

TITLE IX AND SEXUAL MISCONDUCT POLICY

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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 D.1. and **Appendix 3** to this Policy, includes sexual assault, sex or gender-based 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. Unless ultimately proven otherwise pursuant to the standards and processes of this Policy, individuals accused of Prohibited Conduct are presumed to be not responsible for any alleged violation. Individuals who are found to be in violation of this Policy, however, 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 University conduct and criminal investigations; identifies the UA offices to whom a Complainant may report alleged violations in confidence to obtain supportive measures without an investigation, explains University supportive measures, emergency removals and other support

services, sets out procedures for addressing potential Prohibited Conduct, and details the University’s comprehensive prevention, education, and awareness plan.

This Policy and Procedures are guidelines that the University intends to use for Prohibited Conduct. The University reserves the right to amend or alter the conditions and terms contained in this Policy and its Appendices as it deems necessary. The University will attempt to give notice of changes of information, policy, and procedure to students and employees. Inquiries as to whether the information contained herein is the current policy and procedure for processing of reports of Prohibited Conduct should be made to the Title IX Office.

B. JURISDICTION AND APPLICATION OF POLICY

This Policy applies to:

- Allegations of Prohibited Conduct by UA students or employees regardless of whether the alleged violation occurred on campus¹ or off-campus, but only if the off-campus conduct has the potential for continuing adverse effects on or creating a hostile work or learning environment for students, employees or third-parties while on campus;²
- Allegations of Prohibited Conduct, including those committed by non-students or non-employees, that occur on campus or at any location involving a University education program or activity (including, but not limited to, University-sponsored study abroad³, 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 or on-campus alleged conduct by a community member, third party, or campus visitor where the University does not exercise substantial control over both the Respondent and the context in which the conduct occurred.⁴ Likewise, the full spectrum of possible sanctions/remedies, resources, and accommodations may be limited in situations involving a community member, third party, or campus visitor that fall outside of the Policy’s jurisdiction. The procedures that apply to the resolution of an allegation of Prohibited Conduct will depend on whether the Prohibited Conduct is also subject to the Title IX Regulations.⁵ For more detailed information, please review Sections D.1., J, and **Appendices 1 & 2**.

With regard to allegations of Prohibited Conduct as outlined herein, this Policy shall supersede all other policies and procedures set forth in other University policies and/or handbooks. If the accused individual has dual status (i.e. the accused individual is both an employee and student), the Title IX Coordinator or designee (hereinafter “Title IX Coordinator”) will determine the appropriate procedure(s) to be applied pursuant to this Policy. The Policy and the applicable procedures in effect on the date of the alleged incident will be applied with regard to what is considered Prohibited Conduct, unless clearly established law requires use of the current applicable procedures. If an investigation involves multiple reports of Prohibited Conduct, where it would be appropriate to consider all reports with regard to a totality of the circumstances analysis, the Policy in effect as of the date of the most recent alleged Prohibited Conduct will be applied.

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

² If a Respondent is no longer affiliated with the University when the report of Prohibited Conduct is received, the University may not conduct an investigation into the allegations, but reserves the right to document the report and address the allegations with the Respondent prior to Respondent returning to UA as a student, employee, or campus visitor.

³ With regard to all study abroad programs, UA has jurisdiction to investigate allegations of Prohibited Conduct where the Respondent is a UA student or employee.

⁴ 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.

⁵ 34 C.F.R. part 106.

This Policy shall be administered by the Office of Equal Opportunity and Title IX Programs (hereinafter “Title IX Office”).

C. GRIEVANCE PROCESSES

This Policy utilizes two grievance processes: the Title IX Process and Sexual Misconduct Process. These processes are described in more detail in **Appendices 1 and 2** respectively. The determination regarding which process will be utilized is based on the allegations in the Formal Complaint and the factors as described below:

1. Title IX Process

Allegations of Prohibited Conduct meeting the below criteria, as alleged in a Formal Complaint, will be addressed pursuant to the Title IX Process (Appendix 1):

- Incident(s) occurring against a person in the United States and within a University education program or activity;
- The Complainant is participating in or attempting to participate in the University’s education program or activity at the time of filing the Formal Complaint; and
- The Formal Complaint includes at least one allegation of Title IX Prohibited Conduct that constitutes Sexual Assault/Rape, Sexual Assault/Fondling, Dating/Domestic Violence, Title IX Sexual Harassment, or Stalking as defined below.

2. Sexual Misconduct Process

The Sexual Misconduct Process (Appendix 2) addresses incidents of Prohibited Conduct that do not fall within the requirements of the Title IX Process, but otherwise meet the definition of Sexual Misconduct Prohibited Conduct and the jurisdictional requirements as outlined in Section B above. In situations where Prohibited Conduct meets both the requirements of the Title IX Process and Sexual Misconduct Process, the Title IX Process will apply.

Allegations of Prohibited Conduct meeting all of the below criteria, as alleged in a Formal Complaint, may be addressed pursuant to the Sexual Misconduct Process:

- None of the allegations contained in the Formal Complaint constitute Title IX Prohibited Conduct;
- The allegations, if proved, would constitute Sexual Misconduct Prohibited Conduct as defined in D.1.; and
- The University has jurisdiction pursuant to Section B above.

