

SEXUAL MISCONDUCT POLICY

A.	COMMITMENT.....	P. 1
B.	JURISDICTION (TO WHOM & WHERE THIS POLICY APPLIES)	P. 2
C.	RELEVANT DEFINITIONS.....	P. 2
D.	TITLE IX COORDINATOR.....	P. 7
E.	AMNESTY FOR PERSONAL INGESTION OF ALCOHOL OR OTHER DRUGS	P. 7
F.	PROHIBITION ON RETALIATION	P. 8
G.	REPORTING PROCEDURES, CONFIDENTIALITY, AND RIGHTS.....	P. 8
H.	POTENTIAL CONFLICTS OF INTEREST/BIAS.....	P. 14
I.	PROCESSING OF A PROHIBITED CONDUCT COMPLAINT.....	P. 14
J.	ACCOMMODATIONS, INTERIM PROTECTIVE MEASURES, AND SUPPORT SERVICES	P. 25
K.	DISHONEST, FRIVOLOUS, OR MALICIOUS ACCUSATIONS.....	P. 26
L.	CRIMINAL INVESTIGATIONS	P. 26
M.	PREVENTION, EDUCATION, AND AWARENESS.....	P. 26
N.	ACADEMIC FREEDOM & SEXUAL HARASSMENT/HOSTILE ENVIRONMENT.....	P. 27

Appendix 1 – PROHIBITED CONDUCT DEFINED (UA, STATE, & FEDERAL DEFINITIONS)

Appendix 2 – COMPLAINANT RESOURCES

Appendix 3 – RESPONDENT RESOURCES

Appendix 4 – DETAILED INFORMATION ABOUT CRIMINAL INVESTIGATIONS

Appendix 5 – PREVENTION, EDUCATION, AND AWARENESS EFFORTS

A. COMMITMENT

The University of Alabama (“the University” or “UA”) is committed to providing an environment free from sexual misconduct which, among other things identified in Section C.1. and **Appendix 1** to this Policy, includes gender-based assault, harassment, exploitation, dating and domestic violence, stalking, as well as discrimination based on sex, gender, sexual orientation, gender identity, gender expression, pregnancy, and related retaliation (collectively referred to as “Prohibited Conduct”). The University expects individuals who live, work, teach, study within, or visit this community to contribute positively to the environment and refrain from behaviors that threaten the freedom or respect that every member of our community deserves. Individuals who are found to be in violation of this Policy will be subject to corrective action up to and including termination from employment or expulsion from the University.

Among other things, this Policy defines Prohibited Conduct, prohibits related retaliation, provides reporting requirements for designated University employees, identifies reporting procedures for individuals who have knowledge of an alleged violation, explains the difference between a Title IX investigation and a criminal investigation, identifies the UA offices to whom a Complainant may report potential violations in confidence to obtain support services without an investigation, explains University accommodations, interim protective measures and support services, sets out procedures for addressing potential Prohibited Conduct, and details the University’s comprehensive prevention, education, and awareness plan.

B. JURISDICTION (TO WHOM AND WHERE THIS POLICY APPLIES)

This Policy applies to:

- All UA students and employees regardless of sex, gender identity, gender expression, or sexual orientation and regardless of where the alleged violation occurred on campus¹ or off-campus, but only if the off-campus conduct has continuing adverse effects on or creates a hostile environment for students, employees or third-parties while on campus;
- All acts of Prohibited Conduct, including those committed by non-students or non-employees, that occur on campus or at any location involving a University-sponsored activity or event (including, but not limited to, University-sponsored study abroad, research, online, or internship programs).

The jurisdiction of this Policy may limit the scope of or prevent an investigation into alleged conduct of a community member, third party, or campus visitor that occurs off campus. Likewise, the full spectrum of possible sanctions, resources, and accommodations may be affected in situations involving a community member, third party, or campus visitor that fall outside of the Policy's jurisdiction.

C. RELEVANT DEFINITIONS

1. Prohibited Conduct Defined (UA Definitions)

For purposes of this Policy, conduct that is deemed, by a preponderance of the evidence (which means more likely than not the alleged conduct occurred), to be gender-based and meet the definitions of any of the types of Prohibited Conduct identified in the chart below or in **Appendix 1** to this Policy (whether defined by UA, or by state (AL) or federal (FED) criminal laws, as amended from time to time), constitutes a violation of this Policy.² A person whose gender-based conduct violates the federal or state criminal statutes as established by a preponderance of the evidence need not be criminally charged or convicted for their conduct to be deemed a violation of this Policy. In addition, to the extent federal or state criminal laws addressing gender-based conduct that could be deemed Prohibited Conduct are added or amended, it will be considered a violation of this Policy if an individual engages in such conduct (as proven by a preponderance of the evidence), even if the definitions in **Appendix 1** have not been updated to reflect the most recent federal or state language.

INTIMATE PARTNER VIOLENCE: DATING, DOMESTIC, OR RELATIONSHIP VIOLENCE
Intimate Partner Violence (Dating Violence and Domestic Violence) is violence or abuse, including but not limited to sexual or physical abuse or the threat of such abuse, committed in a relationship as defined below. Intimate Partner Violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions.
Intimate Partner Violence is considered Domestic Violence if the violence or abusive behavior (or threat of such behavior) is committed (A) by a current or former spouse or intimate partner of the Complainant; (B) by a person with whom the Complainant shares a child in common; (C) by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; (D) by a person similarly situated to a spouse of the Complainant under the domestic or family laws of the jurisdiction in which the crime of violence occurred; or (E) by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

¹ Campus includes any University-owned or leased property and streets or pathways contiguous to University property.

² The chart included within this section of the Policy sets forth UA's definitions of Prohibited Conduct. **Appendix 1** contains a chart that combines UA's definitions of Prohibited Conduct with corresponding definitions under federal (FED) and Alabama (AL) law, all of which constitute Prohibited Conduct covered by this Policy.

Intimate Partner Violence is considered Dating Violence if the violent or abusive behavior (or threat of such behavior) is committed by a person who is or has been in a romantic or intimate relationship with the Complainant. The existence of such a relationship shall be determined by a consideration of the following factors:

- (i) The length of the relationship
- (ii) The type of relationship
- (iii) The frequency of interaction between the persons involved in the relationship

Intimate Partner Violence is considered Relationship Violence if the violent or abusive behavior is committed by someone who has engaged in intimate relations with the Complainant within a close proximity of time between the abusive behavior and intimate relations.

STALKING

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) Fear for the person's safety or the safety of others; or (b) Suffer substantial emotional distress.

For purposes of this Policy, "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Example of such acts include, but are not limited to:

- Following;
- Lying in wait;
- Excess communications, including any attempt to intentionally and repeatedly make contact with a person over their stated objections for the purpose of harassing or alarming them;
- Threats to the individual or threats to the individual's family, friends, or property.

Stalking, as it is defined in this Policy, includes "cyber-stalking," a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, phones, texts, or other similar devices or forms of contact.

"Reasonable person" means a person under similar circumstances and with similar identities to the Complainant.

"Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

CONSENT

The term "consent" used when describing different types of prohibited acts of sexual misconduct under UA's Sexual Misconduct Policy (such as sexual assault) means a clear willingness to participate in the sexual act (e.g., clear communication through words or actions). While consent may be expressed by words or by actions, it is highly recommended that consent be expressed and obtained verbally. Non-verbal consent expressed through actions may lead to confusion and potential for misunderstandings, which may lead to a violation of this Policy.

It is the responsibility of the initiator of any sexual activity to obtain their partner's consent.

Consent to a sexual act is not freely given if the individual is not able to give proper consent, or if consent is obtained by force, deception, or coercion. A lack of resistance does not grant consent. Previous consent does not grant consent to future sexual acts. Consent can be withdrawn at any time during a sexual act.

Inability to give consent includes situations where an individual is:

- a. Incapacitated due to alcohol, drugs, or other substances including, but not limited to, prescription medication.
 - i. Determining consent when alcohol or other drugs are involved: In incidents involving alcohol, drugs, or other substances, the totality of the circumstances are analyzed to determine whether the use of alcohol, drugs, or other substances caused an inability to give consent. Whether a Respondent knew or reasonably should have known of the Complainant's ability to give consent will be considered. An individual's use of alcohol or drugs does not diminish that individual's responsibility to obtain consent if that individual is the one who initiates sexual activity. Incapacitation is a state beyond drunkenness or intoxication. Incapacitation is a state where an individual cannot make a rational, reasonable decision because they lack the capacity to give consent. Some factors considered to determine whether an individual is incapacitated due to alcohol, drugs, or other substances and therefore not able to give consent include, but are not limited to: whether the individual was conscious or

unconscious, whether the individual became sick due to intoxication, the individual's ability to communicate and/or slurred speech, the individual's coordination (ex. ability to walk, dress/undress, perform simple tasks), and any other action that would be indicative of a level of cognitive functioning. The existence of any one of these factors may support a finding of incapacitation for purposes of this policy. The mere presence of alcohol, drugs, or other substances does not equate to an inability to give consent. Stated differently, it is possible for an individual to have alcohol, drugs, or other substances in their system and not be incapacitated.

- b. Unconscious, asleep, or in a state of shock.
- c. Under the age of consent as defined by the jurisdiction in which the act occurred, which, in Alabama, is less than 16 years of age.
- d. Mentally or physically impaired and not reasonably able to give consent.

“Coercion” for purposes of this Policy is the use of expressed or implied threat or intimidation that place would place a reasonable person in fear of immediate harm for the purpose of obtaining sexual favors. Threatening or intimidating behavior may include emotional abuse, threats to reputation, public humiliation, threats to others and possessions (including pets), or financial harm, among others.

SEXUAL ASSAULT/RAPE/SEXUAL CONTACT

Sexual assault/Rape is defined as any form of sexual penetration, no matter how slight, or attempted sexual penetration occurring without consent and includes, but is not limited to, sexual intercourse committed by physical force or coercion

Sexual contact/Fondling is any intentional sexual touching or attempted intentional sexual touching of a person that is done without consent and for the purpose of personal sexual gratification. Sexual touching, as it is used in this Policy, means any intentional contact with the sexual or intimate parts of a person or any other type of intentional physical contact done in a sexual manner or for the purpose of personal sexual arousal or gratification.

STATUTORY RAPE

Sexual intercourse, no matter how slight, with a person who is under the statutory age of consent.

In Alabama, it is illegal for an adult (someone 18 or older) to have sex with a minor (someone younger than 16), even if the sex is consensual.

SEXUAL OR GENDER-BASED HARASSMENT

See www.eop.ua.edu/harassment.html for UA's Harassment Policy.

Sexual Harassment includes unwelcome harassment based on sex, which may include unwelcome sexual advances, requests for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise, when the conditions outlined in (1) and/or (2), below, are present.

Gender-based Harassment includes unwelcome harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the conditions outlined in (1) and/or (2), below, are present.

- (1) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic standing, or participation in any University programs and/or activities or is used as the basis for University decisions affecting the individual (often referred to as “quid pro quo” harassment); or
- (2) Such conduct creates a hostile environment. A “hostile environment” exists when the conduct is sufficiently severe, persistent, and/or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University's education or employment programs and/or activities. Conduct must be deemed severe, persistent, and/or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to:
 - The frequency, nature and severity of the conduct;
 - Whether the conduct was physically threatening;

- The effect of the conduct on the Complainant’s mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct unreasonably interfered with the Complainant’s educational or work performance and/or University programs or activities; and
- Whether the conduct implicates concerns related to academic freedom or protected speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of Sexual Assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

SEXUAL OR GENDER-BASED DISCRIMINATION

In addition to the Prohibited Conduct outlined herein, any discrimination on the basis of sex, sexual orientation, gender identity, gender expression, and pregnancy is prohibited by this Policy.

SEXUAL EXPLOITATION

Sexual exploitation is taking non-consensual or abusive sexual advantage of another for one’s own advantage or benefit or to benefit a person other than the one being exploited.

Examples of sexual exploitation include, but are not limited to:

- Causing or attempting to cause the incapacitation of another individual for sexual purposes;
- Electronically recording, photographing, or transmitting sexual sounds or images of another individual against that person’s will or without their consent;
- Allowing a third-party to observe sexual acts without all parties’ consent;
- Prostituting another individual for one’s or another’s gain;
- Exposing one’s genitals for the purpose of sexual gratification of themselves or another;
- Exposing another’s genitals or intimate body parts without their consent;
- Engaging in voyeurism; or
- Knowingly transmitting a sexually transmitted disease/infection or HIV to another individual.

FAILURE TO COMPLY

Failure to comply means a failure to comply with directions of University officials, who include, but are not limited to, any employee of the Title IX Office or the Office of Student Conduct, or law enforcement officers acting in performance of their duties.

For purposes of this Policy, failure to comply includes a failure to comply with a No Contact Order or other interim measure issued by the Title IX Office or the Office of Student Conduct in response to a report of alleged Prohibited Conduct where the individual’s failure to comply directly impacts the other party or parties to the No Contact Order.³

2. Other Relevant Definitions

Awareness Programs—Community-wide or audience-specific programming, initiatives, and strategies that increase the audience knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.

Bystander Intervention—Safe and positive options that may be carried out by an individual or individuals to prevent harm or intervene when there is a risk of sexual assault, dating violence, domestic violence, or stalking.

³ If a party to a No Contact Order fails to comply with the No Contact Order in a manner that does not impact the other party or parties to the No Contact Order, the Office of Student Conduct will determine what appropriate actions, if any, should be taken in accordance with the Code of Student Conduct.

Bystander intervention includes recognizing situations of potential harm, overcoming barriers to intervening, identifying safe and effective intervention options, and taking action to intervene. For more information about bystander intervention, see www.ua.edu/uact.

Complainant—An individual who is reported to be or alleges that they were the victim of an offense that violates this Policy.

Employee—An employee is an individual who receives compensation for work or services for which the University has the right (whether or not it exercises the right) to supervise and control the manner of performance as well as the result of the work or service. For purposes of this Policy, University faculty, staff, and student employees are considered “employees.” Volunteers and independent contractors are not considered “employees.”

Investigator—An investigator is the Title IX Coordinator or the Coordinator’s designee that takes the lead in an investigation of any complaint involving a potential violation of this Policy. One or more investigators may be assigned to investigate each complaint. A complaint investigation involving a student Respondent may include input/assistance from the Office of Student Conduct. A complaint investigation involving a faculty/staff Respondent may include input/assistance from a designated harassment resource officer and/or human resource partners.

Ongoing Prevention and Awareness Campaigns—Programming, initiatives, and strategies that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing dating violence, domestic violence, sexual assault, and stalking, using a range of strategies with audiences throughout the University. Ongoing prevention and awareness campaigns are offered by several departments on campus and are described in more detail in Section L and **Appendix 5** to this Policy.

Primary Prevention Programs—Programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to prevent sexual assault, domestic violence, dating violence, and stalking before they occur through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe bystander intervention, and seek to change behavior and social norms in healthy and safe directions. Primary prevention programs are provided to all new students and employees and are described in more detail in Section L and **Appendix 5** to this Policy. For students, online training is the primary prevention program.

Proceeding—All activities related to a non-criminal resolution of an institutional disciplinary complaint including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. “Proceeding” does not include communications and meetings between officials and Complainants concerning accommodations or protective measures to be provided to a Complainant.

Risk Reduction—Options designed to decrease perpetration and bystander inaction, and to increase empowerment for victims in order to promote safety and to help individuals and communities address conditions that facilitate violence.

Responsible Reporting Official—Responsible Reporting Officials include faculty members, graduate teaching or research assistants, and other employees, acting in their official University capacities, in the Office of the Title IX Coordinator, Office of Student Conduct, UAPD, the Designated Harassment Resource Persons, Resident Advisers

and Community Directors in Housing and Residential Communities,⁴ Director of Equal Opportunity Programs/ University Compliance Officer⁵ and Human Resources Partners for employees only, Athletic Department Personnel,⁶ and non-student University employees in a senior management role⁷ with overall responsibility for the daily operations of an academic, support or operational unit, such as Deans, Vice Presidents, Department Chairs, and Directors. Except as otherwise designated herein, undergraduate student employees are not generally considered Responsible Reporting Officials.

Designated Responsible Reporting Officials—A subset of Responsible Reporting Officials, and includes the Designated Harassment Resource Persons, Director of Equal Opportunity Programs/ University Compliance Officer, and employees in the Office of the Title IX Coordinator, Office of Student Conduct, and UAPD.⁸

Respondent—An individual who has been accused of an offense under this Policy or is reported to have violated this Policy.

