment Discrimination should report the incident to the applicable campus's Title IX Coordinator utilizing the reporting form available on the Title IX web site for the campus. Employees with supervisory responsibilities including deans, vice chancellors, department chairs, faculty, student conduct personnel, human resources personnel, athletic administrators, coaches, and university police personnel must report incidents of Sexual Harassment Discrimination either observed by them or reported to them to the Title IX Coordinator. In the event the Sexual Harassment Discrimination allegation is against the Title IX Coordinator, the report form should be submitted to the Office of General Counsel. Reporting may be done by telephone, fax, email, or a hard copy communication, and may be submitted during or outside of business hours. In order to ensure timely investigation and remedy, a Sexual Harassment Discrimination grievance should be activated within sixty (60) days from the time the events leading to the complaint occurred as delay in reporting impedes the ability to achieve prompt resolution. Reports of Sexual Assault, Sexual Violence, Stalking, Domestic Violence, and Dating Violence will be reported to law enforcement authorities, if such a report is not prohibited by law.

Criminal investigations by any law enforcement agencies or investigations conducted under the Faculty, Staff, or Student Handbooks may occur simultaneously with a Title IX (Sexual Harassment Discrimination) grievance.

## 6.4 TITLE IX COORDINATOR'S RESPONSE

1. Upon receipt of a report of an allegation of Sexual Harassment Discrimination, the Title IX Coordinator will contact the person alleged to have been subjected to the Sexual Harassment Discrimination (hereinafter referred to as a "Complainant") within two (2) business days. During the initial contact, the Title IX Coordinator shall notify the Complainant of available supportive measures with or without the filing of a formal complaint, the process for filing a formal complaint, and the potential code of conduct violations for knowingly providing false information. If the Complainant decides to file a formal complaint, the Complainant must submit a written and signed statement of the facts surrounding the allegations sufficient to allow the Title IX Coordinator to determine whether:
  - a. the actions alleged to have occurred meet the definition of Sexual Harassment, Sexual Assault, Dating Violence, Domestic Violence, or Stalking;
  - b. the actions alleged to have occurred were perpetrated against someone who was engaged in or attempting to engage in an educational activity or program offered by the campus;
  - c. the actions alleged to have occurred were perpetrated by someone who is a student or employee of the campus, if the person's identity is known;
  - d. the acts alleged to have occurred took place against a person located in the United States; and,
  - e. the acts alleged to have occurred took place in a location or under circumstances over which the campus exercises substantial control, including but not limited to on campus buildings, buildings owned or operated by registered student organizations, or during off campus class events.

The formal complaint may be submitted electronically or in hard copy format. If the Complainant determines that he or she does not wish to pursue a formal complaint, the Title IX Coordinator shall assist the Complainant with appropriate continued supportive measures, and shall make a determination as to whether or not, based on the information that the Title IX Coordinator has at that time, the Title IX Coordinator will sign a formal complaint. The Title IX Coordinator shall only sign a formal complaint over the objection of a Complainant in the event that, based on the available facts at the time, failure to do so would be clearly unreasonable and would amount to deliberate indifference.

2. Following the receipt of the formal complaint, the Title IX Coordinator will send a Notice of Allegations to both the Complainant, and the person alleged to have perpetrated the sexual discrimination (hereinafter referred to as the "Respondent"). The Notice of Allegations will:
  - a. set forth the allegations outlined in the formal complaint;
  - b. advise the parties on the Title IX Grievance Procedure, including their right to not participate;
  - c. set forth the available supportive measures for the parties, which will be equitably available to each;
  - d. outline the availability of and describe the informal resolution procedure;
  - e. notify the parties that they have the right to have an advisor of their choice, who may but does not have to be an attorney, and that the advisor may attend but not directly

- participate in any meetings or interviews throughout the investigation;
  - f. notify the parties that they are required to have an advisor for the purposes of the hearing, and the availability of an advisor to be provided by the campus in the event that either party cannot obtain one;
  - g. state the standard of evidence used in the Title IX Grievance procedure is preponderance of the evidence;
  - h. state that the parties each have the right to inspect, review, and respond to all information and evidence gathered, which will be presented to the parties promptly after its receipt by the Title IX Coordinator or investigator;
  - i. inform the parties of the potential code of conduct violations that can be pursued in the event that a party knowingly gives false statements or evidence; and,
  - j. state clearly that the Respondent is presumed “not responsible” unless and until there is a finding of responsibility at the conclusion of the hearing.
3. Immediately following the issuance of the Notice of Allegations, the Title IX Coordinator will review the formal complaint to verify that the conduct complained of meets the definition of sexual harassment, sexual assault, domestic violence, dating violence, or stalking; that it occurred in the campus’s education program or activity; and, it occurred against a person in the United States. Following the verification of this information, the Title IX Coordinator will take one of the following actions:
- a. If the allegations in the formal complaint fails to meet any of these requirements, it must be dismissed under the Title IX Grievance Procedure, but can be pursued under the Other Sex-Based Discrimination Grievance Procedure, of which the Title IX Coordinator shall advise the parties. The parties will be notified simultaneously in writing of this action.
  - b. If the formal complaint meets the requirements, but the Complainant requests in writing to withdraw the allegations or formal complaint; the Respondent is no longer enrolled or employed by the campus; or, specific circumstances prevent the Title IX Coordinator from gathering enough evidence to make a determination, the Title IX Coordinator may dismiss the Title IX investigation. In such an instance, the Title IX Coordinator shall notify both parties simultaneously in writing of the dismissal of the formal complaint, and the reason for the dismissal. Either party may appeal this dismissal to the Director of Human Resources (or the Director of Human Resource’s direct supervisor, if the Director of Human Resources is also the Title IX Coordinator for the campus). The appeal must be transmitted within five business (5) days of the issuance of the decision by the Title IX Coordinator. The Director of Human Resources (or their supervisor, as applicable) shall review the decision, the rationale for the decision, and the appeal, and shall make the final determination as to whether the Title IX Discrimination Grievance shall be permitted to proceed to investigation, and shall transmit that decision, simultaneously and in writing, to both parties within five (5) business days of the receipt of the appeal.
  - c. If the formal complaint meets the requirements, and the investigation isn’t dismissed as permitted or required in Section C.3., the formal complaint shall proceed to the investigation. If the formal complaint meets the requirement set forth in Section A. herein, the allegations of the formal complaint may only be