D. 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 sex or gender-based and meet the definitions of any of the types of Prohibited Conduct identified in the chart below or in **Appendix 3** to this Policy (whether defined by UA, or by state (AL) or federal (FED) laws, as amended from time to time), constitutes a violation of this Policy.⁶

⁶ The chart included within this section of the Policy sets forth UA’s definitions of Prohibited Conduct. **Appendix 3** contains a chart that combines UA’s definitions of Prohibited Conduct with corresponding definitions under federal (FED) and Alabama (AL) laws, all of which constitute Prohibited Conduct covered by this Policy.

Allegations of Prohibited Conduct will be addressed through either the Title IX Process or the Sexual Misconduct Process. Prohibited Conduct will be considered either Title IX Prohibited Conduct or Sexual Misconduct Prohibited Conduct, as defined in the tables below. If the Prohibited Conduct constitutes Title IX Prohibited Conduct, the process and procedures outlined in **Appendix 1** apply. If the Prohibited Conduct constitutes Sexual Misconduct Prohibited Conduct, the process and procedures outlined in **Appendix 2** apply.

A person whose sex or 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 laws addressing sex or 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 3** have not been updated to reflect the most recent federal or state language.

TITLE IX PROHIBITED CONDUCT
Under Title IX, Sexual Harassment includes Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Title IX Sexual and Gender-Based Harassment, as defined below.
INTIMATE PARTNER VIOLENCE: DATING AND DOMESTIC VIOLENCE
<p>Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.</p> <p>(i) The existence of such a relationship shall be determined based on the Complainant’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.</p> <p>(ii) For the purposes of this definition—</p> <p>(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.</p> <p>(B) Dating violence does not include acts covered under the definition of domestic violence.</p> <p>Domestic Violence is a felony or misdemeanor crime of violence committed—</p> <p>(A) By a current or former spouse or intimate partner of the Complainant;</p> <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.⁷</p> <p>Examples of such acts include, but are not limited to:</p> <ul style="list-style-type: none"> • Physical contact to the Complainant causing an injury; • Destruction or damage to the Complainant’s property; • Physical contact done for the purpose of harassing or alarming the Complainant.
STALKING
<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>The term “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>Examples of such acts include, but are not limited to:</p> <ul style="list-style-type: none"> • Following an individual without a reasonable justification for being in a particular area or taking a particular route; • Lying in wait;

⁷ Paragraph E only applies to Title IX Prohibited Conduct.

- Any other act done for the purpose of trying to find an individual or learn information about that individual's location and/or activities over the individual's stated objections.

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 reasonable 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.

SEXUAL ASSAULT⁸

Sexual Assault/Rape (Nonconsensual Sexual Penetration) is defined as 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. Attempts or assaults to commit sexual assault/rape are also included; however, statutory rape and incest are excluded.

Sexual Assault/Fondling (Nonconsensual Sexual Contact) is 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 their age or because of their temporary or permanent mental incapacity. For purposes of this definition, "private body parts" include an individual's genitalia, breasts, groin, or buttocks.

Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape is sexual intercourse with a person who is under the statutory age of consent. The age of consent is determined by the applicable age of consent for the jurisdiction where the alleged sexual intercourse occurred. In Alabama, the age of consent is 16 years old.

CONSENT

The term "consent" used when describing different types of prohibited acts of sexual misconduct under UA's Title IX and Sexual Misconduct Policy (such as sexual assault/rape) 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.

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 consent, or if consent is obtained by force, deception, or coercion. A lack of resistance, verbal or physical, 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, drugs, or other substances 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.

⁸ The Title IX regulations define the term "sexual assault" as an offense classified as a forcible or nonforcible sex offense under the Uniform Crime Reporting system of the Federal Bureau of Investigation. 20 U.S.C. § 1092(f)(6)(A)(v). Refer to Appendix 3 for the UCR definitions of forcible and nonforcible sex offenses.

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 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 decreased level of cognitive functioning. The existence of any one of these factors may support a finding of incapacitation, and thus the inability to consent to sexual activity. 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 threats or intimidation for the purpose of obtaining sexual favors, which would place a reasonable person in fear of immediate harm. 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.

“Force” for purposes of this Policy is the use of physical violence or intimidation to overcome another person's free will.

TITLE IX SEXUAL OR GENDER-BASED HARASSMENT⁹

Sexual Harassment¹⁰ includes conduct on the basis of 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 directed at an individual and 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) An employee conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct (often referred to as “quid pro quo” harassment); or
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity (often referred to as “hostile environment” harassment). In evaluating conduct, 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;
 - Whether the incident involved severe humiliation rather than was merely offensive;
 - 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 Complainant was offended by the conduct;
 - 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.

⁹ Reports of Title VII Sexual and Gender-Based Harassment will be addressed under [UA's Equal Opportunity and Discriminatory Harassment Policy](#).

¹⁰ Under Title IX, Sexual Harassment includes Sexual Assault, Dating Violence, Domestic Violence, Stalking, and Title IX Sexual Harassment. Charges for allegations of these types of Prohibited Conduct will be based on the specific definitions herein and the specific conduct alleged.

SEXUAL MISCONDUCT PROHIBITED CONDUCT

INTIMATE PARTNER VIOLENCE: DATING AND DOMESTIC VIOLENCE

Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.

(i) The existence of such a relationship shall be determined based on the Complainant'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—

(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.

Domestic Violence is a felony or misdemeanor crime of violence 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; or

(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.

Examples of such acts include, but are not limited to:

- Physical contact to the Complainant causing an injury;
- Destruction or damage to the Complainant's property;
- Physical contact done for the purpose of harassing or alarming the Complainant.

