Sexual Misconduct
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General Considerations

The American University of Armenia is committed to creating and maintaining an educational, social, and work environment free of all forms of sexual misconduct. The University will not tolerate sexual misconduct against any of its community members or prospectively affiliated community members. Sexual misconduct is prohibited by the Armenian labor code (Section 3.3) and other legal acts of the Republic of Armenia; AUA's Non-Discrimination and Equal Opportunity Policies; and AUA's Faculty, Staff, and Student Codes of Conduct. Retaliation and intimidation toward an individual on the basis of their lodging a complaint of sexual misconduct is also prohibited. The University will take all necessary steps to protect its faculty, staff, and students (including prospective students) from sexual misconduct, and, if appropriate, discipline persons whose behavior violates this policy.

To ensure familiarity and compliance with this policy, all faculty, staff, and students must complete online Sexual Harassment Awareness and Prevention Training as part of their orientation process, repeat the training every two years, and receive a score of 100% on the accompanying quiz (unlimited attempts). Failure to complete the assigned training may result in disciplinary action.

Scope

This policy applies to all AUA community members, including faculty (full-time and adjunct), staff, students (including prospective students), volunteers, vendors, visitors, independent contractors, or anyone else participating in or attempting to participate in a university-sponsored activity.

Sexual misconduct is prohibited in any AUA-sponsored or AUA-funded activity, whether it takes place on AUA premises or off site. This includes in educational – or employment – related activities and events (classes, meetings, conferences, study sessions, mentoring sessions, etc.), or social, extracurricular, outreach, or admissions-related events (student-led activities, internships, workshops, volunteering initiatives, etc.). This policy also covers online conduct.

Definitions

Sexual Misconduct is an umbrella term for multiple types of offenses, including sexual assault, sexual harassment, and stalking. Definitions of these terms can be found below.

Sexual Harassment

Sexual Harassment is defined as unwelcomed sexual advances, requests for sexual favors, and other visual, verbal, or physical conduct of a sexual nature (including sexually suggestive advances or touching) that satisfies one or more of the following conditions:

A. When submission to such conduct is made either explicitly or implicitly a term or condition of educational access or instruction; employment; provision of an aid, benefit, or service; or participation in other University activity.
B. When submission to or rejection of such conduct by an individual is used as a basis for academic or personnel decisions or evaluations.
C. When such conduct has the purpose or effect of interfering with an individual's performance or creating an intimidating, hostile, or offensive work, academic, social, or student living environment that humiliates an individual's dignity or incites social alienation.
D. When such conduct in the workplace or other place of performance of employment duties (including business trips) directly or indirectly affects an individual's decision regarding the employment, or creates a work environment that humiliates the individual's dignity or incites social alienation.

Sexual harassment may be a single or repeated act of violence; or it may contain a threat of violence against an employee, student, or a third party, which results or may result in physical, psychological, sexual, or economic damage, or create a hostile or humiliating environment for the person.

Sexual harassment can occur in a variety of situations; as such, it is impossible to list all actions that can potentially be considered sexual harassment. The determination of what constitutes sexual harassment depends upon the specific facts and the context in which the conduct occurs, but sexual harassment generally includes any unwanted and, usually, repeated:

1. verbal or behavioral sexual advances;
2. sexually explicit or suggestive remarks, messages, questions, still or animated visual material (including sexually-explicit deep fake images of a person made without their consent), jokes, or other non-verbal matter;
3. sexually explicit gestures.

Sexual harassment can occur even when the victim suffers no tangible employment or educational detriment.

Sexual harassment may occur between individuals of any sex or gender.

Sexual harassment may occur between individuals in a hierarchical relationship (e.g., between supervisor and employee or between faculty member and students) or between peers (e.g., between co-workers or students).

Sexual harassment may be caused by "outside parties"; i.e., volunteers, vendors, visitors, community members, service persons, or other individuals who are not members of the University community but who come in contact with faculty, staff, or students in the employment/educational environment or during University events.