addressed under the Title IX (Sexual Harassment Discrimination) Grievance Procedure.

4. Within forty-five (45) business days after receipt of a formal complaint, the Title IX Coordinator, or investigator, will conduct a full and impartial investigation, considering all available inculpatory and exculpatory evidence, by: interviewing the complainant, the respondent, and any witnesses identified throughout the investigation; considering any expert testimony offered by either party; and, by reviewing any documentary evidence submitted by either party or obtained by the Title IX Coordinator or investigator.

The Title IX Coordinator or investigator will:

- a. not seek or consider any evidence which is protected by a legally acknowledged privilege without the written consent of the party who holds the privilege;
  - b. not consider evidence of the Complainant's sexual history or predisposition, unless offered to prove that someone else committed the acts the Respondent is accused of, or specific incident between the Complainant and Respondent are offered to prove consent;
  - c. make no credibility assessments based solely on a party's status as a complainant or respondent;
  - d. provide any party requested to attend a meeting or interview with written notice of the day, time, location, invited participants, and purpose of the meeting or interview no less than two (2) business days in advance of the proposed meeting;
  - e. make ongoing determinations, throughout the investigation, regarding the appropriateness of available supportive measures, such as: suspension from employment with or without pay; suspension from classes following an individualized determination that based upon the allegations the Respondent poses an immediate threat to a faculty member, staff member, or student; issuance of a no contact directive to both parties; reassignment of job duties; counseling; campus escort services; increased security and monitoring certain areas on campus; or, changing class or classroom assignments. If immediate action is required, the Title IX Coordinator shall work with the appropriate administrator to implement supportive measures.
5. After studying all the pertinent facts and documents, carefully examining any policies involved, and discussing the issue with the parties and witnesses, the Title IX Coordinator shall either:
  - a. propose an informal resolution procedure be utilized to the parties which, if accepted, shall be documented in writing, and, if successful, shall conclude the investigation, or, if unsuccessful, shall result in the investigation proceeding towards a formal hearing, with all informal resolution proceeding documents being maintained and submitted to the Hearing Committee: or,
  - b. gather all evidence collected throughout the investigation that is directly related to the allegations in the complaint and simultaneously submit, in electronic or hard copy, it to the parties and their advisors, if any. The parties shall have ten (10) business days to review and respond to all evidence provided. The Title IX Coordinator or investigator will review and consider the response(s) of the parties

before completing its investigative report. The investigative report shall be a formal written report which sets forth:

- i. the timeline of the investigation, beginning with the formal complaint, and includes all notices given, meetings or interview conducted, and communications received;
  - ii. the allegations contained in the formal complaint;
  - iii. the evidence relevant to the allegations gathered throughout the investigation; and,
  - iv. the specific form of sexual discrimination the Respondent is alleged to have engaged in.
6. Following the completion of the investigative report, the Title IX Coordinator will simultaneously submit, in electronic or hard copy, the investigative report to both parties and their advisors, if any. Both parties shall have a period of ten (10) business days to review the investigative report before the hearing date. Both parties have the option to submit a written response to the investigative report. The investigative report and any written responses by either party shall be submitted to the Title IX Hearing Committee.
  7. Timelines may be extended by the Title IX Coordinator in extenuating circumstances and for good cause shown.
  8. Allegations of sexual discrimination which meet the requirements of a Title IX offense and which are made by a student against a staff or faculty member shall not be resolved by the informal resolution procedure.