Student—A student includes anyone admitted to the University and (a) registered for or pursuing undergraduate, graduate, or professional studies or courses at the University, both full-time and part-time, as well as persons attending classes on campus or off-campus; (b) not currently registered or enrolled for a particular term but who have a continuing relationship with the University; or (c) enrolled or participating in a University-sponsored program, including, but not limited to, orientation and study abroad programs.

D. TITLE IX COORDINATOR

The University has a designated Title IX Coordinator who shall oversee implementation and enforcement of this Policy, compliance with applicable rules and regulations, and coordination of communications between campus and community partners. Beth Howard, the Title IX Coordinator, may be reached at (205) 348-5496 or titleix@ua.edu. The Title IX Coordinator's office is currently located in 107 Burke West (www.titleix.ua.edu/). There is a plan in place to relocate the office to Capital Hall (www.ua.edu/map/3419) during the 2018-2019 academic year. This move will likely not occur until the conclusion of the Fall 2018 semester. If you have any questions about the office's location, please call (205) 348-5496 or visit www.titleix.ua.edu.

E. AMNESTY FOR PERSONAL INGESTION OF ALCOHOL OR OTHER DRUGS

The University of Alabama community views the safety of our students as a top priority. A student who is under the influence of alcohol or drugs at the time of an incident should not be reluctant to seek assistance or participate in an investigation for that reason. The University will not pursue disciplinary violations against a student for their

⁴ Resident Advisers and Community Directors may be Responsible Reporting Officials if they receive reports of Prohibited Conduct in their official capacity from students in their assigned areas of responsibility, if they would be required under HRC guidelines to report. If a report of this nature is received, it will be reported to the Student Life Designated Harassment Officer or directly to the Title IX Office.

⁵ Director of Equal Opportunity Programs/ University Compliance Officer receives complaints of harassment and hostile work environment based on all protected categories; however, gender-based harassment complaints are referred to the Title IX Coordinator. Contact information for the Director of Equal Opportunity Programs and University Compliance Officer is: Dr. Gwendolyn Hood, (205) 348-5855, ghood@aaalan.ua.edu, www.eop.ua.edu/.

⁶ Athletic Department Personnel are considered coaches, full-time professional staff, graduate assistants, and all student services staff working within the University Athletic Department, including trainers and tutors. Student employees and undergraduate students who are assigned to internships with the Athletic Department are not considered Athletic Department Personnel for purposes of this policy.

⁷ This does not apply to those directors of offices in which confidential reports may be made, including Student Health Center, University Medical Center, Counseling Center, Women and Gender Resource Center, Psychology Clinic, Autism Spectrum Disorder Clinic, and UA School of Law Clinics.

⁸ Additional details and contact information for Designated Responsible Reporting Officials can be found at www.titleix.ua.edu/report-a-violation.html and in the procedure section of this Policy (Section G).

improper use of alcohol or drugs (e.g., underage drinking) if the student makes a good faith report of Prohibited Conduct or participates in a Title IX investigation. The Title IX Coordinator (or designee) may, however, refer a student to substance abuse counseling depending on the circumstances of the individual situation. For more information on the University's Medical Emergency Assistance Policy, please visit <https://www.ua.edu/about/policies/>.

F. PROHIBITION ON RETALIATION

The University of Alabama prohibits retaliation by its employees, students, or agents against an individual who exercises their rights pursuant to any provision of Title IX, Title VII, the Campus SaVE Act, or this Policy. The University encourages students, faculty, and staff to express freely, responsibly, and in an orderly way opinions and feelings about any problem or complaint of Prohibited Conduct, illegal discrimination, or harassment. Retaliation against persons who in good faith oppose or complain about Prohibited Conduct, illegal discrimination or harassment is prohibited. Retaliation is any action that has the effect of punishing a person for engaging in a legally protected activity, such as alleging Prohibited Conduct, harassment, or illegal discrimination, filing a complaint, assisting or participating in an investigation of such complaint, or advocating for others' Title IX or Title VII rights. Examples of retaliatory actions could include suspension, demotion, or termination in the employment context; lowering a grade or dismissing a student from a program; or maliciously and purposefully interfering with, threatening, or damaging the academic or professional career of another individual before, during, or after the investigation and resolution of a report of conduct prohibited by this Policy. This Policy prohibits retaliation in the form of harassment, intimidation, threats, or coercion, or in the form of any materially adverse harm that would dissuade a reasonable student, employee, or third party from filing a complaint or participating in a Prohibited Conduct related investigation.

Any employee or student who retaliates against an individual in violation of the law and/or this Policy is subject to disciplinary action, up to and including termination from employment or dismissal as a student from the University.

G. REPORTING PROCEDURES, CONFIDENTIALITY, AND RIGHTS

The University of Alabama takes allegations of Prohibited Conduct seriously and is committed to taking immediate action to combat Prohibited Conduct, prevent its recurrence, and remedy its effects. The University will address all allegations of Prohibited Conduct with a prompt, thorough, and impartial inquiry to determine what is more likely than not to have occurred and to take appropriate steps to resolve the situation and determine an equitable resolution.

1. Reporting Procedures

a. Mandatory Reporting of Child Abuse to UAPD

For child protection purposes, a child is any person under 18 years of age. A freshman student, a "dual enrolled" high school student, or a summer camp participant, among others, may fall into the category of a "child." Alabama law imposes a mandatory reporting duty of known or suspected child abuse on certain individuals, including all University employees, who must report to The University of Alabama Police Department (UAPD). University policy implementing the law also encourages students, volunteers, and representatives as well as third-party vendors and their employees, representatives, or volunteers that contract for use of University facilities with responsibilities that involve interaction with children to report (orally and then in written form) known or suspected child abuse to UAPD. Sexual abuse, which is one element of the more comprehensive term "abuse" under the Alabama law, includes actual or attempted rape, molestation, sexual exploitation, etc. To review a complete copy of the

University's policy and procedures relating to reporting potential child abuse, including how to report to UAPD, please visit <https://www.ua.edu/about/policies/>.

b. Prompt Reporting

The University strongly encourages individuals to report alleged incidents of Prohibited Conduct or related retaliation to a Designated Responsible Reporting Official and, when appropriate, to law enforcement agencies. Prompt reporting of alleged Prohibited Conduct allows the University to take steps toward ending the Prohibited Conduct, preventing its recurrence, and remediating its effects. With regard to criminal investigations, preservation of the evidence (such as clothing, bodily fluids, and other physical evidence) will strengthen the investigations, which may result in a greater likelihood of holding the accused accountable.⁹ A delay in reporting may also limit the University's ability to address inappropriate behavior, and Respondent(s) and/or pertinent witnesses may no longer be affiliated with the University. There is no time limit on reporting or filing complaints of violations of this Policy; however, as noted above, prompt reporting is encouraged and delays in reporting may affect the investigation and evaluation of the report.

c. Report to Responsible Reporting Officials

In order to take appropriate action, the University must have notice of alleged Prohibited Conduct or related retaliation. Any individual who believes they have experienced or witnessed Prohibited Conduct or related retaliation is encouraged to report the behavior to a Designated Responsible Reporting Official, who will notify the Title IX Coordinator.¹⁰ When a Responsible Reporting Official, while acting in their official capacity as a University employee, knows or reasonably should know of the alleged offense, the Responsible Reporting Official must notify the Title IX Coordinator. Responsible Reporting Officials are not, however, required to report information to the Title IX Coordinator disclosed at public awareness events (e.g., Take Back the Night, protests, etc.) or during an individual's participation in a climate survey, focus group, or Institutional Review Board-approved human subject research protocol (i.e., IRB research). A report to the Title IX Coordinator is also not required if the information is disclosed as part of a routine academic experience (e.g., classroom discussion, writing assignment, research project, etc.) unless the reporting party clearly states that they want a report to be made or are seeking assistance.

When a Complainant contacts a Responsible Reporting Official, that official shall make a reasonable effort to advise the Complainant or other reporting party about (1) the Responsible Reporting Official's duty to inform the Title IX Coordinator about the incident (e.g., the names of the individuals involved; the time, place, and location; etc.), (2) the option of the Complainant or other reporting party to request that the Respondent not be informed of the identity of the Complainant (but that request may limit the University's ability to end the inappropriate conduct, prevent its recurrence, and remediate its effects), and (3) the fact that the Complainant or other reporting individual may share the information on a strictly confidential basis with professional mental health counselors on campus or the Women and Gender Resource Center.

- Other Employees, Students, & Visitors: Reports to all other University employees, including student employees (other than resident advisers, see footnote 6) and those not in a senior management role with overall responsibility for the daily operations of an academic, support or operational unit, are not considered reports to Responsible Reporting Officials. The same is

⁹ Please see Section 3 of **Appendix 4** to this Policy for additional guidance relating to preservation of evidence.

¹⁰ It is important to note that a Complainant is never required to report either to a confidential reporting office/individual or to a Responsible Reporting Official.

true with respect to students and visitors, who, likewise, are not considered Responsible Reporting Officials. These employees, students, and visitors, however, are encouraged to advise the Complainant of the role of the Designated Responsible Reporting Officials and/or strictly confidential reporting channels and/or are encouraged to share information with the Title IX Coordinator. Individuals with a recognized confidentiality privilege (see more information regarding strictly confidential reporting in Section G.2.a. herein) are not Responsible Reporting Officials and are not required to report to the Title IX Coordinator. However, these individuals are encouraged, in appropriate circumstances, to recommend that the Complainant contact the Title IX office or other Designated Responsible Reporting Official.

d. Contact Information for UAPD and Designated Responsible Reporting Officials

Contact information for Designated Responsible Reporting Officials and UAPD for students, employees, and campus visitors can be found below and on the Title IX website at www.titleix.ua.edu/report-a-violation.html.

- i. *Reporting to Law Enforcement:* The University encourages individuals to immediately report acts or threats of sexual assault, intimate partner (dating/domestic) violence, sexual exploitation, stalking, or any dangerous behavior to the University of Alabama Police Department (UAPD) or local police authorities. All law enforcement agencies can be contacted by calling Emergency 911. UAPD may be contacted at 1110 Jackson Ave., Tuscaloosa, AL 35487; www.police.ua.edu; (205) 348-5454.

With respect to reports occurring in Gadsden at the UA Gadsden Center, individuals should contact Emergency 911 or the Gadsden Police Department at 90 Broad St., Gadsden, AL 35901, (256) 549-4578.

Designated Responsible Reporting Officials are available to assist a Complainant with reporting to UAPD or local law enforcement; however, a Complainant is not required to report to law enforcement. The University may not in all cases receive notice of an alleged incident following a report to local law enforcement (e.g., the Tuscaloosa Police Department, the Northport Police Department, or the Tuscaloosa County Sheriff's Office). Therefore, to enable the University to assist a Complainant with interim accommodations/measures and support services, individuals who have contacted law enforcement are encouraged to also report to a Designated Responsible Reporting Official.

- ii. *Reporting to Designated Responsible Reporting Officials:* In addition to the Title IX website identified above, contact information for Designated Responsible Reporting Officials is listed below:

- The Title IX Coordinator and investigators in the Title IX office can receive all complaints of Prohibited Conduct. Contact information for the Title IX Coordinator is:
Beth Howard
(205) 348-5496
titleix@ua.edu
www.titleix.ua.edu
- The Office of Student Conduct professional staff can receive complaints of Prohibited Conduct when the Respondent is a University student. Contact information for the Office of Student Conduct is available at <https://studentconduct.sa.ua.edu/about/contact-us/>.
- Designated Harassment Resource Persons are designated by each college and other administrative units and can receive any complaint of Prohibited Conduct. A current list of

these officials can be found at www.eop.ua.edu/persons.html and is also accessible from the Title IX website, at www.titleix.ua.edu.

- Human Resources Partners can also receive complaints of Prohibited Conduct involving a University staff or student employee. A current list of HR Partners and their contact information is located at www.hr.ua.edu/hr-partners.

2. Confidentiality/Privacy

Conversations with Designated Responsible Reporting Officials are kept as private as possible and shared only on a need to know basis in order to assist in the active review, investigation, or resolution of the report and related issues. This privacy extends to both the Complainant and other necessary parties. The University will maintain as private any accommodations or interim protective measures provided to the Complainant or necessary parties if maintaining such confidentiality will not impair the ability of the University to provide the accommodations or protective measures. University employees assisting with a Title IX matter are expected to safeguard private information in accordance with applicable laws (including, but not limited to, FERPA, HIPAA, and other privacy laws).¹¹ Complainants are advised that requests for confidentiality may limit the University's efforts to end the inappropriate conduct, prevent its recurrence, and remediate its effects. However, information about incidents of alleged Prohibited Conduct must be shared with relevant administrators if the Title IX Coordinator determines that the University needs to take action to provide a safe and non-discriminatory environment for the entire campus community. Relevant factors that will be considered include, but are not limited to, credible evidence of Respondent's prior Prohibited Conduct, the seriousness of the alleged incident, risk of additional misconduct, and the use of a weapon. In all cases, the request for confidentiality by the person initiating the conversation is given full consideration.

- Strictly Confidential Reporting: University employees who qualify for the confidentiality privilege by law will maintain strict confidentiality in all circumstances. These include (but are not necessarily limited to) all employees of the Women & Gender Resource Center (WGRC), the University Counseling Center, the Student Health Center, University Medical Center, the Psychology Clinic, the Autism Spectrum Disorders Clinic, the Capstone Family Therapy Clinic, and the University of Alabama School of Law clinics. These individuals are prohibited from breaking confidentiality unless (i) given permission to do so by the person who disclosed the information; (ii) there is an imminent threat of harm to self or others; (iii) the conduct involves suspected abuse of a person under the age of 18; or (iv) otherwise required or permitted by law or court order. The University is not deemed to have notice of alleged Prohibited Conduct based on a report to these offices. A Complainant who wishes to receive accommodations and support measures, but who desires strict confidentiality should contact the WGRC Victim Advocate (see Section H below and **Appendix 2** to this Policy).
- Confidential Clery Act Reporting. If a Complainant desires strict confidentiality and is certain they will not pursue criminal action, they are encouraged to contact WGRC, which has been designated by the University as the office to confidentially receive information for inclusion in crime statistics and assist Complainants in understanding options, including free counseling, exploring legal and judicial remedies, and procedures to report crimes on a voluntary, confidential basis for inclusion in UA's crime statistics (without revealing personally identifiable information). Note: All confidential reports of sexual offenses that meet the Clery reporting criteria as determined by UAPD and that are made to the WGRC are included in UA campus crime statistics. Crimes reported to campus pastoral and other professional counselors or physicians or

¹¹ A Complainant is advised about a student's right under FERPA to request to inspect and review certain information about the allegations if the information directly relates to the student and the University maintains the record.

mental health professionals or others to whom a confidentiality privilege applies by law are not included unless the Complainant has chosen to report separately to a Campus Security Authority as defined by federal law.

- c. Anonymous reports may be made via The Hazing and Harassment Hotline (205-348-HALT (4258)). The extent of any investigation of an anonymous report will depend, in part, on the extent of the information provided.
- d. Online Reports: Online reports may be made by going to www.ua.edu/uact and completing the online incident form.

3. Rights of Complainants and Respondents

In addition to all other rights conferred by this Policy, the parties have the following rights:

- a. Complainant's Rights¹²
Students or employees reporting potential sexual assault, domestic violence, dating violence, or stalking have the following rights:
 - To be informed of available options for making a report;
 - To be notified that the Complainant is not required to make a statement or otherwise provide information relevant to the investigation; however, the University may be limited in its ability to respond without the Complainant's cooperation;
 - To be advised of the Complainant's right to simultaneously file a criminal complaint and a Title IX complaint with UA and to be advised of the University's prohibition on retaliation against an individual who exercises their rights under Title IX, Title VII, the Campus SaVE Act, or this Policy;
 - To decline to notify law enforcement authorities in cases of domestic violence, dating violence, sexual assault, and stalking cases;
 - To be assisted by campus authorities, if requested, when reporting a crime to law enforcement;
 - To have equal access to educational programs and activities and interim protective measures, as appropriate, regardless of whether one decides to report to a Responsible Reporting Official or instead to someone who is required by law to maintain confidentiality;
 - To receive information regarding University and community support resources (including, but not limited to, modification of academic, living, transportation, or working situations to avoid a hostile environment; and available health and mental health counseling, victim advocacy, safety planning, information about possible legal assistance, visa and immigration assistance, student financial aid, and, if applicable, disability accommodations). If the Complainant requests such accommodations or protective measures and if they are reasonably available, they will be provided regardless of whether the Complainant chooses to report the crime to law enforcement;
 - To request from the Title IX Coordinator that the University issue and enforce a no contact order when the University has jurisdiction to enforce a no contact order ;
 - To a thorough and impartial investigation if applicable/appropriate;

¹² ALA. CODE § 15-23-62 through 84 provides for Crime Complainant's Rights with regard to criminal proceedings in the State of Alabama. For a summary of those rights, please visit <https://ago.alabama.gov/Documents/File-Victim-Brochure.pdf>.