A person does not have to "fight back" against sexual harassment or explicitly state their discomfort in order to have a credible claim of sexual harassment.

Indirect, third-party harassment can also occur when someone is not directly harassed, but is adversely affected by offensive conduct of a sexual nature from other parties. Third parties may also report sexual harassment when it is observed (see reporting section below).

Sexual Assault

Sexual assault is prohibited by the Armenian Criminal Code. AUA is committed to upholding the law and will not tolerate instances of sexual assault within

the community. Sexual assault includes, but is not limited to:

- **- Violent acts of a sexual nature (rape)**, as defined in RA Criminal Code (Article 198), constitute sexual intercourse or other acts of a sexual nature carried out against or disregarding the will of the victim. This includes acts performed using violence or the threat of violence against the victim, or by exploiting the helpless state of the victim. **Acts of a sexual nature**are considered penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another individual, without their consent, including instances where they are incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- **- Compelling an individual to acts of a sexual nature**, as defined in RA Criminal Code (Article 199) constitutes sexual intercourse or other acts of a sexual nature, which are committed through blackmail, threats to destroy, damage, or seize property, or by exploiting the material or other dependency of the victim, or without having reasonable belief of their consent.
- **- Acts of a sexual nature against a person under the age of 16,** as defined in RA Criminal Code (Article 200), constitutes sexual intercourse or other acts of a sexual nature, committed by a person aged 18 or older against a person under the age of 16.
- **- Indecent acts,**as defined in RA Criminal Code (Article 201) constitute the dissemination or display of pornographic material or objects, including printed publications, film, or video materials, electronic media content, images, or other pornographic items, by a person aged 18 or older among individuals under the age of 16; engaging in sexual intercourse, nudity, or other acts of a sexual nature in the presence of a person under the age of 16; engaging in sexual conversations with a person under the age of 16; or committing other acts aimed at arousing sexual desire in a person under the age of 16.
- **- Grooming**, as defined in RA Criminal Code (Article 202) constitutes using information or communication technologies by a person aged 18 or older to propose a meeting to a person under the age of 16 and to take action toward arranging such a meeting with the intent of engaging in sexual intercourse or other acts of a sexual nature or for the purpose of creating or producing child pornography.
- **- Fondling,**which is defined as the touching of the private body parts of an individual (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against their will (non-consensually), or not forcibly or against their will in instances in which the individual is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Stalking

Stalking is prohibited by the Armenian Criminal Code. AUA is committed to upholding the law and will not tolerate instances of sexual assault within the community.

Stalking is defined in RA Criminal Code Article 196.1 as:

The repeated occurrence of the following behaviors that cause the victim to fear for their safety, or force them to significantly change their lifestyle, or that create a real necessity to do so: Following a person, using information or communication technologies, visiting their place of residence, work, study, or occupation, or involving them in unwanted communication or attempting to do so by other means, leaving digital traces on personal belongings, or opening online accounts with the person's details.

Note on Consensual Relationships

The AUA Faculty Code of Conduct considers as "unacceptable conduct in relation to the integrity of the faculty-student relationship":

"a. Entering into a romantic or sexual relationship with any student for whom a faculty member has, or should reasonably expect to have in the future, academic responsibility (instructional, evaluative, or supervisory);

b. Exercising academic responsibility (instructional, evaluative, or supervisory) for any student with whom a faculty member has a romantic or sexual relationship", where a sexual or romantic relationship includes "any intimate, sexual, or other type of romantic or amorous relationship, whether casual or serious, isolated or recurrent, and consensual or not. A single sexual encounter is considered a sexual relationship under this policy, although the relationship does not have to include physical intimacy if a romantic relationship exists beyond the reasonable boundaries of a professional relationship."

When there is a power differential, such as exists between a student and a faculty member or when one faculty/staff member has supervisory authority over another, the power dynamic may call into question the consensual nature of a romantic or sexual relationship and could lead to claims of sexual misconduct. Such relationships are strongly discouraged. In the case of a relationship with an AUA community member who is under the age of 16, even consensual sexual relationships are considered illegal.