## **6.5 TITLE IX DISCRIMINATION HEARING COMMITTEE COMPOSITION**

The Title IX Discrimination Hearing Committee is composed of members selected by the Chancellor or the Chancellor's designee from the Academic Hearing Committee, the Student Conduct Hearing Committee, and the Staff Hearing Committee for that campus. The Title IX Discrimination Hearing Committee is composed of five (5) voting members, and one (1) ex-officio non-voting chair. A member of the Human Resources department or Human Resources' designee sits as an ex-officio, non-voting chair of the Title IX Discrimination Hearing Committee, making determinations of relevance, overseeing the orderly operation of the hearing, and offering technical assistance on procedural and policy matters. One (1) voting member of the Title IX Discrimination Hearing Committee shall be a student, one (1) shall be a faculty member, and one (1) shall be a staff member. One (1) voting member shall be selected so that his or her primary classification of student, faculty, or staff aligns with the primary classification of the Complainant, and one (1) voting member shall be selected so that his or her primary classification aligns with the primary classification of the Respondent. The Title IX Discrimination Hearing Committee shall have specific training on sexual discrimination under Title IX, and the Arkansas State University System Title IX policy and Title IX Grievance Procedure.

## **6.6 TITLE IX DISCRIMINATION HEARING COMMITTEE FUNCTIONS**

The Title IX Discrimination Hearing Committee shall review the investigative report of the Title IX Coordinator, the responses to the investigative report by the party(ies), the inculpatory and exculpatory evidence (that being both evidence which proves and evidence which disproves statements or allegations made by a witness or party) relevant to the allegations gathered by the

Title IX Coordinator or investigator, any live testimony offered by the party(ies) and/or witnesses, and any evidence offered by the party(ies) to determine, based on the preponderance of the evidence, whether the Respondent is responsible for a violation of the Title IX policy, and, if so, to recommend an appropriate action to end the discrimination, prevent its recurrence, and remove its effects on the Complainant and the University community.

Each party shall be represented by an advisor, who may but does not have to be an attorney. The advisor will directly participate in the hearing, and question witnesses on the respective party's behalf. If either party is unable to obtain an advisor, the campus will provide a pool of advisors who have been trained on Title IX from which the party may select an advisor. A party who needs the campus to provide them with an advisor shall give notice to the campus no less than five (5) business days prior to the hearing so availability may be determined and the selected advisor can have an opportunity to review all relevant materials. If a party appears at the hearing without an advisor, and without having given notice of his or her need for an advisor, the campus will assign an advisor who is trained on Title IX, and who is selected by the campus based on availability. In the event that either party's advisor hinders the ability to conduct the hearing in an orderly fashion, that advisor may be removed from the hearing by the Chair of the Hearing Committee, and shall be replaced by an advisor to be provided by the campus.

The entirety of the hearing will be recorded by the Chair of the Hearing Committee, and conducted in closed session. At the request of either party, or in the discretion of the Chair of the Hearing Committee, the parties may be located in separate physical locations, but by use of appropriate technology shall be able to simultaneously see and hear each other and the Hearing Committee, and be seen and heard by the Hearing Committee.

During the course of the hearing, the Hearing Committee will call the witnesses interviewed during the investigation for testimony, and each party's advisor shall be permitted to question those witnesses. Both parties shall be permitted to offer an opening statement, and to testify and offer witnesses, including expert witnesses, to testify. In the event that either party wishes to call witnesses, they will disclose the identity of the witnesses to the Chair of the Hearing Committee no less than two (2) business days prior to the hearing. The Chair of the Hearing Committee will notify each party of the witnesses the other party intends to call. Testimony shall be elicited through direct and cross-examination by both parties, acting by and through their respective advisors, and the Hearing Committee. The Hearing Committee shall draw no inferences based on a party's or witness's refusal to testify. Each party shall be permitted to present evidence for the Hearing Committee's consideration. All evidence collected by the Title IX Coordinator or investigator throughout the investigation will be presented to the Hearing Committee, and both parties shall have the right to utilize the evidence as part of their presentation to the Hearing Committee. Both parties shall have the opportunity to offer a closing statement.

## **6.7 TITLE IX DISCRIMINATION HEARING COMMITTEE FINDINGS**

Within twenty (20) business days of the conclusion of the hearing, the Hearing Committee shall issue a written decision which will be simultaneously sent to both parties and their advisors by the Chair of the Hearing Committee. The written decision shall include:

1. the timeline of the investigation, beginning with the formal complaint and including all notices, interviews, communications, and the hearing date;

2. the finding of facts from the evidence and testimony presented at the hearing in support of the determination regarding responsibility;
3. the Hearing Committee's determination regarding responsibility based on the preponderance of the evidence;
4. the rationale for the determination regarding responsibility, including the application and analysis of the testimony and evidence presented to the Hearing Committee to Title IX policy to the allegations contained in the formal complaint for each alleged violation contained in the formal complaint;
5. any disciplinary or remedial sanctions to be imposed, which may be up to and including suspension or expulsion, as appropriate;
6. a statement that each party has the right to appeal the decision of the Hearing Committee within five (5) business days on the bases of: procedural irregularity that affected the outcome: new evidence not reasonably available at the time of the Hearing Committee's determination that could affect the outcome; and/or, bias or conflict of interest on the part of the Title IX Coordinator, investigators, or Hearing Committee; and,
7. a statement that the standard of evidence used in the appeal shall be the preponderance of the evidence.