- If a student, to be accompanied by a support person/adviser at all University proceedings relevant to the investigation and hearing process, subject to the limitations outlined herein;¹³
- Subject to the limitations set forth herein, to be notified of significant actions and proceedings relevant to the University investigation and hearing process;
- To be notified of the appeal process and whether an appeal is available;
- To be notified in writing when final results become available (in crimes of violence or Title IX Prohibited Conduct cases);
- To have access to published policies regarding Prohibited Conduct and University disciplinary procedures, including the possible range of sanctions; and
- To be notified that information and materials the University obtains during its investigation into allegations of Prohibited Conduct may be disclosed to law enforcement or others in response to a valid subpoena.

b. Respondent's Rights

- To a notice of the allegations, or Code of Conduct charges (if applicable), an opportunity to respond to allegations, and access to policy statements regarding the investigation process and possible sanctions;
- To receive information regarding University and community support resources (including, but not limited to, modification of academic, living, transportation, or working situations to avoid a hostile environment, and available health and mental health counseling, information about possible legal assistance, advocacy, safety planning, visa and immigration assistance, student financial aid, and, if applicable disability accommodations);¹⁴
- To request from the Title IX Coordinator that the University issue and enforce a no contact order when the University has jurisdiction to enforce a no contact order;
- To a thorough and impartial investigation if applicable/appropriate;
- If a student, to be accompanied by a support person/adviser at all University proceedings relevant to the investigation and hearing process, subject to the limitations outlined herein (see footnote 12);
- Subject to the limitations set forth herein, to be notified of significant actions and proceedings relevant to the University investigation and hearing process;
- To be notified of the appeal process and whether an appeal is available;
- To be notified in writing when final results become available;
- To have access to published policies regarding Prohibited Conduct and University disciplinary procedures, including the possible range of sanctions;

¹³ Student Respondents and Complainants are entitled to one support person or adviser (used interchangeably) throughout the investigation and hearing process outlined in this Policy. However, that adviser may not be someone who has any direct knowledge of the allegations or who may be considered a witness during the investigation or hearing process. The support person may not speak on the Complainant's or Respondent's behalf or otherwise directly participate in any part of the investigation or hearing process. The support person's only role is to provide support, assistance, or consultation to the Complainant or Respondent. The support person may be legal counsel, but participation will be limited as stated herein. An adviser's failure to comply with the participation limitations outlined in this Policy and the Code of Student Conduct may cause conduct violations relating to an abuse of the conduct system to be asserted against the student they are advising. Additionally, an adviser's failure to comply with the participation limitations outlined in this Policy and the Code of Student Conduct may cause the University to bar the adviser from participation in the investigation and hearing process outlined in this Policy. Any fees charged by the support person are the sole responsibility of the requesting party. When an employee is the Respondent, no support person/adviser may be present during any meeting under this Policy. If an employee is the Respondent and is also a student, no support person may be present during any meeting under this Policy except for charges being pursued through the Code of Student Conduct.

¹⁴ If any interim sanctions or measures are put in place (for Respondent or Complainant), those sanctions or measures may impact the availability of certain resources and available accommodations, if they restrict an individual's access to areas of campus.

- To be notified that Respondent is not required to make a statement or otherwise provide information relevant to the investigation. However, the investigation will continue and a decision regarding responsibility may be made based on the available statements and evidence;
- To be notified that information and materials the University obtains during its investigation into allegations of Prohibited Conduct may be disclosed to law enforcement or others in response to a valid subpoena.

H. POTENTIAL CONFLICTS OF INTEREST / BIAS

Matters related to this Policy should be handled by people free of any actual or reasonably perceived conflicts of interest and biases for or against any party. Any person exercising investigative or decision-making authority under this Policy, who believes they may have a conflict of interest or bias that would prevent them from impartially exercising their authority, shall disclose the potential conflict/bias to the Title IX Coordinator (or designee) as soon as practicable after it is discovered. Arrangements will then be made to designate a conflict/bias-free alternative decision-maker in the case at issue. Furthermore, if the Complainant or the Respondent believes a person exercising investigative or decision-making authority under this Policy has a conflict of interest or bias relating to the Complainant or Respondent that would prevent the person from exercising their authority impartially, the Complainant or Respondent may make a prompt objection to the Title IX Coordinator (or designee) within five (5) calendar days of becoming aware of the potential conflict. If the Complainant or the Respondent believes the Title IX Coordinator has a conflict of interest or bias, such objection should be made to the Associate Provost for Administration (or designee). Regardless of the time period, such objection must occur before the Title IX Coordinator (or designee) makes a final determination as to responsibility under the Policy. If the objection as to a conflict or bias is made with respect to the chairperson or a member of a hearing panel, such objection must occur before the scheduled hearing. If the Title IX Coordinator or designee determines that the objection is reasonable, the challenged person will be replaced. The decision of the Title IX Coordinator, Associate Provost, or designee regarding a challenge will be final.¹⁵

I. PROCESSING OF A PROHIBITED CONDUCT COMPLAINT

Complaints of Prohibited Conduct will receive prompt attention. Complaints may generally be resolved through the informal or formal procedures described below, or a Complainant's actions may trigger the University to take Limited Action. The choice of where to begin rests with the Title IX Coordinator or designee who will, when possible, consult with the Complainant before making this determination. Ultimately, the choice of how to proceed with a report of Prohibited Conduct lies with the Title IX Coordinator.

If a complaint is filed with the Title IX Coordinator that is not subject to this Policy, the Title IX Coordinator may refer the complaint to the appropriate University official. A determination by the Title IX Coordinator that a complaint is not subject to this Policy is final and not open for appeal.

Reports of Prohibited Conduct received by the Title IX Office may be handled according to the following paths:

¹⁵ Knowledge of or acquaintance with the Complainant, Respondent, or witnesses in a matter; awareness of a matter; participation as a consequence of one's official role in events surrounding a matter; and/or participation in the investigation process prior to the formal disciplinary process does not automatically result in the finding of a disqualifying conflict; however, such factors may be considered in determining if a conflict exists.

1. Limited Action

Limited Action may be taken in response to a report of potential Prohibited Conduct in the following situations:

- The Complainant requests that the report of Prohibited Conduct not be disclosed to the Respondent;
- The Complainant declines to identify the Respondent;
- The Complainant declines to respond¹⁶ to communications from the Title IX Office staff;
- The Complainant requests that the University not investigate the incident or end an ongoing investigation; or
- The Complainant requests that no disciplinary action be taken against the Respondent.

When a Complainant's actions potentially trigger a Limited Action response, the Title IX Coordinator (or designee) will give full consideration to any request from the Complainant. When possible, a Complainant's express request for Limited Action will be honored.

If the decision is made to take Limited Action, the University may take action to end any inappropriate conduct, prevent its recurrence, and remediate its effects. Steps taken by the University may include offering resources to the Complainant, providing targeted training/prevention programming, and/or imposing other remedies as appropriate. A Complainant whose actions have triggered a response of Limited Action may elect to pursue informal or formal resolution in the future if the University has jurisdiction over the Respondent and if such procedures are available to the Complainant.

There are times when the Title IX Coordinator (or designee), after considering the alleged facts known at the time of the report, cannot proceed with only Limited Action due to the University's commitment to provide a safe and non-discriminatory environment for the entire campus community, including the Complainant. If the Title IX Coordinator (or designee) determines that the matter is sufficiently grave or poses a safety risk to the University community, then the Designated Responsible Reporting Official and/or Title IX Coordinator may initiate a formal procedure, or take other appropriate action. Factors to be considered by the Title IX Coordinator (or designee) to determine when to move forward with something other than Limited Action include, but are not limited to, the following:

- The alleged behavior is part of a persistent pattern by the Respondent;
- Allegations of the Respondent's prior Prohibited Conduct based on credible evidence;
- The risk of additional Prohibited Conduct perpetrated by the Respondent;
- The nature of the alleged offense, including the seriousness or the alleged incident of Prohibited Conduct and/or whether the Prohibited Conduct involved the use of a weapon; and
- Whether the University can pursue the investigation without the participation of the Complainant.

When a Complainant declines to participate in the Informal and/or Formal Procedures, the University may be limited in its ability to meaningfully investigate and respond to a report of Prohibited Conduct. In such instances, the University may proceed with the Informal or Formal Procedures based on its independent collection of relevant information to which it has access, including statements from witnesses, social media posts, surveillance video footage, physical evidence, and other sources that may corroborate or contradict available information.

¹⁶ A Complainant may decline to respond to communications from the Title IX Office staff by either explicitly stating that they do not want to respond or by not responding to communications.

2. Informal Procedures

If the complaint is resolved informally, no record of the complaint will be entered in the Respondent's personnel file or Office of Student Conduct record. However, the Title IX Coordinator's Office will record the facts of the complaint and the resolution achieved as part of its internal records. Options for informal resolution of a complaint include:

- a. Preliminary Inquiry: The Title IX Coordinator or designee may conduct a preliminary inquiry to determine if the allegations fall under this Policy and consider the best path forward. The Title IX Coordinator may speak with parties, witnesses, and/or gather other information to make a determination regarding whether to proceed with an investigation. If in the sole discretion of the Title IX Coordinator or designee, there is insufficient information to move forward with a formal investigation, the Title IX Office will close its investigation and will not issue a finding. The Title IX Office may offer resources and/or interim measures as it deems appropriate based on the information learned in the preliminary inquiry. The University reserves the right to reopen an inquiry or conduct a full investigation at any time.
- b. The Complainant is not required to but may, if they deem it appropriate and no safety risk is posed, attempt to resolve the matter directly with the Respondent and report back to the Designated Responsible Reporting Official;
- c. The Designated Responsible Reporting Official may notify the Respondent of the complaint, paying appropriate attention to the need to maintain confidentiality. The Designated Responsible Reporting Official may take whatever steps short of disciplinary sanctions that they deem appropriate to effect an informal resolution acceptable to both parties;
- d. Alternative Resolution: A party, after receiving notice of all relevant allegations, potential Policy violations, and the options for processing a complaint under this Policy, may request that the University agree to resolve the Prohibited Conduct report through alternative methods. All parties must agree to voluntarily participate in the informal, alternative resolution process and the University must deem that the matter to potentially be resolved is appropriate for the alternative resolution process. The University may gather information necessary through interviewing individuals and other evidence gathering in an effort to determine if the report is appropriate for alternative resolution. At any time during the alternative resolution process, either party may change their mind and proceed with a formal investigation or the Complainant may request to withdraw the complaint. If additional potential Policy violations are revealed during the alternative resolution process, the University may withdraw its approval for the process and proceed with a formal investigation or the University, with the consent of the parties, may continue the alternative resolution process and resolve the additional potential Policy violations. If a report of Prohibited Conduct is resolved by alternative resolution, the report would be deemed closed. Should the alternative resolution result in terms or conditions being imposed on one or both parties, a failure to subsequently adhere to those terms or conditions as written may subject the offending party to a Failure to Comply charge. Neither party has a right to appeal the outcome of the alternative resolution process.

Factors the University will consider when determining whether a report of Prohibited Conduct is suitable for alternative resolution include, but are not limited to, the following:

- The nature of the alleged offense;
- The dynamics of power or control commonly associated with the alleged offense;
- The Respondent's prior known conduct;
- Whether there would be a continuing safety threat to the campus community after resolution of the specific report of Prohibited Conduct;
- The dynamic of power or control associated with the parties involved;
- Whether multiple parties are involved;

- Whether the resolution proposed is designed to eliminate, prevent, and address the reported Prohibited Conduct;
 - Any other factor deemed relevant by the Title IX Coordinator in the interest of overall campus safety or safety of the parties involved.
- e. A party may end an informal proceeding at any time and move to the formal process outlined below.

3. Formal Investigation and Resolution Procedures

The formal investigation and resolution procedures are used whenever other means are deemed inappropriate or are unsuccessful in resolving a complaint brought pursuant to this Policy. All meetings, discussions, and/or hearings that may occur as part of this formal process are closed to the general public.

a. Time Frames

Reports or complaints of Prohibited Conduct will be resolved as promptly as practicable after the report or complaint is made. Reasonable efforts will be made to arrive at an initial investigative finding as outlined herein (excluding hearings and appeals) within a prompt and reasonable time frame following the receipt of a complaint.¹⁷ The University will provide the parties with periodic updates as it deems appropriate and with timely notice of meetings at which either or both the Complainant and Respondent may be present, and will provide both parties with timely and equal access to any information that is utilized in the decision-making process. If applicable, policies provide for a hearing and one is properly requested, reasonable efforts will be made to hold the hearing within fourteen (14) University business days of the request for hearing.¹⁸ Efforts will be made to hold any subsequent review that is promptly requested and available under an applicable policy within seven (7) University business days of the request.

Extenuating circumstances could require the process to extend beyond the time frames described above, and the University will determine in its discretion if such circumstances exist and will notify the Complainant and Respondent of the delay and the reason for the delay. Potential reasons for requiring additional time for resolution of the process include, but are not limited to, the complexity of the investigation, the severity and extent of the alleged conduct, University closings, breaks, holidays, summer terms, lack of access to witnesses, and factors outside the University's control.

b. Equal Opportunity and Access

To the extent not already provided for by existing disciplinary procedures, the Complainant and the Respondent are entitled to the same opportunities to be heard, to present evidence, and to access pertinent information during the investigation and conduct process as appropriate. Both the Complainant and Respondent will be updated on the status of the investigation and the outcome of any proceeding in an equitable manner. Accommodations and protective measures (as described in Section I below and **Appendices 2 & 3** to this Policy) may be taken to help protect the health and/or safety of the Complainant, Respondent, witnesses, and/or other members of the University community. Students and employees may request reasonable accommodations with regard to their participation in a Prohibited Conduct Investigation or access to the resources provided by the Title IX Office. Students must self-identify if they need reasonable and appropriate accommodations to participate in an investigation or obtain access to the resources provided by the Title IX Office and documentation of the reasonable

¹⁷ Accommodations and resources may be offered and/or interim protective measures initiated immediately after a report or complaint of Prohibited Conduct is made as well as during the course of the initial investigation.

¹⁸ In matters involving faculty Respondents with hearing and/or appeal rights, the applicable hearing process may provide for a hearing beyond the fourteen (14) University business days.

accommodations required should be provided through the process outlined by the Office of Disability Services.¹⁹

c. Standard of Proof

The standard used to determine whether the Respondent is responsible for Prohibited Conduct is preponderance of the evidence, which means more likely than not the alleged conduct occurred and said conduct is in violation of this Policy.²⁰

d. Mandatory Investigations

Alleged conduct within the jurisdiction of this Policy that has resulted in a criminal arrest will be investigated by the University. A complaint may, however, be handled through Limited Action or resolved through appropriate informal measures as discussed above in I. Ultimately, the choice of how to proceed with a report of Prohibited Conduct lies with the Title IX Coordinator.

e. Formal Investigation Procedure

The formal investigation procedure followed pursuant to this Policy is determined by the Respondent's role with the University:

i. *Complaint against student Respondent*

Complaints wherein a student is the Respondent are investigated by the Title IX office in conjunction with the Office of Student Conduct. All matters involving incidents of Prohibited Conduct allegedly committed by a student will be handled in a manner consistent with the requirements, accommodations, procedures, and processes outlined in this Policy.²¹ Hearings and appeals for complaints against a student involving Prohibited Conduct are discussed in detail below.

ii. *Complaint against faculty or staff Respondent*

Complaints wherein a faculty or staff member is the Respondent are investigated by the Title IX Office, alone or in conjunction with designated harassment resource officers and/or, if applicable, human resource partners. Following the investigation, the Title IX Coordinator will provide a report to the applicable decision-making official. A conclusion by the Title IX Coordinator that Prohibited Conduct has occurred shall subject the Respondent to appropriate disciplinary sanctions. A conclusion that Prohibited Conduct has not occurred will in most cases end the process, unless the Complainant has the right to appeal, which only exists if the Respondent has the right to appeal an adverse determination.²²

iii. *Complaint against community member/third party/campus visitor Respondent*

Consistent with the jurisdiction of this Policy, in instances where a complaint is received against a community member/third party/campus visitor²³ (not a student or employee) related to alleged Prohibited Conduct occurring on campus or at any location involving a University-sponsored activity or event, the Title IX Coordinator (or a designated investigator) may conduct an investigation and make a

¹⁹ The Office of Disability Services is located at 1000 Houser Hall and may be reached at (205) 348-4285 (Voice) or (205) 348-3081 (TTY).