INTIMATE PARTNER VIOLENCE: HARASSING COMMUNICATIONS

Intimate Partner Violence (Harassing Communications) is excessive communications, including any attempt to unreasonably, intentionally, and repeatedly make contact with the Complainant over their stated objections, committed by a person who has been in a romantic or intimate relationship with the Complainant. Communication must be considered severe and/or pervasive from both a subjective and an objective standpoint.

For purposes of this definition, the existence of such a relationship shall be determined based on the Complainant'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.

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.

The term "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.

Examples of such acts include, but are not limited to:

- Following an individual without a reasonable justification for being in a particular area or taking a particular route;
- Lying in wait;
- Any other act done for the purpose of trying to find an individual or learn information about that individual's location and/or activities over the individual's stated objections.

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 reasonable 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.

SEXUAL ASSAULT

Sexual Assault/Rape (Nonconsensual Sexual Penetration) is defined as 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. Attempts or assaults to commit sexual assault/rape are also included.

Sexual Assault/Fondling (Nonconsensual Sexual Contact) is 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 their age or because of their temporary or permanent mental incapacity. For purposes of this definition, “private body parts” include an individual’s genitalia, breasts, groin, or buttocks.

SEXUAL EXPLOITATION

Sexual exploitation is taking or attempting to take 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, videoing, 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;
- Exposing one’s genitals, without consent, for the purpose of sexual gratification;
- Intentionally exposing another’s genitals or intimate body parts without their consent;
- Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person’s intimate parts (including genitalia, breasts, or buttocks) in a place where that person would have a reasonable expectation of privacy);
- Possessing and/or disseminating child pornography; or
- Knowingly exposing another individual to a sexually transmitted disease/infection or HIV without their consent.

CONSENT

The term “consent” used when describing different types of prohibited acts of sexual misconduct under UA’s Title IX and Sexual Misconduct Policy (such as sexual assault/rape) 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.

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 consent, or if consent is obtained by force, deception, or coercion. A lack of resistance, verbal or physical, 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:

- e. 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, drugs, or other substances 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 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 decreased level of cognitive functioning. The existence of any one of these factors may support a finding of incapacitation, and thus the inability to consent to sexual activity. 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.

“Coercion” for purposes of this Policy is the use of expressed or implied threats or intimidation for the purpose of obtaining sexual favors, which would place a reasonable person in fear of immediate harm. 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.

“Force” for purposes of this Policy is the use of physical violence or intimidation to overcome another person’s free will.

NON-TITLE IX SEXUAL OR GENDER-BASED HARASSMENT

Harassment is (1) unwelcome abusive or hostile behavior, (2) that is discriminatory on the basis of sex, sexual orientation, gender identity, gender expression, (3) targeted at a particular individual, and (4) the conditions in either (1) or (2) below are present:

(1) An employee or a student¹¹ conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct (often referred to as “quid pro quo” harassment); or

(2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and/or objectively offensive that it effectively denies a person equal access to the University’s education program or activity (often referred to as “hostile environment” harassment). In evaluating conduct, 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;
- Whether the incident involved severe humiliation rather than was merely offensive;
- 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 Complainant was offended by the conduct;
- 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.

SEXUAL OR GENDER-BASED DISCRIMINATION

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

FAILURE TO COMPLY

¹¹ If a student is accused under section (1) of this definition, this would include those situations where the student has a power differential over another student. Allegations of quid pro quo harassment against a student will be addressed as Sexual Misconduct Prohibited Conduct. Allegations of quid pro quo harassment against an employee, which also meet the jurisdictional requirements, will be addressed as Title IX Prohibited Conduct.

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 directive 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.¹²

RETALIATION (OR RETALIATORY HARASSMENT)

Retaliation is any action that a reasonable person would expect to have the effect of intimidating, threatening, coercing, or discriminating against 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; refusing to participate in any manner in an investigation, hearing, or other proceeding; opposing an allegation of Prohibited Conduct; or advocating for others' Title IX or Title VII rights.

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.

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.

The following actions do not constitute retaliation:

- Bringing a conduct charge against a person for making a materially false statement in bad faith in the course of a proceeding, provided a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith;
- The exercise of rights protected under the First Amendment (except that speech that amounts to intimidation, threats, or coercion for the purpose of chilling the exercise of a person's rights under this Policy is not protected);
- Mutual restrictions on contact between the parties;
- Consistently advising the parties and participants in any proceeding of the consequences of making false statements;
- Warning a Respondent that retaliation is prohibited and informing the Respondent of the consequences of retaliating against the Complainant, as part of a supportive measure provided for Complainant;
- Warning the parties not to discuss or disseminate the allegations in a manner that constitutes retaliation or unlawful tortious conduct.

This list is not exhaustive, as there may be other actions that do not constitute retaliation under this Policy.

2. Other Relevant Definitions

Actual Knowledge—The University has actual knowledge only when the University's Title IX Coordinator or other employees of the Title IX Office (collectively "the Title IX Office") have notice of the Prohibited Conduct or the allegations of Prohibited Conduct, except that actual knowledge is not met when the only individual with actual knowledge is the Respondent. For purposes of this Policy, the Title IX Coordinator and other employees of the Title IX Office are the only University officials who have authority to institute corrective measures under this Policy.