## **6.8 TITLE IX DISCRIMINATION APPEAL COMMITTEE PROCEDURE**

1. Either party shall have five (5) business days following the issuance of the Hearing Committee's written decision to submit an appeal. Either party may appeal on the basis of:
  - a. procedural irregularity that affected the outcome;
  - b. new evidence not reasonably available at the time of the Hearing Committee's determination that could affect the outcome; and/or,
  - c. bias or conflict of interest on the part of the Title IX Coordinator, investigator, or Hearing Committee.
2. The letter of appeal shall be submitted to the Chair of the Hearing Committee, and shall set forth the specific basis or bases for the appeal, and all facts, evidence, and a statement in support of the basis or bases of appeal.
3. Any letter of appeal shall be transmitted to the other party by the Chair of the Hearing Committee, and that party shall have two (2) business days to respond, in writing, to the contents of the letter of appeal. Any response shall be presented by the Chair of the Hearing Committee to the appealing party, who shall have two (2) business days to respond. Any response by the appealing party shall be presented by the Chair of the Hearing Committee to the other party, who shall have two (2) business days to respond. The letter of appeal, all responses to the same, the Hearing Committee's written decision, the Title IX investigative report, and the recording of the hearing (hereinafter referred to as the "Appeal Packet") will be presented by the Chair of the Hearing Committee to the Title IX Discrimination Appeal Committee for consideration.
4. The Title IX Discrimination Appeal Committee shall be comprised of one (1) student, one (1) faculty member, and (1) staff member selected by the Chancellor or the Chancellor's designee. Each member shall have specific training on sexual discrimination under Title IX, and the Arkansas State University System Title IX policy and Title IX Grievance Procedure. No member of the Hearing Committee may serve on the Appeal Committee for the same formal complaint. The Title IX Appeal Committee shall convene in closed session to consider the Appeal Packet.

The Appeal Committee shall use the preponderance of the evidence basis in making its determination on the basis for appeal.

Within ten (10) business days of the receipt of the Appeal Packet, the Appeal Committee shall issue a written recommendation. The Appeal Committee can recommend either that:

- a. the bases of appeal are not supported by the Appeal Packet and confirm the decision of the Hearing Committee; or,
  - b. the bases of appeal are supported by the Appeal Packet, and:
    - i. overturn the decision of the Hearing Committee, or
    - ii. confirm the finding of the Hearing Committee but modify the sanctions or remedial measures ordered by the Hearing Committee.
5. The written recommendation shall state the recommendation of the appeal, and the rationale for the recommendation. The Appeal Committee shall transmit its written decision to the Chancellor. The Chancellor shall have ten (10) business days to review the Appeal Packet and the written recommendation of the Appeal Committee, and issue a written decision accepting or rejecting the recommendation of the Appeal Committee. The Chancellor's decision is final.

## **6.9 DOCUMENT COLLECTION**

When a Title IX discrimination grievance proceeding has been closed, all materials relating to that case shall be retained on file by the Title IX Coordinator for seven (7) years. Care will be taken to ensure that no incomplete or inaccurate information pertaining to the grievance is retained in the file. Title IX discrimination grievance proceedings are considered confidential and no person involved with the grievance may make the documents public except as required or permitted by law.

## **6.10 RETALIATORY ACTION PROHIBITED**

Retaliation against a person who files a charge of discrimination, participates in an investigation, refuses to participate in an investigation, or opposes an unlawful employment practice is prohibited by law and the ASU System. Any person who needs further explanation or who believes he or she has been retaliated against in connection with a Title IX (Sexual Harassment Discrimination) grievance should contact their campus Title IX Coordinator.

## **6.11 OTHER SEX-BASED DISCRIMINATION GRIEVANCE PROCEDURE**

### **GRIEVANCE ISSUES**

The Other Sex-Based Discrimination Grievance Procedure applies to all allegations of sex-based discrimination that are not covered by the Title IX (Sexual Harassment Discrimination) Grievance Procedure. "Other Sex-Based Discrimination" includes, but is not limited to:

1. Allegations of discrimination on the basis of sex that do not involve allegations of sexual harassment or sexual violence;

2. Allegations of sexual harassment or sexual violence that cannot proceed under the Title IX (Sexual Harassment Discrimination) Grievance Procedure because:
  - a. The allegations do not meet the specific definitions of Sexual Harassment under Title IX, Sexual Assault, Stalking, Domestic Violence, or Dating Violence applicable to the Title IX (Sexual Harassment Discrimination) Grievance Procedure;
  - b. The acts alleged to have occurred took place against a person located outside of the United States; or
  - c. The acts alleged to have occurred took place outside of a location over which the campus exercises substantial control or under circumstances over which the campus lacked substantial control;
3. Allegations of retaliation for reporting or participating in the investigation of any claim of sex-based discrimination; and
4. Allegations of any activity prohibited by 34 C.F.R. § 106.31(b).