²⁰ This standard will apply to all charges, including any that incorporate or reference a state or federal criminal law.

²¹ Certain terms used in this Policy may also be defined in the Code of Student Conduct. To the extent there is an inconsistency between the substance of this Policy and the Code of Student Conduct related to the handling of Prohibited Conduct allegations covered by this Policy, the terms of this Policy will control.

²² To the extent there is inconsistency between the substance of this Policy and the University's Harassment Policy related to the handling of sexual harassment/hostile work environment allegations against University employees or community members or third parties, the terms of this Policy will control.

²³ For purposes of this Policy, an individual's status as a University graduate, alumni, or donor does not afford the University jurisdiction over that individual solely based on that status.

determination regarding whether the conduct in question is in violation of University policy. A conclusion by the Title IX Coordinator that Prohibited Conduct in violation of this Policy has occurred may subject the community member/third party/campus visitor to disciplinary action. A conclusion by the Title IX Coordinator that Prohibited Conduct has not occurred will in most cases end the process, as no appeal right exists for the community member/third party/campus visitor, and therefore does not exist for the Complainant in this situation. For the sake of clarity, community members/third parties/campus visitors are also not entitled to any of the rights afforded to Respondents pursuant to this Policy.

The University will not investigate incidents alleging Prohibited Conduct by community members/third parties/campus visitors if the alleged incident occurred off campus and did not involve a University-sponsored activity or event. In certain instances, the Title IX Office may assist the Complainant in filing a report with an appropriate law enforcement agency. In addition, an assessment will be made by the Title IX Office to determine if additional actions should be taken to protect the health and safety of the Complainant or the campus community.

f. Formal Investigation Process

When initiated, the goal of the investigation is to determine if it is more likely than not that conduct occurred in violation of University policy and, if so, to end the specific misconduct, prevent its recurrence, and remedy the effects on the Complainant and the University community.

- *Discussion with Complainant*—The investigator(s) will conduct an initial meeting with the Complainant. During this initial meeting, the investigator(s) and the Complainant will discuss available University resources for support (accommodations and interim support measures) as well as the rights and options for pursuing a complaint under this Policy and for pursuing criminal charges. The investigator(s) will obtain as much information as possible during the initial meeting about the alleged incident, including witness names and any available evidence. The Complainant may, at any time during the investigation process, request that the investigation end and the University will try to accommodate this request, which may result in a finding that the Respondent is not responsible for the alleged conduct. However, if the alleged conduct presents an issue of overall campus safety and/or is sufficiently grave, the investigator(s) may continue with the investigation without the Complainant's consent.
- *Discussion with Respondent*—The allegations, subject to confidentiality concerns, will be discussed with the Respondent. The investigator(s) and the Respondent will discuss the Respondent's rights as well as available University resources for support while the investigation is pending. The Respondent will be given the opportunity to respond to the allegations and offer evidence and/or potential witnesses. The Respondent is not required to make a statement or otherwise provide information relevant to the investigation. However, the investigation will continue and a decision regarding responsibility may be made based on the available statements and evidence.
 - After receiving notice of the allegations, the Respondent may accept responsibility for the asserted violation of the Policy without proceeding with a full formal investigation. By doing so, the Respondent waives their right to appeal the finding of responsibility in any manner. In such instances, the investigator(s), in consultation with the Title IX Coordinator, may obtain any additional information necessary to determine appropriate sanctions. Both the Complainant and the Respondent shall be informed concurrently in writing of the Respondent's acceptance of responsibility and assigned sanctions. Any appeal of the

sanctions may only occur in accordance with the process described below in I.4 Reviews/Appeals.

- *Other Evidence*—The investigator(s) will make reasonable attempts to contact and interview individuals who are identified as witnesses with information relevant to the allegations of Prohibited Conduct. The investigator(s) may elect not to interview witnesses whose sole purpose is to provide character information or who are otherwise unlikely to have relevant information as determined in the sole discretion of the investigator(s). The investigator(s) will make reasonable attempts to obtain other relevant evidence available from the parties, witnesses, or other University departments.

g. Hearing Procedures

i. *Hearing Procedures for Students*

- *Accepting Responsibility*—Following the investigation, the Title IX Coordinator (or designee), in consultation with the Office of Student Conduct, will prepare a letter of findings that outlines whether the evidence more likely than not supports a finding of responsibility. If it is determined that the evidence supports a finding of responsibility, the letter will also include sanctions that the Conduct Administrator has approved, and the Respondent will be given an opportunity to accept responsibility and the accompanying sanctions or request a hearing. If responsibility is accepted, the Respondent or Complainant may appeal the sanction(s) within seven (7) calendar days of the delivery of the sanction(s). If a formal hearing request or review is not timely made, the findings, including any accompanying sanctions, will be deemed final.
- *Formal Hearing*—The Complainant and Respondent both have the right to request a formal hearing before a Conduct Body as outlined herein, but must submit that request in writing to the Conduct Administrator within seven (7) calendar days of the issuance of the letter of findings. If the Respondent does not accept responsibility, the Respondent may request a formal hearing on the allegations before a Conduct Body as outlined herein. Also, if the Title IX Coordinator (or designee) is unable to conclude that substantial information exists to support a violation of this Policy, the Complainant will be notified in writing that the information obtained does not establish by a preponderance of evidence that the Respondent has violated the Policy. The Complainant will be advised that they have the right to request a formal hearing on the allegations before a Conduct Body as outlined herein. If seven (7) calendar days pass without a party properly requesting a formal hearing, the determinations contained in the letter of findings will be deemed final.
- *Student Respondent Withdrawal/Failure to Re-enroll from the University*—If a Respondent voluntarily withdraws from the University, fails to re-enroll for a subsequent semester, or otherwise is no longer associated with the University as a student after an investigation is initiated before a letter of findings is issued or, if properly requested, before a hearing is fully conducted, a hold will be placed on the Respondent's record that prevents them from registering or enrolling at the University in the future. Additionally, the Respondent may be prohibited from entering campus or attending campus-sponsored events. The Respondent's disciplinary record may indicate that they withdrew after a complaint was asserted and pending disciplinary review. Resolution of the case and permission from the Title IX Office and Office of Student Conduct will be required before a withdrawn/failure to re-enroll student may be permitted to re-enroll.

Even if a Respondent withdraws/fails to re-enroll, the Title IX Office, in consultation with the Office of Student Conduct, may still elect to issue a letter of findings or move forward with a hearing. A Respondent may also voluntarily submit themselves to the University's jurisdiction and request that the Title IX Office continue with the investigation process to reach a resolution. Even in that case, the determination of whether the University will continue with an investigation and issue a letter of findings is within the sole discretion of the Title IX Coordinator (or designee). A Complainant involved in the allegations against the withdrawn/failed to re-enroll Respondent will continue to have access to all reasonably available resources and accommodations outlined in this Policy following Respondent's departure and will be notified of the Respondent's departure. If the Respondent requests resolution of the case in order to seek re-enrollment and the Complainant is no longer enrolled or otherwise associated with the University, the University will proceed with resolving the case in the interest of overall campus safety using relevant information the Title IX Coordinator (or designee) determines to be reasonably available.

Student Conduct Body. For hearings involving allegations of Prohibited Conduct, the Conduct Administrator (or designee) will appoint a Conduct Body composed of three faculty and/or staff members who have received specialized training. All members of the Conduct Body will receive annual training specifically concerning Prohibited Conduct allegations. The Conduct Administrator (or designee) shall make inquiries of prospective panel members to ascertain whether a panel member has any conflict of interest or bias for or against the Complainant or Respondent that would prevent them from rendering an impartial decision, thereby precluding the panel member from serving. The identity of the Conduct Body members shall be provided to both the Respondent and the Complainant prior to the hearing. The Conduct Administrator will appoint one member of the panel to be the chairperson, who will be responsible for the conduct of the hearing, including certain questioning and maintaining proper decorum.

Student Hearing. The hearing will be scheduled and will proceed according to guidelines set forth in the Code of Student Conduct with the below modifications to ensure equity for both parties.

- Subject to the limitations stated in this Policy and the Code of Student Conduct, both the Complainant and the Respondent have the same opportunity to have present during the hearing any support person/adviser of their choice, at their own expense. The adviser, who may be an attorney, may privately consult with and advise the party but may not question witnesses, make statements, or otherwise directly participate in the proceedings. The chairperson of the Conduct Body may remove or dismiss a support person/adviser who becomes disruptive or who does not abide by the limitations on their participation.²⁴
- All evidence each party wishes to be considered by the Conduct Body should be presented to the investigator(s) during the investigation process. If evidence is not provided to the investigator during the investigation process, then presentation of those materials during the hearing is at the discretion of the chairperson but generally will only be allowed based on new information not known during the investigation process. Further, all materials that the investigator, Complainant, or Respondent want the Conduct Body to consider must be submitted to the Conduct Administrator (or designee) at least four (4) calendar days prior to the hearing. The Conduct Administrator (or designee) will provide the submitted materials to the Conduct Body and make copies available for inspection by the Complainant and Respondent at least three (3) calendar days prior to the hearing, consistent with FERPA or other regulation governing the disclosure of

²⁴ See footnote 12 regarding support person/adviser.

education records. Any materials submitted and/or discovered fewer than four (4) calendar days before the hearing may only be considered at the sole discretion of the chairperson of the Conduct Body.

- The letter of findings issued following the Title IX Office's initial investigation will be included in the materials submitted to the Conduct Body for review prior to the hearing. Complainant and/or Respondent may submit a written response to the letter of findings. Such written response must be submitted to the Conduct Administrator (or designee) at least four (4) calendar days prior to the hearing. The Conduct Administrator (or designee) will provide the submitted materials to the Conduct Body and make copies available for inspection by the Complainant and Respondent at least three (3) calendar days prior to the hearing, consistent with FERPA or other regulation governing the disclosure of education records.
- Once the letter of findings is issued and a hearing has properly been requested, either party may make a written request to review the Title IX investigative file before submitting a written response to the letter of findings.
- The Complainant and the Respondent have the right to present witnesses, subject to the discretion of the chairperson. Each party must provide a list of potential hearing witnesses to the Conduct Administrator (or designee) at least four (4) calendar days prior to the hearing. The Conduct Administrator (or designee) will provide the witness list(s) to the Conduct Body and all relevant student parties involved in the matter at least three (3) calendar days prior to the hearing. Any hearing witness presented must have been identified and accessible to the investigator during the investigation process. If a witness is not provided to the investigator during the investigation process, then presentation of that witness during the hearing is at the sole discretion of the chairperson and generally will only be allowed based on new information not known during the investigation process. Additionally, character witnesses will generally not be allowed, but a character witness may be permitted at the discretion of the chairperson.
- All questioning of parties is conducted through the Conduct Body. A party does not have a right to question or cross examine another party directly. A party may recommend direct questions to be asked of another party by submitting them in writing to the Conduct Administrator (or designee) three (3) calendar days prior to the hearing; the Conduct Administrator will provide them to the Conduct Body. During the hearing, a party may also suggest questions to the Conduct Body for the other party based on information presented during the hearing. The Conduct Chair, in their sole discretion, will determine the relevancy of all questions presented, and, if they are deemed relevant, the chairperson may pose the questions to the other party. The Conduct Chair has discretion to alter the exact wording of any proposed question. Parties may directly question non-party witnesses or provide proposed questions to the Conduct Body. The Conduct Body may also independently question the parties, witnesses, and/or investigator to elicit relevant information. .
- Subject to the terms of this Policy, pertinent records, exhibits and written statements may be accepted as information for consideration by a Conduct Body at the discretion of the chairperson. If witnesses or parties are not available or otherwise do not participate in the hearing, the Conduct Body may consider the summary of the individual's investigative interview and/or any available recording of that interview in lieu of hearing testimony. Should a party elect not to participate in the hearing, that party's absence may have an impact on their likely preferred outcome for the hearing. For hearings involving sexual assault, evidence of the Complainant's sexual history or behavior is not relevant if it is offered to prove that the Complainant engaged in other sexual behavior or to prove the Complainant's sexual predisposition unless the evidence of specific instances of sexual behavior by the Complainant is offered to show:
 - Prior or subsequent sexual encounters between the Complainant and the Respondent;

- That a person other than the Respondent was the source of semen, injury, or other physical evidence;
 - Consent; or
 - The Complainant made prior false allegation(s) of sexual assault.
- Following consideration of all evidence presented, the Conduct Body will issue a decision, based on a majority vote and by a preponderance of evidence, regarding responsibility and, if applicable, recommend sanctions to be imposed by the Conduct Administrator pursuant to the guidelines in the Code of Student Conduct. The Conduct Body's deliberations, which will be conducted in private, will not be recorded.

ii. *Hearing Procedures for Employees*

When a UA employee is the Respondent in a Prohibited Conduct investigation, procedures described in the University Harassment Policy or, if applicable, Faculty Handbook will be followed.

h. Notification of Findings

Both the Complainant and the Respondent shall be informed concurrently in writing of the final outcome of any institutional disciplinary proceeding/process involving Prohibited Conduct allegations.

Notwithstanding federal privacy rules regarding students (FERPA), the University is required to disclose in writing to the alleged victim of a crime of violence or a non-forcible sex offense, the final results of any disciplinary proceeding conducted by the University against a student Respondent who is the alleged perpetrator of such crime or offense. If the alleged Complainant is deceased as a result of such crime or offense, the next of kin of such Complainant will be notified. The final results of the disciplinary proceeding involving a student include the violation committed (UA rules, policy, or code sections violated and any essential findings supporting the conclusion) and any sanction that is imposed against the student.

3. Sanctions

While an investigation is pending, a student may be subject to interim measures pursuant to the Code of Student Conduct and an employee may be placed on administrative leave. Following a determination of responsibility pursuant to the applicable investigation procedure as discussed above, the University may impose a range of sanctions as identified below. Sanctions imposed will be determined on the basis of the facts of each case and a Respondent's prior conduct history. Additional details regarding the disciplinary process and potential sanctions may be found in the current Code of Student Conduct, Employee Handbook, or Faculty Handbook. Sanctions may include any one, or any combination of the ones, listed below.

- Student as the Respondent
Sanctions imposed against students are dictated by the Code of Student Conduct. A student found responsible for violation of this Policy is subject to sanctions up to and including expulsion from the University. Lesser disciplinary sanctions include warning, probation, loss of privileges, no contact order, campus ban/no trespass warning from UAPD, campus access limitations, residence hall suspension or transfer/expulsion, educational assignment, fines, restitution, community service, University suspension, referral to proper law enforcement authorities for prosecution, or other discretionary sanction(s) as deemed appropriate by the Office of Student Conduct. A more comprehensive list of potential student sanctions is outlined in the Code of Student Conduct.²⁵

²⁵ www.sc.ua.edu/conduct.pdf

- Faculty as the Respondent

A determination as set forth above that a violation of this Policy has occurred shall subject a faculty member to appropriate disciplinary action subject to the current Faculty Handbook.²⁶ Appropriate sanctions will be based on such factors as severity, frequency, and degree of deviation from expectations in this Policy. Possible sanctions may include, but are not limited to, no contact order, verbal counseling, written counseling or warning, official reprimand, mandatory counseling, mandatory attendance at the Employee Assistance Program, educational assignment, fines, restitution, paid or unpaid administrative leave, release from teaching duties, reassignment of responsibilities, loss of ability to travel abroad or apply for sabbatical leaves, ineligibility to receive promotion, suspension of annual merit increase, decrease in salary, suspension, demotion, transfer and/or reassignment of duties, revocation of tenure, termination of employment, campus ban/no trespass warning from UAPD, prohibition on further employment or volunteer activity at the University, loss of University benefits for retirees and referral to proper law enforcement authorities for prosecution.

- Staff as the Respondent

A determination as set forth above that a violation of this Policy has occurred shall subject a staff member to appropriate disciplinary action pursuant to the current Employee Handbook.²⁷ The University has adopted a philosophy of progressive discipline. However, one violation of this Policy could result in termination of employment. Appropriate sanctions will be based on such factors as severity, frequency, and degree of deviation from expectations in this Policy. Possible sanctions may include, but are not limited to, no contact order, verbal counseling, written counseling or warning, official reprimand, mandatory counseling, mandatory attendance at the Employee Assistance Program, educational assignment, fines, restitution, paid or unpaid administrative leave, reassignment of responsibilities, ineligibility to receive raise or promotion, suspension of annual merit increase, decrease in salary, suspension, demotion, transfer, termination of employment, campus ban/no trespass warning from UAPD, prohibition on further employment at the University, loss of University benefits for retirees, and referral to proper law enforcement authorities for prosecution.