¹² 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 against a student in accordance with the Code of Student Conduct and the Title IX Office will recommend to appropriate University officials what appropriate actions, if any, should be taken in accordance with the Employee and/or Faculty Handbooks.

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/rape, dating violence, domestic violence, or stalking. 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 UA’s UAct [website on Intervention Training](#).

Complainant—An individual who is alleged to be the victim of alleged Prohibited Conduct in violation of this Policy.

Designated Harassment Resource Persons— University employees who have been designated by each college and other administrative units to receive complaints of illegal harassment and related retaliation. They should promptly report all allegations of Prohibited Conduct to the Title IX Office. These employees do not have authority to institute corrective measures on behalf of the University. A current list of these persons can be found on the Equal Opportunity [website](#).

Designated Responsible Reporting Official— The following employees of UA are required to report allegations of Prohibited Conduct to the Title IX Office: Designated Harassment Resource Persons, Human Resources Business Partners (for employee reports only), Supervisors (for employee reports only), professional staff in the Office of Student Conduct (for student reports only), and UAPD. These employees do not have authority to institute corrective measures on behalf of the University.

Education Program or Activity—Includes the University’s operations; and locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurs. For Title IX Prohibited Conduct, this includes any building owned or controlled by a student organization that is officially recognized by the University.

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,¹³ and student employees are considered “employees.” Volunteers and independent contractors are not considered “employees.”

Formal Complaint—A document filed by a Complainant¹⁴ or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the University investigate the allegation of Prohibited Conduct. Where the Title IX Coordinator signs a Formal Complaint, the Title IX Coordinator is not a Complainant or otherwise a party to an investigation.

Hearing Administrator—The Hearing Administrator is the University official who shall be responsible for the administration of hearings under the Title IX Process, including, but not limited to, overseeing the Title IX hearing process and appointing a Decision-Maker to participate in Title IX Formal Hearings. For cases involving student Respondents, the Hearing Administrator will be the Executive Director of the Office of Student Conduct (or

¹³ For purposes of this Policy, staff includes post docs, researchers, and medical residents.

¹⁴ A document filed by a Complainant means a document or electronic submission that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint.

designee). For cases involving staff Respondents, the Hearing Administrator will be the Director of Human Resources (or designee). For cases involving faculty Respondents, the Hearing Administrator will be the Associate Provost for Faculty Affairs (or designee).

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. The Title IX Coordinator and designees are considered to be Conduct Investigators (as defined in the Code of Student Conduct) in a complaint investigation involving a student Respondent, which may include input/assistance from the Office of Student Conduct. A complaint investigation involving a faculty/staff Respondent may include input/assistance from Designated Harassment Resource Persons and/or Human Resource Business Partners.

Official with Authority—Officials who have authority to institute corrective measures on behalf of the University. Employees in the Title IX Office are the only officials with authority for the University. 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/rape, 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 N and **Appendix 7** 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/rape, 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 N and **Appendix 7** 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 supportive measures to be provided to a Complainant.

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

Respondent—An individual who has been reported to be the perpetrator of alleged Prohibited Conduct in violation of 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 has 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.

Supervisor—A University employee empowered to take tangible employment actions against the employees who report to them, i.e., to effect a significant change in employment status, such as hiring, firing, failing to promote,

reassignment with significantly different responsibilities or a decision causing a significant change in benefits. A supervisor is not someone who merely has the right to direct a co-worker's labor.

E. 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. 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 2418 Capital Hall. For detailed directions, please visit the Title IX Office [website](#).

F. 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 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, please see the [University's Medical Emergency Assistance Policy](#).

G. 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.

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.¹⁵

H. 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, of which it has actual knowledge, 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.

¹⁵ The University's Code of Student Conduct, Code of Ethical Conduct, Equal Opportunity, Nondiscrimination, and Affirmative Action Policy, and Equal Opportunity and Discriminatory Harassment Policy each articulate UA's prohibition against retaliation. The investigatory and disciplinary process followed for a retaliation claim depends upon which policy has been allegedly violated. The process for claims of retaliation arising out of allegations under this Policy will be the Sexual Misconduct Process (**Appendix 2**).

A Complainant has the option to speak with UAPD or law enforcement about the alleged Prohibited Conduct. A Complainant may also (or in the alternative) notify the Title IX Office of the alleged Prohibited Conduct. The Title IX Office can also assist the Complainant with contacting law enforcement if the Complainant would like to file a formal criminal complaint. The initial decision to report the alleged Prohibited Conduct to anyone ultimately rests with the Complainant.¹⁶

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 or neglect 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 review the [Child Abuse Reporting Policy and Procedures](#).

b. Prompt Reporting

The University strongly encourages all individuals to report alleged incidents of Prohibited Conduct or related retaliation to the Title IX Office 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. Complainants, Respondents, witnesses, or others reporting possible Prohibited Conduct are encouraged to preserve all information and tangible material relating to the incident. Examples include electronic information (e.g., emails, text messages, etc.), photographs, clothing, bedding, and medical information. 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.¹⁷ A delay in reporting may also limit the University’s ability to address inappropriate behavior, as Respondent(s) and/or pertinent witnesses may no longer be affiliated with the University.¹⁸ 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. Information Not Required to Be Reported to Title IX Office

Individuals should not feel compelled to report information to the Title IX Office 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 Office is also not required if the information is disclosed as

¹⁶ Even if a Complainant elects not to report alleged Prohibited Conduct to UAPD, law enforcement, or the Title IX Office, they may still pursue resources that allow for “Confidential” reporting as outlined in **Appendix 3**.