The following types of allegations are not grievable under this Other Sex-Based Discrimination Grievance Procedure:

1. Allegations that are subject to the Title IX (Sexual Harassment Discrimination) Grievance Procedure; and
2. Allegations of actions permitted by 34 C.F.R. § 106.14.

## **REPORT OF OTHER SEX-BASED DISCRIMINATION**

Any employee, student, or visitor participating in or attempting to participate in an educational program or activity offered by a campus in the Arkansas State University System who believes he or she has been subjected to Other Sex-Based Discrimination should report the incident to the applicable campus's Title IX Coordinator utilizing the reporting form available on the Title IX web site for the campus. Employees with supervisory responsibilities including deans, vice chancellors, department chairs, faculty, student conduct personnel, human resources personnel, athletic administrators, coaches, and university police personnel must report incidents of Other Sex-Based Discrimination either observed by them or reported to them to the Title IX Coordinator. In the event the Other Sex-Based Discrimination allegation is against the Title IX Coordinator, the report form should be submitted to the ASU System Office of General Counsel. Reporting may be done by telephone, fax, email, or a hard copy communication, and may be submitted during or outside of business hours. In order to ensure timely investigation and remedy, an Other Sex-Based Discrimination grievance should be activated within sixty (60) days from the time the events leading to the complaint occurred, as delay in reporting impedes the ability to achieve prompt resolution. Reports of sexual violence will be reported to law enforcement authorities, if such a report is not prohibited by law.

Criminal investigations by any law enforcement agencies or investigations conducted under the Faculty, Staff, or Student Handbooks may occur simultaneously with an Other Sex-Based Discrimination grievance.

## TITLE IX COORDINATOR'S RESPONSE

1. Upon receipt of a report of an allegation of Other Sex-Based Discrimination, the Title IX Coordinator will contact the person alleged to have been subjected to the Other Sex-Based Discrimination (hereinafter referred to as a "Complainant") within two (2) business days. During the initial contact, the Title IX Coordinator shall notify the Complainant of available supportive measures with or without the filing of a formal complaint, the process for filing a formal complaint, and the potential code of conduct violations for knowingly providing false information.

The formal complaint may be submitted electronically or in hard copy format. If the Complainant determines that he or she does not wish to pursue a formal complaint, the Title IX Coordinator shall assist the Complainant with appropriate continued supportive measures, and shall make a determination as to whether or not, based on the information that the Title IX Coordinator has at that time, the Title IX Coordinator will sign a formal complaint. The Title IX Coordinator shall only sign a formal complaint over the objection of a Complainant in the event that, based on the available facts at the time, failure to do so would be clearly unreasonable and would amount to deliberate indifference.

2. Following the receipt of the formal complaint, the Title IX Coordinator will send a Notice of Allegations to both the Complainant, and the person alleged to have perpetrated the Other Sex-Based Discrimination (hereinafter referred to as the "Respondent"). The Notice of Allegations will:
- a. set forth the allegations outlined in the formal complaint;
  - b. advise the parties on the Other Sex-Based Discrimination Grievance Procedure, including their right to not participate;
  - c. set forth the available supportive measures for the parties, which will be equitably available to each;
  - d. outline the availability of and describe the informal resolution procedure;
  - e. notify the parties that they have the right to have an advisor of their choice, who may but does not have to be an attorney, and that the advisor may attend but not directly participate in any meetings or interviews throughout the investigation;
  - f. notify the parties that they are required to have an advisor for the purposes of the hearing, and the availability of an advisor to be provided by the campus in the event that either party cannot obtain one;
  - g. state the standard of evidence used in the Other Sex-Based Discrimination Grievance Procedure is preponderance of the evidence;
  - h. state that the parties each have the right to inspect, review, and respond to all information and evidence gathered, which will be presented to the parties promptly after its receipt by the Title IX Coordinator or investigator;
  - i. inform the parties of the potential code of conduct violations that can be pursued in the event that a party knowingly gives false statements or evidence; and,
  - j. state clearly that the Respondent is presumed "not responsible" unless and until there is a finding of responsibility at the conclusion of the hearing.

3. Immediately following the issuance of the Notice of Allegations, the Title IX Coordinator will review the formal complaint to verify that the conduct complained of is grievable under this Other Sex-Based Discrimination Grievance Procedure.
4. Within forty-five (45) business days after receipt of a formal complaint, the Title IX Coordinator, or investigator, will conduct a full and impartial investigation, considering all available inculpatory and exculpatory evidence, by: interviewing the Complainant, the Respondent, and any witnesses identified throughout the investigation; considering any expert testimony offered by either party; and, by reviewing any documentary evidence submitted by either party or obtained by the Title IX Coordinator or investigator.