Romantic or sexual relationships where there is not a power dynamic, such as those that exist between two faculty or staff of equal rank or between students, are generally less of a cause for concern. However, sexual misconduct can be found to have occurred even when there is or was a consensual relationship between two individuals. Consent to a previous level of sexual or romantic intimacy does not imply consent to the same level of intimacy in the future.

Reporting Sexual Misconduct: General Notes

An individual who believes that they have experienced or observed sexual misconduct (hereafter "the claimant") has a number of options for reporting and addressing the matter. The University has an obligation to take all claims of sexual misconduct seriously and investigate them according to the circumstances of the case.

Documentation is an important part of sexual misconduct reporting. Keeping a record of all events or incidents related to the offending behavior and any subsequent communication or actions taken to address it will aid in the reporting and investigation process.

The reporting procedures below primarily refer to instances of sexual harassment; instances of alleged sexual assault or stalking are considered violations of the RA Criminal Code and must be reported to the police. These incidents must also be reported to the BAC Coordinator, in order to keep a confidential record and to take corrective action as needed.

Confidentiality

All information related to suspected cases of sexual misconduct, from the time the incident occurs and whether handled through informal or formal procedures, will be handled with the utmost confidentiality. All those involved in suspected cases of sexual misconduct are expected to hold the information about the case confidential to the greatest extent possible up to the legal constraints on the University. Information will not be shared with anyone who is not involved in the investigation or resolution of the claim. Any person who is formally involved in the case and who knowingly and intentionally breaks confidentiality may be subject to disciplinary action. However, when a crime has been committed, the University may be obliged to report the matter to the relevant authorities.

Reporting to BAC Coordinator or Other Trusted Party

Any member of the AUA Community may report an instance of sexual misconduct or suspected sexual misconduct to the AUA BAC Coordinator. The BAC Coordinator can be reached at baccoordinator@aua.am. Any party may approach the BAC Coordinator to discuss a suspected case of sexual misconduct. It shall be the role of the BAC Coordinator to listen to the complaint with sensitivity and discretion and assist the claimant in exploring options to resolve the situation. In reporting to the BAC Coordinator, a claimant may:

1. Indicate that they want help in handling the case personally;
2. Ask for assistance from the University in resolving the case informally; or
3. Seek advice and assistance in initiating a formal grievance.

The BAC Coordinator will work with the claimant to discuss the appropriate and desired action based on the circumstances of the case and will respect the choice of the claimant. At all steps along the way, the complainant will be apprised and informed of their possible courses of action, their rights, and the University's responsibilities.

The BAC Coordinator shall maintain a confidential record of all informal inquiries and formal complaints while maintaining confidentiality of inquirers/complainants, including the dates, times, and facts of the incident(s).

If the person alleged to have engaged in sexual misconduct is the BAC Coordinator, the claimant may report the issue directly to the Provost.

If the claimant does not feel comfortable reporting the alleged misconduct to the BAC Coordinator, they may report the incident to:

- - A trusted supervisor, such as a Manager, Program Chair, Dean, VP, etc.
- - A Counselor

These other parties may be able to help the claimant address the matter personally or informally, or help them to initiate the process of filing a formal grievance. It is still recommended to report any instances of alleged misconduct to the BAC Coordinator so that they may keep confidential records of the matter.

Reporting Procedures

Claimants are encouraged to report instances of sexual misconduct as soon as possible. Reports may be made at any time, and individuals are encouraged to report cases of alleged sexual misconduct regardless of how much time has passed. However, the ability to interview witnesses and otherwise investigate and take action may be limited by various factors when a long period of time has elapsed. RA law also specifies that disciplinary action of an employee must take place within six months of the alleged incident, including one month from the time the employer becomes aware of the alleged misconduct.

Any of the options for addressing sexual misconduct described below may be pursued as a first course of action. A claimant need not, for example, address the alleged offender personally before filing a formal grievance.