- Community Member/Third Party/Campus Visitor as the Respondent

A determination as set forth herein that a violation of this Policy has occurred may subject a community member/third party/campus visitor to appropriate sanctions, which may include, but are not limited to, no contact order, verbal counseling, written counseling or warning, mandatory counseling, educational assignment, fines, restitution, prohibition on employment or volunteer activities at the University, campus ban/no trespass warning from UAPD, ineligibility for programs open to various groups, notification to the entity with which the community member/third party/campus visitor is associated, and referral to proper law enforcement authorities for prosecution. UA's ability to enforce any such sanctions may be limited based on, among other things, UA having no direct control over, connection, relationship, or affiliation with the community member/third party/campus visitor.

4. Reviews/Appeals

Both the Complainant and Respondent, when they are affiliated with the University as a student or employee, have an equitable opportunity for appeal.

²⁶ www.facultyhandbook.ua.edu

²⁷ https://hr-estus.f.a.ua.edu/HRFormsOnlinePub/HR%20Forms%20%20Online/Staff_Handbook.pdf

- *Student as Respondent*—Both the Complainant and Respondent may appeal by seeking a review of the decision contained in the Title IX Coordinator’s initial letter of findings by requesting a formal hearing as outlined above. In circumstances where the Respondent accepts responsibility of the allegations, either party may seek a review of the Conduct Administrator’s determination of sanctions. Following a hearing, both the Complainant and Respondent have a right to seek a review of the Conduct Body’s decision with regard to a finding of responsibility or non-responsibility and/or the imposed sanctions. The process and timing for the review is outlined in the Code of Student Conduct section on “Reviews”, except as modified below:
 - Review requests by Complainants: In matters involving allegations of Prohibited Conduct, Complainant’s request for a review of sanction(s) by the Vice President of Student Life or designee may result in a decision to reduce, uphold, or increase the sanction(s). A decision to modify any sanctions will be based on an application of the review criteria set forth in the Code of Student Conduct to the case materials provided to the Vice President of Student Life.
- *Employee as Respondent*—To the extent the University’s disciplinary process involving an employee would ever permit an appeal for the Respondent, the same appeal rights would be afforded the Complainant.

J. ACCOMMODATIONS, INTERIM PROTECTIVE MEASURES, AND SUPPORT SERVICES

For all reports of Prohibited Conduct, the University will take prompt and reasonable action to provide support to all parties involved. A Complainant is not required to file a formal complaint, report the incident to law enforcement, or pursue criminal charges to receive assistance with University resources, which includes assistance with interim protective measures from either the Title IX Coordinator or, if the Complainant desires strict confidentiality, from the WGRC Victim Advocate.²⁸ The need for University resources varies based on the facts of the specific incident and the individual’s needs. The Title IX Coordinator may take protective action, including accommodations, for the Complainant and/or Respondent upon request and if such action is reasonably available. In addition to what is set forth in this Section and **Appendices 2 & 3**, other interim protective measures may be available based on specific circumstances. Moreover, the University may take action without a request from either party if the University determines doing so is in the best interests of a student, employee, or the University community. Accommodations and/or support services may be limited or unavailable if interim measures are put in place that restrict an individual’s access to areas of campus. The Title IX Coordinator, or if strict confidentiality is desired, the WGRC Victim Advocate, should be contacted for additional information. Examples of potential interim protective measures and resources that may be available are generally outlined below. For more detailed information on available interim protective measures and resources, please see **Appendix 2** (Complainant Resources) and **Appendix 3** (Respondent Resources).

- Access to counseling services and assistance in setting up initial appointments
- Imposition of a “No-Contact Order”
- Advocacy support to obtain orders of protection within the criminal justice system
- Change in work schedule or job assignment
- Change in student’s campus housing or assistance with safe housing
- Emergency numbers for on and off campus law enforcement, and how the University can assist in notifying law enforcement if desired
- Limiting access to certain University facilities or activities pending resolution of the matter
- Voluntary leave of absence

²⁸ With reports of strict confidentiality, the WGRC Victim Advocate may request assistance from the Title IX Coordinator, but such assistance does not constitute notice to the University of an incident.

- Providing academic support services, such as tutoring, change in class schedule, rescheduling exams and assignments, and/or alternative course completion options
- Any other measure that may be reasonably tailored to the involved individuals to achieve the goals of this Policy.

K. DISHONEST, MALICIOUS, OR FRIVOLOUS ACCUSATIONS

A complaint of alleged Prohibited Conduct may not be substantiated, but a lack of corroborating evidence should not discourage a person from reporting an alleged incident and seeking relief under this Policy. All reports should be made in good faith, meaning the individual making the report has a reasonable belief that the reported statements are true and relate to a potential violation of University policy.

A bad faith report is one that is intentionally dishonest, frivolous, or malicious. When a report is made in bad faith, the bad faith report may deter other individuals from filing good faith reports, unnecessarily expend University and law enforcement resources, distract University and law enforcement officials from investigating good faith reports, and cause harm to the alleged accused and the community. It is a violation of this Policy to report intentionally dishonest, frivolous, or malicious allegations of Prohibited Conduct. If a complaint is brought in bad faith as demonstrated by a preponderance of the evidence, disciplinary action may be taken against the person making the complaint. In addition to violating this Policy, a person filing a bad faith report of Prohibited Conduct may be in violation of other University policies or state law.

L. CRIMINAL INVESTIGATIONS

University disciplinary proceedings may be instituted against a student or employee cited for a violation of a law that is also a violation of this Policy, the Code of Student Conduct, or other campus policies if both violations result from the same factual situation, without regard to the pendency of civil litigation in court or criminal arrest and prosecution. At the University's discretion, proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

In addition to being forbidden by this Policy, Prohibited Conduct may be a violation of federal or state criminal law. (See **Appendix 1** to this Policy for the text of related state or federal criminal offenses such as rape, fondling, incest, sexual abuse, domestic/dating violence, and stalking.) The University encourages individuals to immediately report criminal activity to UAPD or local law enforcement. Immediate reporting of crimes greatly enhances law enforcement's ability to collect and maintain evidence. For information about pursuing a criminal complaint, please contact UAPD at (205) 348-5454. The Title IX Coordinator, Designated Responsible Reporting Official, or WGRC may provide assistance or support to an individual voluntarily choosing to file a criminal complaint.

Please see **Appendix 4** to this Policy for more detailed information about (1) reporting to law enforcement and the interplay with the Title IX investigation; (2) the procedures followed after a report of a sexual offense is made to UAPD; and (3) the importance of taking steps to preserve evidence.

M. PREVENTION, EDUCATION, AND AWARENESS

The University of Alabama is committed to providing preventive, informative, and supportive programming for all members of the University community. Among other things, the University's comprehensive education and awareness plan consists of the following: implementation of this Policy; educational programming that addresses all aspects of Prohibited Conduct; the University's response to allegations of Prohibited Conduct; and University-provided support systems to remediate the effects of Prohibited Conduct.

The objectives of the comprehensive education and awareness plan are to:

- Widely disseminate this Policy to the University community through email communications, publications, websites, training programs, and other appropriate channels of communication.
- Identify conduct that is considered a violation of this Policy by defining sexual harassment, sexual assault, (including consent), sexual contact, and sexual exploitation, rape and other sexual offenses, intimate partner (dating/domestic) violence, and stalking (see Definitions in Section C above and **Appendix 1** to this Policy).
- Create multiple reporting options and inform students, employees, and community members of those options to encourage reporting.
- Educate students, employees, and community members about University disciplinary procedures.
- Inform students, employees, and community members of available University resources.
- Provide safe and positive options for bystander intervention.
- Provide information regarding risk reduction, general safety recommendations, and the warning signs of abusive behaviors.

Please see **Appendix 5** to this Policy for more detailed information on some of the prevention, education, and awareness programs the University offers.

N. ACADEMIC FREEDOM & SEXUAL HARASSMENT/HOSTILE ENVIRONMENT

In cases of alleged prohibited sexual misconduct, the protections of the First Amendment must be considered if issues of speech or artistic expression are involved. Free speech rights apply in the classroom and in all other educational programs and activities of public institutions, and First Amendment rights apply to the speech of students and employees. Great care must be taken not to inhibit open discussion, academic debate, and expression of personal opinion, particularly in the classroom. Nonetheless, speech or conduct of a harassing, sexual, or hostile nature that occurs in the context of educational instruction may exceed the protections of academic freedom and constitute prohibited harassment if it meets the definition of sexual misconduct and (1) is reasonably regarded as non-professorial speech (i.e. advances a personal interest of the student or faculty member as opposed to furthering the learning process or legitimate objectives of the course), or (2) lacks an accepted pedagogical purpose or is not germane to the academic subject matter.

*

*

*

In the event of any conflict, the Sexual Misconduct Policy found on the University's Title IX website will govern: www.titleix.ua.edu. The Sexual Misconduct Policy does not create a contract or quasi-contract between the University or any University employee and any individual that may be affected by the Policy. Further, although the policies contained herein are intended to reflect current rules and policies of the University, users are cautioned that changes or additions may have become effective since the publication of this material. In the event of a conflict, current statements of Board policy contained in the Bylaws, Rules, official minutes, and other pronouncements of the Board or Chancellor, or superseding law, shall prevail.

REVISED: August 20, 2015
August 16, 2016
August 23, 2017
August 22, 2018

APPENDIX -1-

APPENDIX -1-

PROHIBITED CONDUCT DEFINED (UA, STATE, & FEDERAL DEFINITIONS)

For purposes of the Sexual Misconduct Policy, conduct that is deemed, by a preponderance of the evidence (which means more likely than not the alleged conduct occurred) to be gender-based and meet the definitions of any of the types of Prohibited Conduct identified in the chart below (whether defined by UA, or by state (AL) or federal (FED) criminal laws, as amended from time to time), constitutes a violation of this Policy. A person whose gender-based conduct violates the federal or state criminal statutes as established by a preponderance of the evidence need not be criminally charged or convicted for their conduct to be deemed a violation of this Policy. Additionally, to the extent that federal or state criminal laws addressing gender-based conduct that could be deemed Prohibited Conduct are added or amended, it will be considered a violation of this Policy if an individual engages in such conduct (as proven by a preponderance of the evidence), even if the definitions below have not been updated to reflect the most recent federal or state language.

INTIMATE PARTNER VIOLENCE: DATING VIOLENCE	
UA	<p>Intimate Partner Violence (Dating Violence and Domestic Violence) is violence or abuse, including but not limited to sexual or physical abuse or the threat of such abuse, committed in a relationship as defined below. Intimate Partner Violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions.</p> <p>Intimate Partner Violence is considered Dating Violence if the violent or abusive behavior (or threat of such behavior) is committed by a person who is or has been in a romantic or intimate relationship with the Complainant. The existence of such a relationship shall be determined by a consideration of the following factors:</p> <ul style="list-style-type: none"> (i) The length of the relationship (ii) The type of relationship (iii) The frequency of interaction between the persons involved in the relationship
FED	<p>Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.</p> <ul style="list-style-type: none"> (i) The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. (ii) For the purposes of this definition— <ul style="list-style-type: none"> (A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. (B) Dating violence does not include acts covered under the definition of domestic violence. 34 C.F.R. § 668.46(a)
AL	n/a (See AL Definition for "Domestic Violence" below)
INTIMATE PARTNER VIOLENCE: DOMESTIC VIOLENCE	
UA	<p>Intimate Partner Violence (Dating Violence and Domestic Violence) is violence or abuse, including but not limited to sexual or physical abuse or the threat of such abuse, committed in a relationship as defined below. Intimate Partner Violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions.</p> <p>Intimate Partner Violence is considered Domestic Violence if the violence or abusive behavior (or threat of such behavior) is committed (A) by a current or former spouse or intimate partner of the Complainant; (B) by a person with whom the Complainant shares a child in common; (C) by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner; (D) by a person similarly situated to a spouse of the Complainant under the domestic or family laws of the jurisdiction in which the crime of violence occurred; or (E) by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.</p>
FED	<p>A felony or misdemeanor crime of violence committed—</p> <ul style="list-style-type: none"> (A) By a current or former spouse or intimate partner of the Complainant;

	<p>(B) By a person with whom the Complainant shares a child in common;</p> <p>(C) By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;</p> <p>(D) By a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or</p> <p>(E) By any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred. 34 C.F.R. § 668.46(a)</p>
AL.	<p>First Degree Domestic Violence- ALA. CODE § 13A-6-130(a) A person commits the crime of domestic violence in the first degree if the person commits the crime of assault in the first degree pursuant to Section 13A-6-20 or aggravated stalking pursuant to Section 13A-6-91, and the Complainant is a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating relationship, as defined in Section 13A-6-139.1, with the defendant.</p>
	<p>Second Degree Domestic Violence - ALA. CODE § 13A-6-131(a) A person commits the crime of domestic violence in the second degree if the person commits the crime of assault in the second degree pursuant to Section 13A-6-21; the crime of intimidating a witness pursuant to Section 13A-10-123; the crime of stalking pursuant to Section 13A-6-90; the crime of burglary in the second or third degree pursuant to Sections 13A-7-6 and 13A-7-7; or the crime of criminal mischief in the first degree pursuant to Section 13A-7-21 and the Complainant is a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating relationship, as defined in Section 13A-6-139.1, with the defendant.</p>
	<p>Third Degree Domestic Violence - ALA. CODE § 13A-6-132(a) A person commits domestic violence in the third degree if the person commits the crime of assault in the third degree pursuant to Section 13A-6-22; the crime of menacing pursuant to Section 13A-6-23; the crime of reckless endangerment pursuant to Section 13A-6-24; the crime of criminal coercion pursuant to Section 13A-6-25; the crime of harassment pursuant to subsection (a) of Section 13A-11-8; the crime of criminal surveillance pursuant to Section 13A-11-32; the crime of harassing communications pursuant to subsection (b) of Section 13A-11-8; the crime of criminal trespass in the third degree pursuant to Section 13A-7-4; the crime of criminal mischief in the second or third degree pursuant to Sections 13A-7-22 and 13A-7-23; or the crime of arson in the third degree pursuant to Section 13A-7-43; and the Complainant is a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating relationship, as defined in Section 13A-6-139.1, with the defendant.</p>

Relationship Violence	
UA	Intimate Partner Violence is considered Relationship Violence if the abusive behavior is committed by someone who has engaged in intimate relations with the complainant within a close proximity of time between the abusive behavior and intimate relations.
STALKING	
UA	<p>Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to (a) Fear for the person's safety or the safety of others; or (b) Suffer substantial emotional distress.</p> <p>For purposes of this Policy, "course of conduct" means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property. Example of such acts include, but are not limited to:</p> <ul style="list-style-type: none"> • Following; • Lying in wait; • Excess communications, including any attempt to intentionally and repeatedly make contact with a person over their stated objections for the purpose of harassing or alarming them; • Threats to the individual or threats to the individual's family, friends, or property. <p>Stalking, as it is defined in this Policy includes "cyber-stalking," a particular form of stalking in which a person uses electronic media, such as the internet, social networks, blogs, phones, texts, or other similar devices or forms of contact.</p> <p>"Reasonable person" means a person under similar circumstances and with similar identities to the Complainant.</p> <p>"Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.</p>
FED	<p>Stalking is: (i) Engaging in a course of conduct directed at a specific person that would cause a reasonable person to—</p> <p>(A) Fear for the person's safety or the safety of others; or</p> <p>(B) Suffer substantial emotional distress.</p> <p>(ii) For the purposes of this definition—</p> <p>(A) Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.</p> <p>(B) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.</p> <p>(C) Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.</p> <p>34 C.F.R. § 668.46(a)</p>
AL	<p>First Degree Stalking- ALA. CODE § 13A-6-90(a)</p> <p>A person who intentionally and repeatedly follows or harasses another person and who makes a threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm is guilty of the crime of stalking in the first degree.</p> <p>Second Degree Stalking - ALA. CODE § 13A-6-90.1(a)</p> <p>A person who, acting with an improper purpose, intentionally and repeatedly follows, harasses, telephones, or initiates communication, verbally, electronically, or otherwise, with another person, any member of the other person's immediate family, or any third party with whom the other person is acquainted, and causes material harm to the mental or emotional health of the other person, or causes such person to reasonably fear that his or her employment, business, or career is threatened, and the perpetrator was previously informed to cease that conduct is guilty of the crime of stalking in the second degree.</p>
CONSENT	
UA	The term "consent" used when describing different types of prohibited acts of sexual misconduct under UA's Sexual Misconduct Policy (such as sexual assault) means a clear willingness to participate in the sexual act (e.g., clear communication through words or actions). While consent may be expressed by words or by actions, it is