The Title IX Coordinator or investigator will:

- a. not seek or consider any evidence which is protected by a legally acknowledged privilege without the written consent of the party who holds the privilege;
  - b. not consider evidence of the Complainant's sexual history or predisposition, unless offered to prove that someone else committed the acts the Respondent is accused of, or specific incident between the Complainant and Respondent are offered to prove consent;
  - c. make no credibility assessments based solely on a party's status as a complainant or respondent;
  - d. provide any party requested to attend a meeting or interview with written notice of the day, time, location, invited participants, and purpose of the meeting or interview no less than two (2) business days in advance of the proposed meeting;
  - e. make ongoing determinations, throughout the investigation, regarding the appropriateness of available supportive measures, such as: suspension from employment with or without pay; suspension from classes following an individualized determination that based upon the allegations the Respondent poses an immediate threat to a faculty member, staff member, or student; issuance of a no contact directive to both parties; reassignment of job duties; counseling; campus escort services; increased security and monitoring certain areas on campus; or, changing class or classroom assignments. If immediate action is required, the Title IX Coordinator shall work with the appropriate administrator to implement supportive measures.
5. After studying all the pertinent facts and documents, carefully examining any policies involved, and discussing the issue with the parties and witnesses, the Title IX Coordinator shall either:
    - a. propose an informal resolution procedure be utilized to the parties which, if accepted, shall be documented in writing, and, if successful, shall conclude the investigation, or, if unsuccessful, shall result in the investigation proceeding towards a formal hearing, with all informal resolution proceeding documents being maintained and submitted to the Hearing Committee; or
    - b. gather all evidence collected throughout the investigation that is directly related to the allegations in the complaint and simultaneously submit, in electronic or hard copy, it to the parties and their advisors, if any. The parties shall have ten (10) business days to review and respond to all evidence



provided. The Title IX Coordinator or investigator will review and consider the response(s) of the parties before completing its investigative report. The investigative report shall be a formal written report which sets forth:

- i. the timeline of the investigation, beginning with the formal complaint, and includes all notices given, meetings or interview conducted, and communications received;
  - ii. the allegations contained in the formal complaint;
  - iii. the evidence relevant to the allegations gathered throughout the investigation; and,
  - iv. the specific form of sexual discrimination the Respondent is alleged to have engaged in.
6. Following the completion of the investigative report, the Title IX Coordinator will simultaneously submit, in electronic or hard copy, the investigative report to both parties and their advisors, if any. Both parties shall have a period of ten (10) business days to review the investigative report before the hearing date. Both parties have the option to submit a written response to the investigative report. The investigative report and any written responses by either party shall be submitted to the Title IX Hearing Committee.
7. Timelines may be extended by the Title IX Coordinator in extenuating circumstances and for good cause shown.
8. Allegations of sexual discrimination which meet the requirements of a Title IX offense and which are made by a student against a staff or faculty member shall not be resolved by the informal resolution procedure.

## **OTHER SEX-BASED DISCRIMINATION HEARING AND APPEALS PROCESS**

Once the Other Sex-Based Discrimination grievance is ripe for a hearing, the grievance shall be heard by the Title IX Hearing Committee established under the Title IX (Sexual Harassment Discrimination) Grievance Procedure. In the case of a hearing under this Other Sex-Based Discrimination Grievance Procedure, the Title IX Hearing Committee shall be responsible for determining, based on the preponderance of the evidence, whether the Respondent is responsible for committing an Other Sex-Based Harassment violation, and, if so, to recommend an appropriate action to end the discrimination, prevent its recurrence, and remove its effects on the Complainant and the university community.

The hearing and appeals process shall follow the same processes outlined in the Title IX (Sexual Harassment Discrimination) Grievance Procedure.

## **DOCUMENT COLLECTION**

When an Other Sex-Based Discrimination grievance proceeding has been closed, all materials relating to that case shall be retained on file by the Title IX Coordinator for seven (7) years. Care will be taken to ensure that no incomplete or inaccurate information pertaining to the grievance is retained in the file. Other Sex-Based Discrimination grievance proceedings are considered confidential and no person involved with the grievance may make the documents public except as required or permitted by law.

## **RETALIATORY ACTION PROHIBITED**

Retaliation against a person who files a charge of discrimination, participates in an investigation, refuses to participate in an investigation, or opposes an unlawful employment practice is prohibited by law and the ASU System. Any person who needs further explanation or who believes he or she has been retaliated against in connection with an Other Sex-Based Discrimination grievance should contact their campus Title IX Coordinator.

## APPENDIX A: STUDENT CLUBS AND ORGANIZATIONS

**Art Club.** Membership in this club is open to current students of ASUMH with a GPA of 2.0 or above. The purpose of the organization is to create an opportunity for art and non-art students who are unable to join a class to express their artistic abilities because their degree does not allow the room or time. The club's purposes also include organizing trips to museums or art appreciation and understanding of art, promote professional development of the advancement of art, create a fundraiser for the benefit of those in need, and create a forum to discuss art.

**Association of Students with Disabilities and Chronic Conditions.** The Association of Students with Disabilities and Chronic Conditions (ASDCC) unites people on campus who identify as having a disability or chronic condition, who may be caregivers to someone with a disability or chronic condition, or who have an interest in learning more about disability culture, history, and awareness. The purpose of the ASDCC is to help promote a safe community for students (both able-bodied and not) to talk about issues regarding disabilities and chronic conditions, campus accessibility, accommodations, and to just have fun in a supportive environment.