¹⁷ Please see Section 3 of **Appendix 6** to this Policy for additional guidance relating to preservation of evidence.

¹⁸ See Footnote 2.

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.

d. Reports to Title IX Office Constitute Actual Knowledge to UA

In order to take appropriate action, the University must have actual knowledge of alleged Prohibited Conduct or related retaliation. The University only has actual knowledge of alleged Prohibited Conduct when a report is made to the Title IX Office. Consequently, any individual who believes they have experienced or witnessed Prohibited Conduct or related retaliation is encouraged to report the behavior to the Title IX Office.

e. Designated Responsible Reporting Officials Required to Report to Title IX Office

Human Resources Business Partners (for employee reports only),¹⁹ Supervisors (for employee reports only),²⁰ professional staff in the Office of Student Conduct (for student reports only),²¹ Designated Harassment Resource Persons, and UAPD are Designated Responsible Reporting Officials, and are required to promptly report all allegations of Prohibited Conduct to the Title IX Office. The University only has actual knowledge when these Designated Responsible Reporting Officials report allegations of Prohibited Conduct to the Title IX Office. When a Complainant contacts a Designated Responsible Reporting Official, that UA employee should make a reasonable effort to advise the Complainant or other reporting party about (1) their 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), (3) the Complainant's right not to pursue a formal criminal report with law enforcement, and (4) the fact that the Complainant or other reporting individual may share the information on a confidential basis with professional mental health counselors on campus or the Women & Gender Resource Center.

f. Reports to Other Employees, Students, & Visitors Do Not Constitute Actual Knowledge:

Reports to all other University employees²², students, and visitors are not considered reports to the Title IX Office and, therefore, do not give the University actual knowledge of Prohibited Conduct. These employees, students, and visitors, however, are encouraged to advise the Complainant of the role of the Title IX Office and/or confidential reporting channels and/or are encouraged to share information with the Title IX Office. Individuals with a recognized confidentiality privilege (see more information regarding confidential reporting in Section H.2.a. herein) are not required to report to the Title IX Office. However, these individuals are encouraged, in appropriate circumstances, to recommend that the Complainant contact the Title IX Office.

g. Contact Information for Title IX Office and Designated Responsible Reporting Officials

Contact information for the Title IX Office and Designated Responsible Reporting Officials and law enforcement can be found below and on the UAct [website](#).

¹⁹ A current list of HR Partners and their contact information is located at on the Human Resources [website](#).

²⁰ See Section D.2. above for definition of Supervisor.

²¹ Contact information for the Office of Student Conduct is available at on the Student Conduct [website](#).

²² Other entities (i.e., NCAA or NSF, etc.) may impose reporting requirements based on the employee's affiliation with that entity. The University does not have actual knowledge of Prohibited Conduct or allegations of Prohibited Conduct based on reporting requirements of other entities or third parties.

- i. *Contact Information for the Title IX Office.* All employees in the Title IX Office, including the Title IX Coordinator and Investigators, can receive all allegations of Prohibited Conduct. Contact information for the Title IX Coordinator is:
2418 Capital Hall, Tuscaloosa, AL 35487
(205) 348-5496
titleix@ua.edu
Additional contact information for other staff in the Title IX Office can be found on the Title IX Office [website](#).
- ii. *Contact Information for Reporting to Law Enforcement.* The University encourages individuals to immediately report acts or threats of Prohibited Conduct that may be considered criminal in nature 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 directly at 1110 Jackson Ave., Tuscaloosa, AL 35487; by visiting their [website](#); or by calling (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.

The Title IX Office is 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 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 give the University actual knowledge, individuals who have contacted law enforcement are encouraged to also report to the Title IX Office.

- iii. *Contact Information for Designated Responsible Reporting Officials.* Allegations made to the following offices and individuals should be promptly reported by these employees to the Title IX Office.:
 - 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 Student Conduct's [Contact Us website](#).
 - Designated Harassment Resource Persons are designated by each college and other administrative units and can receive any allegation of Prohibited Conduct and are then required to report those allegations to the Title IX Office. A current list of these officials can be found at the [Equal Opportunities Program website 1](#).
 - Human Resources Business Partners can also receive complaints of Prohibited Conduct involving a University employee or student employee. A current list of HR Business Partners and their contact information is located on the [HR Business Partners website](#).
 - Supervisors, as defined in Section D.2, should report any instances of alleged Prohibited Conduct they learn about involving a University employee under their supervision to the Title IX Office. Consult the UA directory for contact information.

2. Confidentiality/Privacy with Regard to University Officials

Conversations with the Title IX Office are kept as private as possible and may only be shared on a need to know basis as permitted by FERPA, or as required by law or to carry out the purposes of Title IX

regulations or a Sexual Misconduct investigation, including the conduct of any active review, investigation, hearing or judicial proceeding, review/appeal, or resolution of matters within the scope of Title IX or this Policy. University employees assisting with a Title IX or Sexual Misconduct matter are expected to safeguard private information in accordance with applicable laws (including, but not limited to, FERPA, HIPAA, and other privacy laws).²³ Complainants are advised that requests for confidentiality will 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, such as emergency removals, to address an immediate threat to the physical health or safety of any students or other individuals arising from the allegations of Prohibited Conduct. 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 consideration.