	<p>highly recommended that consent be expressed and obtained verbally. Non-verbal consent expressed through actions may lead to confusion and potential for misunderstandings, which may lead to a violation of this Policy.</p> <p>It is the responsibility of the initiator of any sexual activity to obtain their partner's consent.</p> <p>Consent to a sexual act is not freely given if the individual is not able to give proper consent, or if consent is obtained by force, deception, or coercion. A lack of resistance does not grant consent. Previous consent does not grant consent to future sexual acts. Consent can be withdrawn at any time during a sexual act.</p> <p>Inability to give consent includes situations where an individual is:</p> <ul style="list-style-type: none"> e. Incapacitated due to alcohol, drugs, or other substances including, but not limited to, prescription medication. <ul style="list-style-type: none"> i. <u>Determining consent when alcohol or other drugs are involved:</u> In incidents involving alcohol, drugs, or other substances, the totality of the circumstances are analyzed to determine whether the use of alcohol, drugs, or other substances caused an inability to give consent. Whether a Respondent knew or reasonably should have known of the Complainant's ability to give consent will be considered. An individual's use of alcohol or drugs does not diminish that individual's responsibility to obtain consent if that individual is the one who initiates sexual activity. Incapacitation is a state beyond drunkenness or intoxication. Incapacitation is a state where an individual cannot make rational, reasonable decision because they lack the capacity to give consent. Some factors considered to determine whether an individual is incapacitated due to alcohol, drugs, or other substances and therefore not able to give consent include, but are not limited to: whether the individual was conscious or unconscious, whether the individual became sick due to intoxication, the individual's ability to communicate and/or slurred speech, the individual's coordination (ex. ability to walk, dress/undress, perform simple tasks), and any other action that would be indicative of a level of cognitive functioning. The existence of any one of these factors may support a finding of incapacitation for purposes of this policy. The mere presence of alcohol, drugs, or other substances does not equate to an inability to give consent. Stated differently, it is possible for an individual to have alcohol, drugs, or other substances in their system and not be incapacitated. f. Unconscious, asleep, or in a state of shock. g. Under the age of consent as defined by the jurisdiction in which the act occurred, which, in Alabama, is less than 16 years of age. h. Mentally or physically impaired and not reasonably able to give consent. <p>"Coercion" for purposes of this Policy is the use of express or implied threat or intimidation that place would place a reasonable person in fear of immediate harm for the purpose of obtaining sexual favors. Threatening or intimidating behavior may include emotional abuse, threats to reputation, public humiliation, threats to others, or financial harm, among others.</p> <ul style="list-style-type: none"> i.
FED	Federal regulations do not provide a definition of consent.
AL	<p>(a) Whether or not specifically stated, it is an element of every offense defined in this article, with the exception of subdivision (a)(3) of Section 13A-6-65, that the sexual act was committed without consent of the complainant.</p> <p>(b) Lack of consent results from:</p> <ul style="list-style-type: none"> (1) Forcible compulsion; or (2) Incapacity to consent; or (3) If the offense charged is sexual abuse, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the complainant does not expressly or impliedly acquiesce in the actor's conduct. <p>(c) A person is deemed incapable of consent if he is:</p> <ul style="list-style-type: none"> (1) Less than 16 years old; or (2) Mentally defective; or (3) Mentally incapacitated; or (4) Physically helpless. ALA. CODE § 13A-6-70.

SEXUAL ASSAULT/RAPE/SEXUAL CONTACT/ SODOMY & OTHER SEXUAL OFFENSES	
UA	<p><u>Sexual assault/Rape</u> is defined as any form of sexual penetration, no matter how slight, or attempted sexual penetration occurring without consent and includes, but is not limited to, sexual intercourse committed by physical force or coercion</p> <p><u>Sexual contact/Fondling</u> is any intentional sexual touching or attempted intentional sexual touching of a person that is done without consent and for the purpose of personal sexual gratification. Sexual touching, as it is used in this Policy, means any intentional contact with the sexual or intimate parts of a person or any other type of intentional physical contact done in a sexual manner or for the purpose of personal sexual arousal or gratification.</p>
FED	<p>Sex offenses are any sexual act directed against another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent. Sexual Assault is an offense that meets the definition of rape, fondling, incest, or statutory rape (see FED definitions below) 34 C.F.R. § 668.46(a)</p> <p>Rape is the 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 person, without the consent of the Complainant. 34 C.F.R. § 668.46 Appendix A</p>
AL	<p>Alabama law includes the following, among others, in its sexual offenses category: rape, sodomy, sexual misconduct, sexual torture, sexual abuse, indecent exposure, enticing a child to enter vehicle, house, etc. for immoral purposes, sexual abuse of a child less than 12 years old. The following are definitions that apply to the Alabama sexual offense statutes (some of which are set forth below):</p> <p>SEXUAL INTERCOURSE. Such term has its ordinary meaning and occurs upon any penetration, however slight; emission is not required.</p> <p>SEXUAL CONTACT. Any touching of the sexual or other intimate parts of a person not married to the actor, done for the purpose of gratifying the sexual desire of either party.</p> <p>MENTALLY DEFECTIVE. Such term means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct.</p> <p>MENTALLY INCAPACITATED. Such term means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other incapacitating act committed upon him without his consent.</p> <p>PHYSICALLY HELPLESS. Such term means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.</p> <p>FORCIBLE COMPULSION. Physical force that overcomes earnest resistance or a threat, express or implied, that places a person in fear of immediate death or serious physical injury to himself or another person.</p> <p>First Degree Rape – ALA. CODE § 13A-6-61 (a) A person commits the crime of rape in the first degree if: (1) He or she engages in sexual intercourse with a member of the opposite sex by forcible compulsion; or (2) He or she engages in sexual intercourse with a member of the opposite sex who is <i>incapable of consent</i> by reason of being physically helpless or mentally incapacitated; or (3) He or she, being 16 years or older, engages in sexual intercourse with a member of the opposite sex who is less than 12 years old.</p> <p>Second Degree Rape– ALA. CODE § 13A-6-62 (a) A person commits the crime of rape in the second degree if: (1) Being 16 years old or older, he or she engages in sexual intercourse with a member of the opposite sex less than 16 and more than 12 years old; provided, however, the actor is at least two years older than the member of the opposite sex. (2) He or she engages in sexual intercourse with a member of the opposite sex who is <i>incapable of consent</i> by reason of being mentally defective.</p> <p>First Degree Sexual Abuse – ALA. CODE § 13A-6-66 (a) A person commits the crime of sexual abuse in the first degree if: (1) He subjects another person to sexual contact by forcible compulsion; or (2) He subjects another person to sexual contact who is <i>incapable of consent</i> by reason of being physically helpless or mentally incapacitated.</p> <p>Second Degree Sexual Abuse - ALA. CODE § 13A-6-67 (a) A person commits the crime of sexual abuse in the second degree if:</p>

	<p>(1) He subjects another person to sexual contact who is <i>incapable of consent</i> by reason of some factor other than being less than 16 years old; or</p> <p>(2) He, being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.</p>
	<p>Sexual Torture – ALA. CODE § 13A-6-65.1</p> <p>(a) A person commits the crime of sexual torture:</p> <p>(1) By penetrating the vagina or anus or mouth of another person with an inanimate object by forcible compulsion with the intent to sexually torture or to sexually abuse.</p> <p>(2) By penetrating the vagina or anus or mouth of a person who is <i>incapable of consent</i> by reason of physical helplessness or mental incapacity with an inanimate object, with the intent to sexually torture or to sexually abuse.</p> <p>(3) By penetrating the vagina or anus or mouth of a person who is less than 12 years old with an inanimate object, by a person who is 16 years old or older with the intent to sexually torture or to sexually abuse.</p>
	<p>Indecent Exposure - ALA. CODE § 13A-6-68</p> <p>(a) A person commits the crime of indecent exposure if, with intent to arouse or gratify sexual desire of himself or of any person other than his spouse, he exposes his genitals under circumstances in which he knows his conduct is likely to cause affront or alarm in any public place or on the private premises of another or so near thereto as to be seen from such private premises.</p>
	<p>Enticing Child to Enter Vehicle, House, Etc. for Immoral Purposes – ALA. CODE § 13A-6-69</p> <p>(a) It shall be unlawful for any person with lascivious intent to entice, allure, persuade, or invite, or attempt to entice, allure, persuade, or invite, any child under 16 years of age to enter any vehicle, room, house, office, or other place for the purpose of proposing to such child the performance of an act of sexual intercourse or an act which constitutes the offense of sodomy or for the purpose of proposing the fondling or feeling of the sexual or genital parts of such child or the breast of such child, or for the purpose of committing an aggravated assault on such child, or for the purpose of proposing that such child fondle or feel the sexual or genital parts of such person.</p>
	<p>Sexual Abuse of a Child Less than 12 Years Old – ALA. CODE § 13A-6-69.1</p> <p>(a) A person commits the crime of sexual abuse of a child less than 12 years old if he or she, being 16 years old or older, subjects another person who is less than 12 years old to sexual contact.</p>
	<p>School Employee Having Sexual Contact With a Student Under the Age of 19 Years - ALA. CODE § 13A-6-82</p> <p>(a) A person commits the crime of a school employee having <i>sexual contact</i> with a student under the age of 19 years if he or she is a school employee and engaging in sexual contact with a student, regardless of whether the student is male or female. Consent is not a defense to a charge under this section.</p> <p>(b) As used in this section, <i>sexual contact</i> means any touching of the sexual or other intimate parts of a student, done for the purpose of gratifying the sexual desire of either party. The term includes soliciting or harassing a student to perform a sex act.</p>
SEXUAL EXPLOITATION	
UA	<p><u>Sexual exploitation</u> is taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit or to benefit a person other than the one being exploited.</p> <p>Examples of sexual exploitation include, but are not limited to:</p> <ul style="list-style-type: none"> • Causing or attempting to cause the incapacitation of another individual for sexual purposes; • Electronically recording, photographing, or transmitting sexual sounds or images of another individual against that person's will or without their consent; • Allowing a third-party to observe sexual acts without all parties' consent; <p>Engaging in voyeurism; or knowingly transmitting a sexually transmitted disease/infection or HIV to another individual.</p>
FED	<u>n/a</u>
AL	<p>A person commits the crime of distributing a private image if he or she knowingly posts, emails, texts, transmits, or otherwise distributes a private image with the intent to harass, threaten, coerce, or intimidate the person depicted when the depicted person had a reasonable expectation of privacy against transmission of the private image.</p> <p>A person commits the crime of sexual extortion if he or she knowingly causes another person to engage in sexual intercourse, deviate sexual intercourse, sexual contact, or in a sexual act or to produce any photograph, digital image, video, film, or other recording of any person, whether recognizable or not, engaged in any act of</p>

	sadomasochistic abuse, sexual intercourse, deviate sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct by transmitting any communication containing any threat to injure the body, property, or reputation of any person. Ala. S.B. 301.
FONDLING	
UA	See FED & AL definition
FED	The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. 34 C.F.R. § 668.46 Appendix A
AL	See above AL definition of Sexual Abuse.
INCEST	
UA	See FED & AL definitions
FED	Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. 34 C.F.R. § 668.46 Appendix A.
AL	<p>(a) A person commits incest if he marries or engages in sexual intercourse with a person he knows to be, either legitimately or illegitimately:</p> <ol style="list-style-type: none"> (1) His ancestor or descendant by blood or adoption; or (2) His brother or sister of the whole or half-blood or by adoption; or (3) His stepchild or stepparent, while the marriage creating the relationship exists; or (4) His aunt, uncle, nephew or niece of the whole or half-blood. <p>(b) A person shall not be convicted of incest or of an attempt to commit incest upon the uncorroborated testimony of the person with whom the offense is alleged to have been committed. Ala. Code § 13A-13-3.</p>
STATUTORY RAPE	
UA	See FED and AL definitions
FED	Sexual intercourse with a person who is under the statutory age of consent. 34 C.F.R. § 668.46 Appendix A.
AL	In Alabama, it is illegal for an adult (someone 18 or older) to have sex with a minor (someone younger than 16), even if the sex is consensual. See AL definition of consent.

SEXUAL HARASSMENT OR GENDER-BASED HARASSMENT	
UA	<p>See www.eop.ua.edu/harassment.html for UA's Harassment Policy.</p> <p>Sexual Harassment includes unwelcome harassment based on sex, which may include unwelcome sexual advance, request for sexual favors, or other unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise, when the conditions outlined in (1) and/or (2), below, are present.</p> <p>Gender-based Harassment includes unwelcome harassment based on gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the conditions outlined in (1) and/or (2), below, are present.</p> <ol style="list-style-type: none"> (3) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, academic standing, or participation in any University programs and/or activities or is used as the basis for University decisions affecting the individual (often referred to as "quid pro quo" harassment); or (4) Such conduct creates a hostile environment. A "hostile environment" exists when the conduct is sufficiently severe, persistent, and/or pervasive that it unreasonably interferes with, limits, or deprives an individual from participating in or benefiting from the University's education or employment programs and/or activities. Conduct must be deemed severe, persistent, and/or pervasive from both a subjective and an objective perspective. In evaluating whether a hostile environment exists, the University will consider the totality of known circumstances, including, but not limited to: <ul style="list-style-type: none"> • The frequency, nature and severity of the conduct; • Whether the conduct was physically threatening; • The effect of the conduct on the Complainant's mental or emotional state; • Whether the conduct was directed at more than one person;

	<ul style="list-style-type: none"> • Whether the conduct arose in the context of other discriminatory conduct; • Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities; and • Whether the conduct implicates concerns related to academic freedom or protected speech. <p>A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident, if sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of Sexual Assault, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.</p>
FED	<p>Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment. Gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature, is also prohibited. When a student sexually harasses another student, the harassing conduct creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the school's program. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. Indeed, a single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. See <i>April 4, 2011 Dear Colleague Letter</i>, http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf; and <i>Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students or Third Parties</i> (January, 2001), https://www2.ed.gov/offices/OCR/archives/pdf/shguide.pdf.</p>
AL	n/a
SEXUAL OR GENDER-BASED DISCRIMINATION	
UA	In addition to the Prohibited Conduct outlined herein, any discrimination on the basis of sex, sexual orientation, gender identity, gender expression, and pregnancy is prohibited by this Policy.
FED	n/a
AL	n/a

APPENDIX -2-

APPENDIX -2-

COMPLAINANT RESOURCES

Below are examples of resources¹ that may typically be available to a Complainant following notice of a complaint of Prohibited Conduct.

Accommodation, interim protective measure, or support service	Contact organization(s) and/or person(s)	Additional Information
Safety planning (including no trespass orders & no contact orders)	UAPD ² *NOT CONFIDENTIAL* ³	Provides assistance with no-trespass orders, which restrict an individual's access to University facilities and property.
	Women and Gender Resource Center (WGRC) Victim Advocate ⁴ *CONFIDENTIAL*	Offers emotional and physical safety planning.
	Title IX Coordinator ⁵ *NOT CONFIDENTIAL*	Provides assistance obtaining administrative no-contact orders, upon request and if reasonably available, to Complainants and Respondents.
	Domestic Violence Law Clinic ⁶ *CONFIDENTIAL*	See "Legal and Judicial options" below.
Safe housing/relocation	UAPD *NOT CONFIDENTIAL*	Provides assistance with location of safe housing.
	WGRC Victim Advocate *CONFIDENTIAL*	Upon Complainant's request for assistance, WGRC works with Housing and Residential Communities to assist in changing the Complainant's living situation (or dining locations) if reasonable arrangements can be made.
	Turning Point ⁷ *CONFIDENTIAL*	An off-campus domestic violence and sexual assault service agency serving West Alabama that provides free and confidential safe housing for victims of domestic violence and sexual assault.
	Title IX Coordinator *NOT CONFIDENTIAL*	Upon request and if reasonably available, provides Complainants and Respondents housing support (see above).
Filing a criminal report	UAPD *NOT CONFIDENTIAL*	See Section K and Appendix 4 of this Policy.
Legal and judicial options (Protective orders, restraining orders, no contact orders,	WGRC Victim Advocate *CONFIDENTIAL*	Provides free assistance with exploring legal and judicial options. Refers to Domestic Violence Law Clinic if applicable. Assists with crime victims' compensation and provides information and referral.
	Title IX Coordinator *NOT CONFIDENTIAL*	Upon request and if reasonably available, provides Complainants and Respondents referrals to the Domestic Violence Law Clinic (if applicable).

¹ Contact information for each available resource is set forth in the footnotes of the table.