**ASUMH Anglers Club.** The purpose of the ASUMH Anglers Club is to bring students together to share fishing experiences and knowledge, plan events/tournaments, teach new members how to fish, participate in competitive fishing tournaments, volunteer in the community and on campus, and most importantly - go fishing.

**Baptist Collegiate Ministry.** The purpose of the Baptist Collegiate Ministry is to encourage fellowship for students in a Christian atmosphere; to encourage Bible study and the practice of its teachings; to organize students for service and ministry projects; to assist students to share their faith; to offer guidance as students face crisis and critical choices for their lives; and to train students for a life of leadership. BCM has an open membership policy, but the leadership is made up of growing Christian students. The organization is Christian in perspective. BCM provides for students to meet with those whose values and beliefs are the same. Through their common interests, they can develop their concerns for others, both on and off campus, and offer assistance. Students with a spiritual concern for others will be attracted to Baptist Collegiate Ministry.

**Criminal Justice Club.** The Criminal Justice Club is open to anyone interested in learning more about and participating in the criminal justice systems. The purpose of the club is to promote job opportunities in the criminal justice program and to make known to the community the criminal justice program. The club provides a vehicle for community service in the many aspects of the criminal justice system and it provides a spirit of camaraderie among criminal justice students who share common interests and career goals.

**Digital Art Club.** The objectives of the Digital Art Club shall be to work on creating, teaching, and sharing digital art using various software.

**Fellowship of Christian Athletes (FCA).** The Fellowship of Christian Athletes is an international, non-denominational Christian sports ministry that focuses on coaches, campus, camp, and community ministry. As such, the Arkansas State University-Mountain Home Fellowship of Christian Athletes (FCA) Huddle would focus on allowing all students, not just athletes, an opportunity to gather and fellowship together. FCA focuses on serving local communities by equipping, empowering and encouraging people to make a difference for Christ.

**Future Business Leaders of America—Collegiate (formerly Phi Beta Lambda).** The purpose of Future Business Leaders of American--Collegiate is to provide opportunities for post-secondary and college students to develop vocational competencies for business and office occupations and business teacher education. FBLA-C is an integral part of the instructional program and in addition promotes a sense of civic and personal responsibility.

**Future Teachers Club (FTC).** The purpose of FTC is to connect future educators in the ASUMH and ASTATE education programs through volunteer work that benefits the college and local schools. Members must meet a certain number of volunteer hours to maintain membership.

**Gay-Straight Alliance.** The Gay-Straight Alliance of ASUMH brings together gay and straight allies to promote an environment free of homophobia on campus and in the community. Membership in the GSA shall be open to all students at ASUMH who are interested in promoting the goals of the Alliance and who have signed the Diversity Pledge and paid their dues.

**The Hellbenders: An Environmental Science Club.** The Hellbenders: An Environmental Science Club provides educational outreach to the campus and throughout local communities to increase understanding and appreciation of Arkansas ecological systems as well as promoting environmental advocacy and stewardship.

**Journalism Club.** The Journalism Club provides the opportunity for students to develop new skills in creative writing, media, public relations, and advertising while following all ethical standards of accuracy and fairness within the journalism profession. The purpose of the Journalism Club shall be to further journalistic values and education outside the classroom, share experiences and knowledge, train and offer writing experience to members, volunteer in the community and on campus, and complete and issue a college digital and/or print publication.

**Funeral Science Club.** The purpose of this organization is to promote job opportunities for students in the funeral science program, to make known to the community the funeral science program, its students, and its importance, to provide a vehicle for community service the many aspects of the funeral industry, to provide input to the administration on matters of interest and concern to the funeral science students, to seek scholarships and grants in the field of funeral science, and to provide a spirit of camaraderie among funeral science students who share common interests and career goals.

**New Hope.** New Hope is a service organization through which college students can find a means of responsible student action in the communities and a more active involvement in the life of the campus. New Hope's mission is to involve college and university students in campus and community service while developing quality leaders and citizens. New Hope inspires people to better our world. Its motto is "We Build." New Hope provides constructive opportunities for students to become involved on campus and in the community through service work to others in need.

**Phi Theta Kappa.** Phi Theta Kappa is an academic honors organization for students in two-year colleges. The purpose of the organization is the advancement of scholastic effort and the rewarding of academic merit among college students. Membership is by invitation in accordance with local

chapter by-laws. To be considered, a student must have accumulated 12 semester hours with at least a 3.50 GPA.

**Student Ambassadors.** The role of the student ambassadors at ASUMH is to assist the administration with promotion of the university, represent the student body at special events, and assist with the recruiting of students.

**Student Activities Board (SAB).** The mission of the SAB is to deliver opportunities to provide quality engagement and entertainment to the ASUMH community of students. The SAB will provide opportunities for students to develop personal, professional and leadership skills through the planning and execution of a variety of activities and events.

**Student Government Association.** The Student Government Association represents student interests to secure an active role for students by providing input concerning official policies and priorities, to safeguard student rights, to promote student groups and organizations, and thereby promote student morale and interaction, and to serve as a campus-wide forum for the expression and exchange of student ideas and opinions.