- a. Confidential Reporting: University employees who qualify for the confidentiality privilege by law cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information.. These "Confidential Employees" may 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, the University of Alabama School of Law clinics, and qualified news reporters in accordance with ALA. CODE § 12-21-142. Such 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 or neglect 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 actual knowledge of alleged Prohibited Conduct based on a report to employees of these offices. A Complainant who wishes to receive supportive measures, but who desires confidentiality should contact the WGRC Victim Advocate (see **Appendix 3** to this Policy).
- b. Confidential Clery Act Reporting: If a Complainant desires confidentiality and is certain they will not pursue criminal action, they are encouraged to contact the 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 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 Compliance and Fraud Hotline by visiting the [hotline website](#) or calling 1-866-362-9476. The University is not deemed to have actual knowledge when an anonymous report is made to this hotline. The extent of any inquiry of an anonymous report will depend, in part, on the extent of the information provided.

²³ 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.

- d. Online Reports: Online reports may be made by visiting the UAct [website](#) and completing the online incident form.

3. Confidentiality/Privacy within the Investigation

Individuals involved in Prohibited Conduct investigations and proceedings are encouraged to exercise discretion with regard to sharing of information about the Prohibited Conduct report or information obtained as part of the investigation and/or proceedings to safeguard the integrity of the process and avoid the appearance of retaliation. While discretion is important, Complainants and Respondents are not restricted from discussing and sharing information with others who may support or assist them during the process. Information provided by the Title IX Investigator to the parties as part of an investigation should not be disseminated or discussed in a manner that constitutes retaliation or unlawful tortious conduct, such as defamation or breach of privacy.

The University may not access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, or other recognized paraprofessional which are made and maintained in connection with provision of treatment to the party unless the University obtained that party's voluntary, written consent to do so for any proceeding under the Title IX and Sexual Misconduct Policy. If a Complainant or Respondent provides sensitive medical records as part of an investigation or subsequent hearing or review/appeal, the parties must have an equal opportunity to inspect and review information that is directly related to the allegations in the Formal Complaint.

4. Rights of Complainants and Respondents

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

a. Complainant's Rights²⁴

Students or employees reported to be the victim/Complainant of alleged sexual assault/rape, 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 will 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 Formal 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 unless the report involves known or suspected child abuse²⁵;
- To be assisted by campus authorities, if requested, when reporting a crime to law enforcement;
- To promptly receive information regarding the availability of University and community supportive measures including those listed in **Appendix 3**. If the Complainant requests such supportive measures and if they are reasonably available, they will be provided regardless of

²⁴ These rights apply when the Prohibited Conduct falls within the protections of the Violence Against Women Act (VAWA). In addition, 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 the [website](#) of the Attorney General's Office.

²⁵ See Section H.1.a.

whether the Complainant chooses to file a Formal Complaint or report the crime to law enforcement;

- To request from the Title IX Coordinator that the University issue and enforce a mutual No Contact Order when the University has jurisdiction to enforce a No Contact Order;
- To a thorough and impartial investigation of a Formal Complaint if applicable/appropriate;
- To be accompanied by a support person/advisor at all University proceedings relevant to the investigation and hearing process, if applicable²⁶ and subject to the limitations outlined herein;²⁷
- 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 given a reasonable opportunity, subject to the discretion of the Title IX Coordinator (or designee), to review evidence directly related to the allegations in the Formal Complaint prior to any final resolution being made, if applicable²⁸ and subject to limitations pursuant to privacy laws (FERPA, etc.), and to be given an opportunity to respond;
- To identify individuals with information directly related to the allegations in a Formal Complaint as witnesses and to be given the opportunity to recommend relevant questions to be asked to the other party and witnesses;
- 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/remedies; 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

Students or employees reported to be accused of alleged sexual assault/rape, domestic violence, dating violence, or stalking have the following 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/remedies;
- To receive information regarding University and community supportive measures (including those listed in **Appendix 4**);
- To request from the Title IX Coordinator that the University issue and enforce a mutual No Contact Order when the University has jurisdiction to enforce a No Contact Order;
- To a thorough and impartial investigation of a Formal Complaint if applicable/appropriate;
- To be accompanied by a support person/advisor at all University proceedings relevant to the investigation and hearing process, if applicable²⁹ and subject to the limitations outlined herein³⁰;
- Subject to the limitations set forth herein, to be notified of significant actions and proceedings relevant to the University investigation and hearing process;

²⁶ For additional information, see **Appendix 1** and **Appendix 2**.

²⁷ For additional information, visit the Title IX Office's [website](#).

²⁸ For additional information, see **Appendix 1** and **Appendix 2**.

²⁹ For additional information, see **Appendix 1** and **Appendix 2**.

³⁰ For additional information, visit the Title IX Office's [website](#).

- To be given a reasonable opportunity, subject to the discretion of the Title IX Coordinator (or designee), to review evidence directly related to the allegations prior to any final resolution being made, if applicable³¹ and subject to limitations pursuant to privacy laws (FERPA, etc.), and to be given an opportunity to respond;
- To identify individuals with information directly related to the allegations in a Formal Complaint as witnesses and to be given the opportunity to recommend relevant questions to be asked to the other party and witnesses;
- 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/remedies;
- To be notified that Respondent is not required to make a statement or otherwise provide information relevant to the investigation. However, the investigation may 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.