² UAPD—(205) 348-5454 Address: 1110 Jackson Avenue, Tuscaloosa, AL 35487-0810.

³ As a reminder, contacts that are identified as *CONFIDENTIAL* will not share your information with anyone except to effectuate the accommodation, interim, or protective measure or assistance that contact is providing. Those contacts marked as *NOT CONFIDENTIAL* are offices required to respect and protect the privacy of students and others to the greatest extent possible. They will disclose information to others only on a need to know basis.

⁴ WGRC Victim Advocate—(205) 348-5040 *After business hours, a WGRC Victim Advocate may be reached by contacting UAPD at (205) 348-5454. Address: South Lawn Office Building, Suite 2000, 1101 Jackson Avenue, Tuscaloosa, AL 35487.

⁵ Title IX Coordinator (Beth Howard)—(205) 348-5496 Address: 107 Burke West, Box 870259, Tuscaloosa, AL 35487.

⁶ Domestic Violence Law Clinic—(205) 348-7921 Address: The University of Alabama School of Law, 101 Paul Bryant Dr., Tuscaloosa, AL 35401.

⁷ Turning Point—(205) 758-0808 Address: 2110 McFarland Blvd, Tuscaloosa, AL 35404.

protection from abuse orders, etc.)	Turning Point *CONFIDENTIAL*	An off-campus domestic violence and sexual assault service agency serving West Alabama that provides legal advocacy.
	Domestic Violence Law Clinic *CONFIDENTIAL*	Provides free and comprehensive legal assistance on civil matters to victims of dating and domestic violence in Tuscaloosa County, AL. Taking a holistic approach to a Complainant's civil legal needs, clinic students assess and help the Complainant escape further domestic violence, and, if appropriate, represent the Complainant in obtaining a protection from abuse order. Clinic students also provide legal assistance in matters relating to divorce and alimony, child custody and support, employment and debt issues, housing, property recovery, and public benefits.
Academic advocacy or accommodations	WGRC Victim Advocate *CONFIDENTIAL*	If requested by the Complainant and if reasonably available, provides academic advocacy, which may include changing academic schedules, assisting with missed classes and rescheduling exams, etc. Other academic accommodations (see below) may be handled with assistance from the Title IX Coordinator.
	Title IX Coordinator *NOT CONFIDENTIAL*	Upon request and if reasonably available, provides Complainants and Respondents with academic intervention assistance (transferring to another class, rescheduling an exam, accessing academic support such as tutoring, arranging for incompletes or withdrawal, and preserving eligibility for academic, athletic, or other scholarships, financial aid, internships, study abroad, or foreign student visas and immigration status). Also assists students who have a disability (including those who may have developed a disability as a result of experiencing Prohibited Conduct) contact the Office for Disability Services for registering for longer term reasonable accommodations.
Employment support	Title IX Coordinator *NOT CONFIDENTIAL*	Upon request and if reasonably available, provides Complainants and Respondents employment support.
Transportation assistance	Title IX Coordinator *NOT CONFIDENTIAL*	Upon request and if reasonably available, provides Complainants and Respondents on-campus parking options or other transportation accommodations to ensure safety and access to other services.
Victim advocacy and case management	WGRC Victim Advocate *CONFIDENTIAL*	Provides free and confidential victim advocacy and case management services to Complainants (including Complainants subjected to sexual harassment, sexual assault, dating/domestic violence, and stalking). Services are available to students, faculty, and staff as well as friends and family members of the victim regardless of gender, gender identity or gender expression. A Victim Advocate is on-call 24 hours a day, seven days a week to provide assistance in crisis situations.

UA ON- AND OFF-CAMPUS COUNSELING AND MEDICAL SUPPORT SERVICES

It is very important for individuals subjected to sexual assault to obtain immediate medical care. Whether or not the sexual assault is reported, medical care will provide for the individual's well-being and assist in the documentation, collection, and proper preservation of physical evidence.		
Emergency care	DCH Regional Medical Center (DCH) ⁸ (Off-Campus) *CONFIDENTIAL*	Provides emergency care to victims of sexual assault and intimate partner violence. The emergency professionals at DCH Medical Center assist in collecting physical evidence and reducing trauma to victims.
Forensic examinations	DCH (Off-Campus) *CONFIDENTIAL*	Forensic examinations are available free of charge to sexual assault victims.
Medical services	Student Health Center ⁹ *CONFIDENTIAL*	Provides medical services for students only including, a Walk-In Clinic, Women's Health Services, Laboratory and X-Ray, and Psychiatry.

⁸ DCH—(205) 759-7111 Address: 809 University Blvd E, Tuscaloosa, AL 35401.

⁹ Student Health Center—(205) 348-6262 Address: 750 5th Ave. E, Tuscaloosa, AL 35401.

Counseling and professional and personal support	WGRC Victim Advocate & Staff Therapists *CONFIDENTIAL*	Offers individual and support group counseling provided by a licensed therapist or master's level supervised counseling interns to Complainants subjected to intimate partner violence (including dating/domestic violence, stalking and childhood physical violence) and for Complainants dealing with sexual assault (including attempted rape, rape, childhood sexual assault, and sexual harassment). These free and confidential services are available to students, faculty, and staff, friends and family members of the Complainant, and for Complainants whose assault occurred on campus even if the Complainant is not associated with the University. Victim advocates are available to provide support and serve as the Complainant's support person during the student Title IX and Code of Student Conduct process.
	Counseling Center ¹⁰ *CONFIDENTIAL*	Provides counseling and psychological services to University students.
	University Medical Center (UMC) Psychiatry and Behavioral Health Clinic ¹¹ *CONFIDENTIAL*	Provides confidential counseling services for any member of the public.
	Title IX Coordinator *NOT CONFIDENTIAL*	Can provide referrals to health and mental health counseling services.
	Turning Point (Off Campus) *CONFIDENTIAL*	A domestic violence and sexual assault service agency serving West Alabama. Turning Point provides emergency shelter, 24-hour crisis line, individual counseling, support groups, and skills groups.
	On-Call Dean ¹² *NOT CONFIDENTIAL*	Provides students and their families with support and assistance in times of trauma and distress. The On-Call Dean initiates professional and personal support for students in crises by working with other University offices such as UAPD, Media Relations, and the various colleges within UA. The On-Call Dean interacts with community agencies such as local hospitals and the Tuscaloosa Police Department. In the case of interpersonal violence (sexual assault, dating/domestic violence, or stalking), the WGRC Victim Advocate becomes the On-Call Dean rep.
	Capstone Family Therapy Clinic ¹³ *CONFIDENTIAL*	Works with individuals, couples, and families in clarifying issues, exploring options, and finding solutions to problems with regard to many issues including marriage, relationship, or family problems.
	UA Employee Assistance Program (EAP) ¹⁴ *CONFIDENTIAL*	An employee assistance and counseling program designed to provide University employees and their family members with resources for resolving work-related and personal problems. The program provides a free and confidential assessment, no cost short-term counseling, and referral services.
Hospital accompaniment	WGRC Victim Advocate *CONFIDENTIAL*	The Victim Advocate may accompany the Complainant to the hospital and provide guidance/assistance.

¹⁰ **Counseling Center—(205) 348-3863** Address: 1101 Jackson Ave., Tuscaloosa, AL 35487.

¹¹ **UMC Psychiatry and Behavioral Health (The Betty Shirley Clinic)—(205) 348-1265** Address: 850 5th Ave. E, Tuscaloosa, AL 35401.

¹² **On-Call Dean—(205) 348-2461** *In case of emergency, evenings after 5:00 p.m., weekends and holidays, UAPD should be contacted at (205) 348-5454. Address: Office of the Dean of Students, Student Care & Well Being, Ferguson Center Room 230.

¹³ **Capstone Family Therapy Clinic—(205) 348-8154** Address: 214 Child Development Research Center, 5th Ave. E, 2nd Floor, Tuscaloosa AL 35487.

¹⁴ **EAP—(205) 759-7890** *For more information, visit www.hr.ua.edu/benefits/other-benefits/employee-assistance-program.

Transportation to the Student Health Center, DCH, the WGRC, or The Counseling Center	UAPD *NOT CONFIDENTIAL*	UAPD will provide transportation upon request.
UA-GADSDEN CENTER OFF-CAMPUS COUNSELING AND MEDICAL SUPPORT SERVICES		
Emergency care	Riverview Regional Medical Center ¹⁵ *CONFIDENTIAL*	Provides emergency care to Complainants of sexual assault and intimate partner violence in the Gadsden area.
Counseling and mental health services	Etowah County District Attorney's Office Victim Service Officer ¹⁶ *CONFIDENTIAL*	Assists in referrals for UA Gadsden Center students and employees seeking off-campus counseling and mental health services in the Gadsden area.

¹⁵ **Riverview Regional Medical Center—(256) 543-5200** Address: 600 South 3rd St., Gadsden, AL 35901.

¹⁶ **Etowah County District Attorney's Office Victim Service Officer—(256) 549-5362** Address: 801 Forrest Ave., Gadsden, AL 35901.

APPENDIX -3-

APPENDIX -3-

RESPONDENT RESOURCES

Below are examples of resources¹ that may be available to a Respondent following notice of a complaint of Prohibited Conduct.

Accommodation, interim protective measure, or support service	Contact organization(s) and/or person(s)	Additional Information
Safety planning (including no contact orders)	Title IX Coordinator ² *NOT CONFIDENTIAL*	Provides assistance obtaining administrative no-contact orders, upon request and if reasonably available, to Complainants and Respondents.
Safe housing/ relocation ³	UAPD *NOT CONFIDENTIAL*	Provides assistance with location of safe housing.
	Counseling Center ⁴ *CONFIDENTIAL*	Upon Respondent's request for assistance, University Counseling Center works with Housing and Residential Communities to assist in changing the Respondent's living situation (or dining locations) if reasonable arrangements can be made.
	Title IX Coordinator *NOT CONFIDENTIAL*	Upon request and if reasonably available, provides Complainants and Respondents housing support (see above).
Filing a criminal report ⁵	UAPD *NOT CONFIDENTIAL*	See Section K and Appendix 4 of this Policy.
Legal and judicial options	Alabama State Bar Association ⁶	The Alabama State Bar Association provides a Lawyer Referral Service. Additional information is also available at www.alabar.org .
	Tuscaloosa County Bar Association ⁷	The Tuscaloosa County Bar Association provides contact information on area lawyers in different practice areas (www.tcba.cloverpad.org/).
Academic advocacy or accommodations	Title IX Coordinator *NOT CONFIDENTIAL*	Upon request and if reasonably available, provides Complainants and Respondents with academic intervention assistance (transferring to another class, rescheduling an exam, accessing academic support such as tutoring, arranging for incompletes or withdrawal, and preserving eligibility for academic, athletic, or other scholarships, financial aid, internships, study abroad, or foreign student visas and immigration status). Also assists students who have a disability (including those who may have developed a disability as a result of experiencing Prohibited Conduct) contact the Office for Disability Services for registering for longer term reasonable accommodations.

¹ Contact information for each available resource is set forth in the footnotes of the table.

² **Title IX Coordinator (Beth Howard)—(205) 348-5496** Address: 107 Burke West, Box 870259, Tuscaloosa, AL 35487.

³ If a Respondent receives interim sanctions removing them from University housing and/or removing them from being on campus, the Respondent is not eligible for safe housing/relocation.

⁴ **Counseling Center—(205) 348-3863** Address: 1000 South Lawn Office Building, Tuscaloosa, AL 35487

⁵ If a Respondent, in good faith, files a criminal report alleging Prohibited Conduct pursuant to this policy, the Title IX Coordinator, upon proper notice, will conduct an investigation wherein the Respondent would be considered a complainant and may be eligible for Resources as described in Appendix 2.

⁶ **Alabama State Bar Association—(800) 392-5660 / (334) 269-1515** Address: 415 Dexter Ave., Montgomery, AL 36104.

⁷ **Tuscaloosa County Bar Association—(205) 469-2385** Address: P.O. Box 2302, Tuscaloosa, AL 35403.

Employment support	Title IX Coordinator *NOT CONFIDENTIAL*	Upon request and if reasonably available, provides Complainants and Respondents employment support.
Transportation assistance	Title IX Coordinator *NOT CONFIDENTIAL*	Upon request and if reasonably available, provides Complainants and Respondents on-campus parking options or other transportation accommodations to ensure safety and access to other services.
Respondent Services/Advocacy	Respondent Services Official ⁸ *NOT CONFIDENTIAL*	Designated UA officials who provide assistance with explaining Respondent's rights as well as share information regarding possible University resources and explain the processing of a Prohibited Conduct complaint including the investigation and adjudication process.

UA ON- AND OFF-CAMPUS COUNSELING AND MEDICAL SUPPORT SERVICES

Counseling and professional and personal support	Counseling Center ⁹ *CONFIDENTIAL*	Provides counseling and psychological services to University students.
	University Medical Center (UMC) Psychiatry and Behavioral Health Clinic ¹⁰ *CONFIDENTIAL*	Provides confidential counseling services for any member of the public.
	Title IX Coordinator *NOT CONFIDENTIAL*	Can provide referrals to health and mental health counseling services.
	On-Call Dean ¹¹ *NOT CONFIDENTIAL*	Provides students and their families with support and assistance in times of trauma and distress. The On-Call Dean initiates professional and personal support for students in crises by working with other University offices such as UAPD, Media Relations, and the various colleges within UA. The On-Call Dean interacts with community agencies such as local hospitals and the Tuscaloosa Police Department.
	Capstone Family Therapy Clinic ¹²	Works with individuals, couples, and families in clarifying issues, exploring options, and finding solutions to problems with regard to many issues including marriage, relationship, or family problems.
	UA Employee Assistance Program (EAP) ¹³ *CONFIDENTIAL*	An employee assistance and counseling program designed to provide University employees and their family members with resources for resolving work-related and personal problems. The program provides a free and confidential assessment, no cost short-term counseling, and referral services.
Transportation to the Student Health Center or The Counseling Center	UAPD *NOT CONFIDENTIAL*	UAPD will provide transportation upon request.

⁸ To request assistance from a Respondent Services Official, please call (205) 348-0517 or e-mail respondentservices@ua.edu. The Title IX Office can also assist with connecting an individual with a Respondent Services Official.

⁹ **Counseling Center**—(205) 348-3863 Address: 1101 Jackson Ave., Tuscaloosa, AL 35487.

¹⁰ **UMC Psychiatry and Behavioral Health (The Betty Shirley Clinic)**—(205) 348-1265 Address: 850 5th Ave. E, Tuscaloosa, AL 35401.

¹¹ **On-Call Dean**—(205) 348-2461 *In case of emergency, evenings after 5:00 p.m., weekends and holidays, UAPD should be contacted at (205) 348-5454. Address: Office of the Dean of Students, Student Care & Well Being, Ferguson Center Room 230.

¹² **Capstone Family Therapy Clinic** - (205) 348-8154 Address: 214 Child Development Research Center, 5th Ave. E, 2nd Floor, Tuscaloosa AL 35487.

¹³ **EAP**—(205) 759-7890 *For more information, visit www.hr.ua.edu/benefits/other-benefits/employee-assistance-program.

UA-GADSDEN CENTER OFF-CAMPUS COUNSELING AND MEDICAL SUPPORT SERVICES		
Counseling and mental health services	Etowah County District Attorney's Office Victim Service Officer ¹⁴ *CONFIDENTIAL*	Assists in referrals for UA Gadsden Center students and employees seeking off-campus counseling and mental health services in the Gadsden area.

¹⁴ Etowah County District Attorney's Office Victim Service Officer—(256) 549-5362 Address: 801 Forrest Ave., Gadsden, AL 35901.

APPENDIX -4-

APPENDIX -4-

DETAILED INFORMATION ABOUT CRIMINAL INVESTIGATIONS

University disciplinary proceedings may be instituted against a student cited for a violation of a law that is also a violation of this Policy, the Code of Student Conduct, or other campus policies if both violations result from the same factual situation, without regard to the pendency of civil litigation in court or criminal arrest and prosecution. Proceedings under this Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

1. Reporting to Law Enforcement and Interplay with the Title IX Investigation

In addition to being forbidden by this Policy, Prohibited Conduct may be a violation of federal or state criminal law. (See **Appendix 1** to this Policy for the text of related state or federal criminal offenses such as rape, fondling, incest, sexual abuse, domestic/dating violence, and stalking.) The University encourages individuals to immediately report criminal activity to UAPD or local law enforcement. Immediate reporting of crimes greatly enhances law enforcement's ability to collect and maintain evidence. For information about pursuing a criminal complaint, please contact UAPD at (205) 348-5454. The Title IX Coordinator, Designated Responsible Reporting Official, or WGRC may provide assistance or support to an individual voluntarily choosing to file a criminal complaint.