**Student Practical Nurses' Association.** This organization is open only to Practical Nursing students. The primary purpose of the organization is to promote practical nursing and nursing as a career and to promote health and wellness in the community. Members participate in projects, fundraisers, and activities that support local organizations.

**Swipe Out Hunger—ASUMH Student Branch.** The purpose of Swipe Out Hunger—ASUMH Student Branch is to address college hunger issues on our campus and in the surrounding community. The organization aims to: 1. Partner with Swipe Out Hunger to establish and maintain a meal donation program. 2. Raise awareness about food insecurity among students and the community. 3. Advocate for policies and programs that support food access and affordability. 4. Foster collaboration with other organizations, faculty, and staff to tackle hunger.

**The Thinklings.** The Thinklings Ecumenical Club is a club based upon faith and faith-based literature. The purpose is to promote discussion of students' personal beliefs and reach common ground. They also tie in other aspects of popular culture as it relates to faith. This club has no regional or national affiliation.

**TrailBlazers Chess Club.** The mission of Chess Club is to create a safe environment where students of the Arkansas State University Mountain Home (ASUMH) community who want to play chess, regardless of experience or identity, can meet for two purposes: To play exhibition games of classical and blitz chess and introduce new players to the game.- To formulate discussions led by more experienced players, covering topics including but not limited to opening theory, strategy, and tactics.

## **APPENDIX B**

### **SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE AMERICANS WITH DISABILITIES ACT**

Title 42 - The Public Health and Welfare

Chapter 126 - Equal Opportunity for Individuals with Disabilities

Sec. 12101. Findings and purpose

(a) Findings

The Congress finds that—

(1) physical or mental disabilities in no way diminish a person's right to fully participate in all aspects of society, yet many people with physical or mental disabilities have been precluded from doing so because of discrimination; others who have a record of a disability or are regarded as having a disability also have been subjected to discrimination;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(8) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) Purpose

It is the purpose of this chapter—

- (1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;
- (3) to ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities; and
- (4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

Sec. 12101 note: Findings and Purposes of ADA Amendments Act of 2008, Pub. L. 110-325, §2, Sept. 25, 2008, 122 Stat. 3553, provided that:

(a) Findings

Congress finds that—

- (1) in enacting the Americans with Disabilities Act of 1990 (ADA), Congress intended that the Act “provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and provide broad coverage;
- (2) in enacting the ADA, Congress recognized that physical and mental disabilities in no way diminish a person’s right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;
- (3) while Congress expected that the definition of disability under the ADA would be interpreted consistently with how courts had applied the definition of a handicapped individual under the Rehabilitation Act of 1973, that expectation has not been fulfilled;
- (4) the holdings of the Supreme Court in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999) and its companion cases have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress intended to protect;
- (5) the holding of the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002) further narrowed the broad scope of protection intended to be afforded by the ADA;
- (6) as a result of these Supreme Court cases, lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities;
- (7) in particular, the Supreme Court, in the case of *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002), interpreted the term “substantially limits” to require a greater degree of limitation than was intended by Congress; and

(8) Congress finds that the current Equal Employment Opportunity Commission ADA regulations defining the term “substantially limits” as “significantly restricted” are inconsistent with congressional intent, by expressing too high a standard.

(b) Purposes

The purposes of this Act are—

(1) to carry out the ADA’s objectives of providing “a clear and comprehensive national mandate for the elimination of discrimination” and “clear, strong, consistent, enforceable standards addressing discrimination” by reinstating a broad scope of protection to be available under the ADA;

(2) to reject the requirement enunciated by the Supreme Court in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999) and its companion cases that whether an impairment substantially limits a major life activity is to be determined with reference to the ameliorative effects of mitigating measures;

(3) to reject the Supreme Court’s reasoning in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999) with regard to coverage under the third prong of the definition of disability and to reinstate the reasoning of the Supreme Court in *School Board of Nassau County v. Arline*, 480 U.S. 273 (1987) which set forth a broad view of the third prong of the definition of handicap under the Rehabilitation Act of 1973;

(4) to reject the standards enunciated by the Supreme Court in *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002), that the terms “substantially” and “major” in the definition of disability under the ADA “need to be interpreted strictly to create a demanding standard for qualifying as disabled,” and that to be substantially limited in performing a major life activity under the ADA “an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people’s daily lives”;

(5) to convey congressional intent that the standard created by the Supreme Court in the case of *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002) for “substantially limits”, and applied by lower courts in numerous decisions, has created an inappropriately high level of limitation necessary to obtain coverage under the ADA, to convey that it is the intent of Congress that the primary object of attention in cases brought under the ADA should be whether entities covered under the ADA have complied with their obligations, and to convey that the question of whether an individual’s impairment is a disability under the ADA should not demand extensive analysis; and

(6) to express Congress’ expectation that the Equal Employment Opportunity Commission will revise that portion of its current regulations that defines the term “substantially limits” as “significantly restricted” to be consistent with this Act, including the amendments made by this Act.

For the complete materials of The Americans with Disabilities Act of 1990, please see Americans with Disabilities Act of 1990, As Amended | ADA.gov