I. POTENTIAL CONFLICTS OF INTEREST / BIAS

Matters related to this Policy should be handled by people, such as the Title IX Coordinator, investigator, decision-maker, or any person designated by the University to facilitate an informal resolution process, free of any actual 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 Assistant Vice-President for Finance and Operations (or designee). Regardless of the time period, such objection must occur before the Title IX Coordinator, Assistant Vice-President, or designee makes a final determination under the Policy. If the objection as to a conflict or bias is made with respect to the Decision-Maker, Chairperson, or a member of a Conduct Body, such objection must occur before the scheduled hearing. If the Title IX Coordinator, Assistant Vice-President, or designee determines that the objection is reasonable, the challenged person will be replaced. The decision of the Title IX Coordinator, Assistant Vice-President, or designee regarding a challenge will be final.³²

When the Title IX Coordinator signs a Formal Complaint, that action does not place the Title IX Coordinator in a position adverse to the Respondent. In that instance, the Title IX Coordinator is initiating an investigation based on

³¹ For additional information, see **Appendix 1** and **Appendix 2**.

³² 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.

allegations of which the Title IX Coordinator has been made aware. Likewise, deciding that allegations warrant an investigation does not automatically result in the finding of a disqualifying conflict or bias.

J. FORMAL COMPLAINTS AND PROCESSING REPORTS OF PROHIBITED CONDUCT

Reports of Prohibited Conduct will receive prompt attention under either the Title IX Process (**Appendix 1**) or the Sexual Misconduct Process (**Appendix 2**). A Formal Complaint must be filed by the Complainant or signed³³ by the Title IX Coordinator in order to initiate the informal or formal procedures described in **Appendix 1** and **Appendix 2**. The Title IX Coordinator may consolidate Formal Complaints against more than one Respondent or by more than one Complainant against one or more Respondents or by one party against the other party where the allegations of Prohibited Conduct arise out of the same facts or circumstances.

1. Determining If Title IX Process or Sexual Misconduct Process Applies

Upon receipt of the Formal Complaint, the Title IX Coordinator will determine whether the Formal Complaint must/may be dismissed under the Title IX Process and/or the Sexual Misconduct Process. The Title IX Coordinator will conduct an assessment of the information provided in the Formal Complaint for the sole purpose of determining whether the alleged conduct, if substantiated, would constitute Prohibited Conduct under this Policy. After this initial assessment, the Title IX Coordinator may take the following actions:

- If the allegations contained in the Formal Complaint would, if substantiated, constitute Title IX Prohibited Conduct as described in Section D.1, the Coordinator shall initiate an investigation, as described in **Appendix 1**, of the allegations. If processing of the Formal Complaint continues as described in **Appendix 1**, the Coordinator shall dismiss the Formal Complaint pursuant to the processes described in **Appendix 2** - Sexual Misconduct Process.
- If the allegations contained in the Formal Complaint would not, if substantiated, constitute Title IX Prohibited Conduct as described in Section D.1., the Coordinator shall dismiss the Formal Complaint from the Title IX Process. If appropriate, the Coordinator may proceed with an investigation of the Formal Complaint as described in **Appendix 2** - Sexual Misconduct Process.
- If the Formal Complainant is not dismissed under either the Title IX Process or the Sexual Misconduct Process, and the Title IX Coordinator deems the Formal Complaint appropriate for the Informal Resolution Process, the Title IX Coordinator may, upon the consent of the parties, refer the matter to the Informal Resolution Process as described in **Appendix 1** or **Appendix 2**. Otherwise, the Title IX Coordinator will proceed with formal resolution as described in **Appendix 1** or **Appendix 2**.

2. Basis for Title IX Coordinator's Dismissal of a Formal Complaint

a. Mandatory Dismissal

Title IX Process: A Formal Complaint under the Title IX Process must be dismissed at any point in the process if any of the following conditions apply:

- The alleged Prohibited Conduct would not, assuming the allegations to be true, constitute Title IX Prohibited Conduct (defined to include sexual assault, dating/domestic violence, stalking and Title IX sexual harassment as defined in Section D.1. of this Policy);
- The alleged Prohibited Conduct did not occur in a University educational program or activity; or

³³ When the Title IX Coordinator believes that with or without the Complainant's desire to participate in formal procedures, a non-deliberately indifferent response to the allegations requires an investigation, the Title IX Coordinator will have the discretion to initiate formal procedures by signing the Formal Complaint.

- The alleged Prohibited Conduct did not occur against a person in the United States.

Sexual Misconduct Process: A Formal Complainant under the Sexual Misconduct Process must be dismissed if:

- The allegations contained in the Formal Complaint would not constitute Prohibited Conduct under this policy, if proved; or
- It is determined that the allegations contained in the Formal Complaint were false.

b. Discretionary Dismissal

In addition, at any time prior to a hearing, the Title IX Coordinator may dismiss a Formal Complaint that is proceeding under either the Title IX Process or Sexual Misconduct Process if any of the below conditions are met:

- Complainant notifies the Title IX Coordinator in writing that Complainant would like to withdraw the Formal Complaint or any allegations under the jurisdiction of the Title IX Process or the Sexual Misconduct Process;
- Respondent has disassociated from the University; or
- Specific circumstances prevent the University from collecting evidence sufficient to reach a determination as to the Formal Complaint or allegations under the jurisdiction of the Title IX Process or the Sexual Misconduct Process therein (for example, where Complainant has ceased participating in the process).