The standard of proof with regard to criminal offenses (proof beyond a reasonable doubt) is different from the University's preponderance of the evidence standard, which applies to alleged violations of this Policy. Conduct may be considered a violation of this Policy even if a determination is made that criminal charges are not warranted. Therefore, findings by law enforcement officials are not final conclusions of whether the alleged conduct violates University policy.

Individuals may report Prohibited Conduct to UAPD without making a formal criminal complaint. Individuals may and are encouraged to report alleged criminal Prohibited Conduct to UAPD or local law enforcement prior to making a formal University complaint.

When a UAPD officer receives a complaint that involves a student, employee, or on-campus activity, a UAPD official will notify the Title IX Coordinator regarding individuals involved in the alleged incident and any immediate measures taken by law enforcement. The University Title IX investigation may be placed on hold while law enforcement conducts initial criminal fact-finding measures. All involved parties have a right to appropriate and reasonably available interim protective measures pending the initial criminal investigation. Following the initial criminal fact-finding stage, the University will begin its internal Title IX investigation, which is independent of the criminal investigation. During the investigation process, the Title IX Coordinator will communicate with law enforcement and allow deference to the criminal investigation.

Pursuant to the University's confidentiality policy, which is discussed above, UAPD and the Tuscaloosa County Violent Crimes Task Force are considered "need to know" officials who may require information about incidents of alleged Prohibited Conduct for reasons of community safety. Consistent with applicable privacy laws, the Title IX Coordinator may share statements, evidence, or other information gathered during the University's investigation with these law enforcement entities.

2. Procedures Followed After A Report Of A Sexual Offense Is Made To UAPD

When a sexual assault is investigated, the Complainant may be unprepared for the lengthy, public process of criminally pursuing a Respondent. UA Police and other involved officers respect the Complainant's feelings, but must also observe due process of law. The following outline of a criminal sexual assault investigation can help Complainants understand the process of the investigation. This outline may vary based on the individual circumstances of a particular case. Also, this process of a criminal investigation is separate and apart from a Title IX investigation and/or Code of Student Conduct process discussed herein.

Immediate Response to Report: After an alleged sexual assault has occurred and the Complainant contacts University police, patrol officers will respond to the Complainant, ensure the Complainant's well-being, and will, with the Complainant's consent, contact a Victim Advocate from the WGRC or the District Attorney's Victim Services Office. The Victim Advocate may assist the Complainant during the investigation. The officers will help the Complainant arrange medical care at the emergency room where medical staff will provide medical intervention to the Complainant, treat injuries and potential sexually transmitted infections, and/or preserve physical evidence of the assault. The Victim Advocate is available to accompany the Complainant to the hospital and is available to provide counseling and/or support services as necessary at the hospital and on an ongoing basis throughout the investigation and beyond.

- The responding patrol officers, after receiving from the Complainant a brief description of what allegedly happened, will inform the appropriate police units and investigators. Officers will secure the crime scene and interview any witnesses. Responding investigators will arrive to identify and preserve evidence at the crime scene and conduct additional interviews if necessary.
- When ready, the Complainant must provide a detailed statement of the alleged assault to the investigators. The WGRC Victim Advocate or a District Attorney Victim Services Officer may be present.
- Officers may ask the Complainant to try and identify the suspect from a photo or physical lineup.

Investigators must gather enough evidence to establish "probable cause," i.e., legal reason to arrest the suspect. When the evidence is ready, the investigators and Complainant will appear to meet with a magistrate to ask for a warrant allowing the suspect's arrest. If a warrant is granted, the suspect can be arrested and jailed. The suspect may not spend all of the time before the trial in custody; when appropriate, bail/bond can be provided for the defendant.

- There may be several judicial proceedings before the actual trial. For instance, a 'preliminary hearing' may be held. This hearing, which is conducted before a judge, may require the Complainant to answer questions from the prosecuting attorneys and the defendant's attorney. The Complainant may also be asked to appear before the Grand Jury when it convenes to determine if the defendant is to be indicted. If the Grand Jury issues a 'True Bill,' which indicates sufficient evidence was heard to indict the accused, a trial will be scheduled.
- The trial will typically be held in the Tuscaloosa County Courthouse in downtown Tuscaloosa. (With respect to sexual assaults in the Gadsden Center, the trial will typically be held in the Etowah County Courthouse located in Gadsden.) Sexual assault trials generally involve testimony from the Complainant, the police investigators, the emergency-room personnel, and other witnesses. If the accused defendant is found to be guilty of the crime, the judge will set the term of punishment.

3. Importance of Taking Steps to Preserve Evidence

If an incident of sexual assault, domestic violence, dating violence, or stalking occurs, it is important to preserve evidence. In addition to assisting with any University investigation, preservation of evidence helps allow a successful criminal prosecution to remain an option.

- a. *Special considerations for sexual assault victims:* In addition to care of obvious injuries, medical attention is needed to protect the Complainant from sexually transmitted diseases and/or provide information about pregnancy. Any person sexually assaulted who might consider taking legal action against the alleged Respondent needs to receive medical care and take steps to preserve evidence at a reputable emergency room immediately. If the sexual assault occurred in Tuscaloosa, such care can be obtained at DCH Regional Medical Center, adjacent to the university campus.¹ DCH can also assist with medical exams in which evidence of sexual assault can be obtained and preserved for legal action. Without this evidence, the chances for successful prosecution are minimized. Complainants should have the exam as soon as possible. They will need a change of clothes; the clothes worn during the assault will be kept as evidence. If a Complainant already changed clothes, they should bring along any articles that may have blood, semen, or other forensic evidence on them. In order to preserve physical evidence of the assault, Complainants should not change clothes, bathe, douche, or use the bathroom before seeking medical care. Forensic examinations are available free of charge to sexual assault victims at the DCH Regional Medical Center.
- b. *Special considerations for domestic violence, dating violence or stalking victims:* Evidence of violence, such as bruising or other visible injuries, following an incident of domestic or dating violence should be documented by taking a photograph. Evidence of stalking including any communication, such as written notes, voice mail or other electronic communications should be saved and not altered in any way.

¹ Complainants in Gadsden may receive medical care at Riverview Regional Medical Center.

APPENDIX -5-

APPENDIX -5-

PREVENTION, EDUCATION, AND AWARENESS EFFORTS

Examples of prevention, education, and awareness programs offered by the University to address Prohibited Conduct include:

1. **Primary Prevention, Education, and Awareness Programs:** The following prevention and awareness programs collectively communicate the University's prohibition against Prohibited Conduct (defined in Section C and **Appendix 1**), describe safe and positive options for bystander intervention, provide information on risk reduction, and discuss other relevant matters contained within the this Policy for new students and employees.
 - a. New Student Training—All students who are new to the University are required to complete an online training program that discusses sexual assault, dating violence, domestic violence, and stalking. This program focuses on providing information regarding University policy, procedures, and resources and includes bystander intervention skills and empowering strategies.
 - b. Annual Employee Training—All new employees are required to complete training addressing sexual and other forms of illegal harassment and University policies with regard to reporting, and all employees receive additional training on an annual basis. In addition, potential members of a Conduct Body and investigators handling matters under this Policy are trained on issues specific to handling Prohibited Conduct matters.
 - c. Student Housing and Residential Communities Training—Annual training is provided to student HRC employees (Resident Advisers and Community Advisers) that focuses on University policies, procedures, and resources regarding Prohibited Conduct and addresses unique situations relevant to HRC employees who are also students.
 - d. Student Athlete Training—Annual training is provided to student athletes that focuses on University policies, procedures, and resources regarding Prohibited Conduct. This training addresses Prohibited Conduct, obtaining consent, how to report Prohibited Conduct, resources available, and bystander intervention techniques.
2. **Ongoing Prevention, Education, and Awareness Programs:** Multiple departments across campus provide ongoing awareness, bystander intervention, and prevention campaigns for the campus community. These include but are not limited to:
 - a. Email letter to the Campus Community—In the fall and spring semesters as well as the summer term, the President sends an email to students, faculty, and staff advising of reporting channels for sexual harassment or sexual violence (sexual assault, domestic/dating violence and stalking), resources and support (e.g., safety planning, counseling services, academic advocacy), and education and training.
 - b. Safer Living Guide—At Bama Bound student orientation, all incoming students are made aware of the *Safer Living Guide*, which is published and available to all students and employees in multiple facilities on campus as well as on-line at www.police.ua.edu/safer-living-guide-2-2/. Among other things, this guide describes safe and positive options for bystander intervention, and identifies measures a person can take to decrease their chances of becoming a victim of sexual assault, domestic violence, dating violence, and stalking and reducing the risk of drug-induced sexual assaults while recognizing that only those who commit sexual violence are responsible for those actions.

- i. Some safe and positive options for bystander intervention include:
 - Making up an excuse to get the individual out of a potentially dangerous situation;
 - Letting a friend or co-worker know that an individual's actions may lead to serious consequences;
 - Never leaving an intoxicated individual's side, despite the efforts of someone to get that individual alone or away from you;
 - Using a group of friends to remind someone behaving inappropriately that their behavior should be respectful;
 - Taking steps to curb someone's use of alcohol before problems occur;
 - Calling the authorities when the situation warrants; and,
 - Understanding how to safely implement the choice. Safety is paramount in active bystander intervention. Usually, intervening in a group is safer than intervening individually. Also, choosing a method of intervention that de-escalates the situation is safer than attempting a confrontation. However, there is no single rule that can account for every situation.
- ii. Situational awareness and trusting one's instincts may reduce the risk of sexual assault. The tips below are provided to help students decrease the potential chance of sexual assault:
 - If you consume alcohol, do so in moderation.
 - Do not leave your beverage unattended or accept a drink from an open container.
 - When you are with someone, communicate clearly to ensure he or she knows your limits and/or expectations from the beginning. Both verbal and nonverbal (body language) communication can be used to ensure the message is understood.
 - If you go on a date with someone you do not know very well, tell a close friend what your plans are.
 - You have the right to say "No" even if you first say "Yes," and then change your mind; have had sex with this partner before; have been kissing or "making out"; or are wearing what is perceived to be "provocative" clothing.
 - Always have extra money to get home. Have a plan for someone you can call if you need help.
 - If you feel uncomfortable, scared, or pressured, say "Stop it" or leave and call for help.
 - When you go to a party, go with a group of friends. Arrive together, watch out for each other and leave together.
 - Be aware of your surroundings at all times.
 - If possible, avoid being isolated with a person you do not know or trust.
 - Travel with a friend or in a group.
 - Walk only in lighted areas after dark.
 - Avoid walking alone after dark or during late hours.
 - Keep the doors to homes, apartments, and cars locked.
 - Know where phones are located.
 - Download and utilize the Guardian Safety App available at mybama.ua.edu.
- c. The UACT website (www.ua.edu/uact): This website contains information on how to contact individuals to make a report of Prohibited Conduct as well as bystander intervention training materials designed to help students learn techniques/advice on how to be an effective bystander.
- d. The UA Safety App (www.ready.ua.edu/safety-app): The UA Safety App provides students and employees with immediate access to information in case of an emergency. The App provides contact

information for Safety and Support departments on campus including UAPD, the Title IX Office, and the WGRC. The App provides a direct link to the UAct website.

- e. University of Alabama Safety and Support Contact Card: Students and Employee can text “UASAFETY” to 444999 and receive a downloadable contact card. The contact card contains contact information for departments on campus responsible for receiving reports of Prohibited Conduct and providing resources including UAPD, the Title IX Office, the Student Health Center, the WGRC, and Counseling Center.
- f. Women and Gender Resource Center (WGRC): Campus-wide programs coordinated by the WGRC are designed to increase awareness about sexual assault, dating/domestic violence, and stalking as well as providing information on victim services available on campus. The programming may also include topics relating to violence prevention and bystander intervention behavior. (For example, WGRC offers Bystander Intervention Panels as part of its Dating and Domestic Violence Awareness Month programming, where students provide advice on how to interrupt and end dating violence.) Informational brochures and pamphlets focusing on interpersonal violence are available for the University community. This information includes definitions of the various types of interpersonal violence, information about prevalence, options for reporting, services available to victims, and information on the legal and judicial process. Additional information packets are available for victims of interpersonal violence as well as their friends and family.

The Frances S. Summersell Library is part of the UA library system and is located in the WGRC. The library provides a variety of resources including DVDs and books, which are available for checkout and/or review by students, faculty, and staff of the University of Alabama. Many resources are available on the topics of sexual assault, dating/domestic violence, and stalking.

Some of the more noted educational programs and outreach services offered by the WGRC include:

- i. Peer Education and Leadership: The WGRC staff engages students in peer education and leadership programs to address interpersonal violence. Through training, peer educators gain a clear understanding of the dynamics of interpersonal violence and the resources available to address the issues. After receiving training, students apply that knowledge to a peer education model in which they promote healthy relationships, risk reduction, and assist in providing programs for students and the campus community about interpersonal violence and how victims can access campus services. Peer education and leadership is implemented through a number of models, including *Unscripted*, a peer theater troupe, composed of a diverse group of students who apply interactive and improvisational theatre to contemporary scenarios of interpersonal violence which they perform for UA classes and organizations to generate dialogue regarding warning signs of abuse, bystander behavior, and campus resources. Other models include the WGRC Student Leadership Council, and Safe Sisters, who are sorority women trained on the issues of interpersonal violence and serve as peer leaders for their chapter.
- ii. Interpersonal Violence/Speakers Bureau: The WGRC staff is available to serve as speakers to present programs on a wide variety of issues including interpersonal violence, risk reduction, healthy relationships, and leadership. Presentations can take place on or off of campus for classes, organizations, clubs, and other groups. Presentations can be adapted to the specific needs of an organization.
- iii. Harbor: The purpose of Harbor is to create safe places throughout campus where victims of interpersonal violence can go to receive assistance. Through the training, faculty and staff gain insight and sensitivity to the issues of dating/domestic violence, sexual assault, and stalking. Harbor trainings last approximately two hours and can be incorporated into a single staff meeting or broken into components to accommodate participant schedules.

- iv. **Campus Anti-Violence Task Force:** The WGRC established a Campus Anti-Violence Task Force (CAFI) to provide a coordinated community response to violence. The goal of the Task Force is to be a multi-disciplinary, diverse, and inclusive group of campus and community partners who provide a unified approach to combat violence on campus.
- v. **Domestic Violence Awareness Month and Sexual Assault Awareness Month:** The WGRC staff coordinates various campaigns for Domestic Violence Awareness Month in October and Sexual Assault Awareness Month in April of every year. Activities both at the university and in the community include initiatives such as the Clothesline Project, These Hands Don't Hurt, information displays, rallies and candlelight vigils, the purple and teal awareness ribbon campaigns, and art exhibits designed to educate our community about interpersonal violence, such as the Wounded Heart display.
- e. **Department of Health Promotion and Wellness:** The Department of Health Promotion and Wellness in the Student Health Center provides education and training opportunities via the Project Health Ambassadors and Health Hut. The Health Ambassadors provide programming in residence halls. Health Hut Interns engage visitors with games, activities, and conversations aimed at increasing student awareness about health issues and behaviors that directly affect them, increase student knowledge about healthy behaviors and making healthy choices, and reduce the barriers students perceive to improving their health. While this group provides a variety of programming, noted programming concerning Prohibited Conduct occurs during Sexual Responsibility Week, Sexual Assault Awareness Month, and Domestic Violence Awareness Month.
- f. **University of Alabama Police Department:** UAPD Community Oriented Police program and other areas within UAPD provide Prohibited Conduct awareness, education, and prevention/risk reduction presentations to the University community throughout the year.
- g. **UA Safe Zone:** The UA Safe Zone program provides a visible network of allies for lesbian, gay, bisexual, trans, queer, and asexual (LGBTQA+) individuals. Safe Zone Allies distribute information regarding sexuality, gender identity, campus and community resources, and methods for reporting harassment and/or discrimination. The purpose of the Safe Zone program is to foster a University climate where everyone is treated with dignity and where all individuals who identify as LGBTQA+ are free to thrive academically, professionally, and personally.
- h. **Title IX Office:** The Title IX Office provides targeted education and awareness programs for specific groups on campus based on requests by the group or organization and/or based on reporting trends.
- i. **Additional departments/groups on campus** provide training to specific groups of the University community. These departments include, but are not limited to: Fraternity & Sorority Life; Office of Student Conduct; The SOURCE/Office of Student Involvement; Intercollegiate Athletics; Housing and Residential Communities; University of Alabama School of Law – Domestic Violence Law Clinic; Office of Counsel; and Human Resources Learning & Development.