Personal Resolution

The claimant may choose to deal directly with the alleged offender with the intent of communicating their boundaries and/or their distress and asking that the behavior not be repeated. The claimant may ask for advice from the BAC Coordinator as to how to handle the situation.

Informal Complaints/Inquiries

If the claimant does not feel that a personal resolution would be appropriate or prefers not to handle it in this manner, they may report their claim to the BAC Coordinator (or the Designated Sexual Harassment Liaison, if that position is open) or other trusted party without necessarily instituting formal grievance procedures. The claimant may first seek advice from the BAC Coordinator as to whether an incident may constitute sexual misconduct. If a claimant reports an instance of sexual misconduct to someone other than the BAC Coordinator, this third party may seek informal resolution on behalf of the claimant while the claimant remains anonymous.

If the claimant determines that they would like assistance in resolving the matter informally, the BAC Coordinator (or other trusted party) and the claimant will work together to determine the most appropriate member of the AUA community to speak with the alleged offender about the complainant's concerns, and ask that the behavior immediately change or stop. The appropriate mediator may be the BAC Coordinator, a supervisor, manager, Program Chair, Dean, or Provost. Any person involved in informal resolution of sexual misconduct is required to maintain confidentiality of the identities of the individuals involved. The claimant may choose to be present during the informal resolution, or may choose to remain anonymous.

During this process, the BAC Coordinator or mediator will:

- - Give the opportunity for the complainant to share what happened from their perspective and explain how the alleged offender's behavior affected them, if the claimant chooses to take part in the informal resolution. If the claimant chooses to remain anonymous, the BAC Coordinator/mediator will state clearly what alleged behaviors made the claimant uncomfortable. If the Claimant is under the age of 18, AUA reserves the right to decline the request of a Claimant to remain anonymous.
- - Give an opportunity to the alleged offender to respond to the complaint, if the claimant chooses to take part in the informal resolution. If the claimant chooses to remain anonymous, the BAC Coordinator/mediator will clearly state what the claimant would like to see change.
- - Facilitate discussion between both parties to achieve an informal resolution which is acceptable to the complainant.
- - Follow up after the outcome of the complaints mechanism to ensure that the behavior has stopped.
- - If no informal resolution can be reached, refer the matter to the formal grievance procedure.
- - Ensure that the above is done as soon as possible after the complaint is made, preferably within one week.

Formal Grievances

If a claimant would like to pursue formal action for an instance of alleged sexual misconduct, they may file a formal grievance. The BAC Coordinator may assist the claimant in filing a formal grievance. In cases of alleged sexual misconduct by a faculty or staff member, formal grievances are filed with the AUA Ethics and Grievance Committee. In cases of alleged sexual misconduct by a student, formal grievances are filed with the Student Code of Conduct and Ethics Committee. Formal grievances shall be investigated and adjudicated according to the procedures set forth by those committees.

An individual pursuing a grievance related to sexual misconduct may choose to have an advocate during any hearings related to the grievance. Any

individual may serve as the claimant's advocate, including the BAC Coordinator. The advocate's role is to support and advise the claimant during the process, as it may be an emotionally stressful experience.

The University will take appropriate action to stop or correct sexual harassment when it is found to have occurred. Persons found to have engaged in sexual misconduct are subject to the full range of disciplinary actions, including separation from the University. Possible corrective measures may include an apology, explicit agreement about future conduct, mandatory participation in additional training sessions about sexual harassment awareness and prevention, changes in workplace assignment, course substitution, formal reprimand, removal from a position, or separation from the University, or other appropriate action. Disciplinary actions will depend on the particular circumstances of each case. Some forms of sexual misconduct are violations of criminal laws and thus can result in serious legal consequences.

Supportive Measures

If sexual misconduct is found to have occurred, supportive measures may be taken to restore or preserve equal access to employment or educational programs at AUA. Free counseling services are always available to AUA students, and those who have experienced sexual harassment are encouraged to utilize counseling services. Faculty and staff who have experienced sexual harassment may request free counseling sessions as well. Additional supportive measures may include extensions of deadlines or other course-related adjustments, modifications of work or class schedules, changes in work locations, leaves of absence, increased security and monitoring of certain areas of the campus, or other similar measures. These accommodations can be implemented as a reasonable accommodation through AUA's disability support services without revealing the details of the sexual harassment incident.

Mandatory Reporting

Supervisors (defined as Program Chairs, Deans, and staff occupying the position of "Manager", "Director", or "Vice President") are required to address suspected cases of sexual misconduct when they have reason to believe that it has occurred. Reasons to believe sexual misconduct has occurred can include (but are not limited to) cases when the supervisor has witnessed the alleged misconduct firsthand, or cases when the supervisor's support is sought in dealing with the alleged misconduct. The supervisor does not have to report the incident if the individual experiencing the alleged sexual misconduct specifically requests that the misconduct not be reported. If appropriate, a supervisor can report the alleged misconduct to the BAC Coordinator and ask for their assistance in dealing with the matter informally (see informal complaint mechanisms above). This can be done without sharing information about the individual who experienced sexual misconduct. Supervisors may also assist the claimant in filing a formal grievance (with or without the BAC Coordinator), if the claimant wishes. If a supervisor fails to address suspected incidents of sexual misconduct when they have reason to believe that it has occurred, they may also face disciplinary action.

Retaliation

Retaliation against a claimant for speaking up about sexual misconduct is prohibited. No person may threaten, coerce, or discriminate against any individual for pursuing or exercising any right or privilege secured by this Policy, or because the individual has made a report or complaint, responded to a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation or hearing related to this Policy. Any individual found to have engaged in such retaliatory behavior may also be subject to disciplinary action.

Amnesty

To encourage reporting of sexual misconduct, the university *may* offer a claimant amnesty from some policy violations that might be related to the incident. For example, if an instructor is found to have threatened to fail a student for cheating unless they submitted to sexual advances, the student may not face any repercussions related to the cheating at that time. If it is deemed that sexual misconduct has not occurred, the claimant may face repercussions for the policy violations associated with the incident.

False or Frivolous Allegations

Any person who willfully and knowingly makes or participates in making an intentionally false or frivolous complaint of sexual misconduct or knowingly provides false information during the investigation of a sexual misconduct complaint may be subject to disciplinary action. Failure to prove that sexual misconduct has occurred does not necessarily constitute a false or frivolous allegation; it must be proven that the allegation was willfully and knowingly false.

Sexual Misconduct and Academic Freedom

The University wishes to preserve the academic freedom of students and faculty as outlined in the AUA Statement on Academic Freedom. In cases of alleged sexual misconduct, issues of speech or artistic expression may be involved. But, even in the contexts of public discussion and educational instruction, speech or conduct of a sexual or hostile nature may exceed the protections of academic freedom. Sexual speech in the classroom that does not further the learning process or is not germane to the academic subject matter is not protected as free speech. Sexual misconduct is not a proper exercise of academic freedom and is itself inconsistent with the maintenance of academic freedom on campus. Freedom of speech and academic freedom may not always take precedence over the need to create a safe and respectful learning and work environment.

Monitoring and Evaluation

The University shall make efforts to collect data on instances of sexual harassment in the AUA community. Each year, the BAC Coordinator shall make a report to the Executive Team which includes:

1. The number of known instances of sexual harassment which have occurred each year and have been addressed either through informal and formal mechanisms (confidentially, without names of any parties involved or any identifying details).
2. Information on the prevalence of sexual harassment collected by the Office of Institutional Research and Assessment (OIRA) from student, faculty, staff, and climate surveys.

If the results of the report indicate that action is needed (for example, if there is either a large number of cases of sexual misconduct reported or an underreporting of sexual misconduct), the Executive Team shall call for review of this policy (and/or other relevant policies that may affect this policy) or take other corrective actions as appropriate.

Review and Revision of this Policy

This policy shall be reviewed to assess the need for potential revisions at least once every three years and may be amended more frequently, as needed. The approving body for this policy shall be the AUA Executive Team.