3. Notification of Dismissal of a Formal Complaint and Review/Appeal Rights

Upon dismissal of a Formal Complaint, the Title IX Coordinator shall send written notice of the dismissal to both parties simultaneously that includes the reason(s) for the dismissal, and the options for appeal with regard to dismissals under the Title IX Process. There are no appeal options for either party for dismissal of a Formal Complaint under the Sexual Misconduct Process.

The determination regarding dismissal becomes final either on the date the parties are provided with the written determination of the result of an appeal or, if no review/appeal is filed, the date on which the appeal would no longer be considered timely. Once a determination that the decision regarding dismissal of a Formal Complaint is final, the Complainant cannot file a Formal Complaint under this Policy concerning the same alleged conduct.

K. SUPPORTIVE MEASURES

For all reports of Prohibited Conduct, the University will take prompt and reasonable action to provide supportive measures 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 supportive measures from either the Title IX Coordinator or, if the Complainant desires confidentiality, from the WGRC Victim Advocate.³⁴ The need for University supportive measures varies based on the facts of the specific incident and the individual’s needs. The Title IX Coordinator may implement supportive measures 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 4 & 5**, other supportive measures may be available based on specific circumstances. Moreover, the University may take action without a request from either party if

³⁴ With reports of confidentiality, the WGRC Victim Advocate may request assistance from the Title IX Coordinator, but such assistance does not constitute actual knowledge to the University of an incident.

the University determines doing so is in the best interests of a student, employee, or the University community. The Title IX Coordinator, or if confidentiality is desired, the WGRC Victim Advocate, should be contacted for additional information. Examples of potential supportive measures that may be available are generally outlined below. For more detailed information on available supportive measures, please see **Appendix 4**(Complainant Supportive Measures) and **Appendix 5** (Respondent Supportive Measures).

- Access to counseling services and assistance in setting up initial appointments
- Imposition of a mutual 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
- Voluntary leave of absence
- Providing academic support services, such as tutoring, change in class schedule, rescheduling exams and assignments, and/or alternative course completion options
- Any other non-punitive measure that may be reasonably tailored to the involved individuals to achieve the goals of this Policy.

L. EMERGENCY REMOVALS AND ADMINISTRATIVE LEAVE

1. Emergency Removals for Student Respondents

- a. In certain circumstances, the University may impose an emergency removal to remove a student Respondent from the University’s educational program or activity prior to a determination regarding responsibility. This removal shall be undertaken once an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Prohibited Conduct justifies removal.
- b. Emergency removals may include, but are not limited to, a full or limited emergency removal from campus activities, removal from University housing, removal from University sponsored events, and/or restriction on access to University facilities and programs.
- c. The Respondent may request a review of the emergency removal in writing within two (2) calendar days of the issuance of any emergency removal. Such request should be submitted to the Conduct Administrator. Reasonable efforts will be made to hold such a review of the emergency removal within five (5) calendar days of the receipt of the request for review to determine if the removal should continue, as issued, through the remainder of the conduct process. If the student submits a timely review request, the review may be held beyond this five (5) calendar day period if scheduling issues exist.
- d. At any requested review, information will be presented in support of any challenged removal. The student may offer statements or other information to rebut any grounds offered in support of the emergency removal. Except as limited herein, the Respondent has the right to be assisted during the review process by any advisor they may choose, at their own expense. The advisor may be an attorney. An advisor has no right to speak or participate directly in any aspect of the emergency removal review process. The Respondent must speak on their own behalf. An advisor’s failure to comply with these participation limitations may cause the advisor to be removed from the proceeding.
- e. The decision following the review of the emergency removal will be final.
- f. Failure to timely and properly request a review of the emergency removal will result in the emergency removal continuing during the pendency of the investigation and final conclusion of any hearing and review/appeal proceedings, unless otherwise modified.

2. Administrative Leave for Faculty/Staff Respondents

- a. In certain circumstances, the University may place a faculty or staff Respondent on administrative leave during the pendency of a formal investigation prior to a determination regarding responsibility.
- b. For additional information regarding the processes and procedures applicable to administrative leave, if any, refer to the Faculty Handbook for faculty Respondents and the Employee Handbook for staff Respondents.

M. 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 or contains materially false allegations. 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 University Policy to report intentionally dishonest, frivolous, or malicious allegations of Prohibited Conduct or to submit materially false allegations.³⁵ 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. It is not considered retaliation for the University to impose disciplinary action against an individual who makes a materially false allegation in bad faith or who knowingly provides materially false information in bad faith during an investigation and review process, as determined by a preponderance of the evidence. 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.

N. 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. 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 or WGRC may provide assistance or support to an individual voluntarily choosing to file a criminal complaint.

³⁵ For students, see Section III.A.(1) of the [Code of Student Conduct](#). For faculty and staff, see Section 19.2 of the [Employee Handbook](#) and Chapter 3, Section II of the Faculty Handbook.

Please see **Appendix 6** 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.

O. 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/rape, (including consent), sexual assault/fondling, sexual exploitation, other sexual offenses, intimate partner (dating/domestic) violence, and stalking (see Definitions in Section D above and **Appendix 3** 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 supportive measures.
- 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 7** to this Policy for more detailed information on some of the prevention, education, and awareness programs the University offers.

P. FREE SPEECH AND ACADEMIC FREEDOM

The University is committed to free and open inquiry and expression for all members of its community. The University is dedicated to the promotion of lively and fearless freedom of debate and deliberation, but also to the protection of that freedom when others attempt to restrict it.

In cases of alleged Prohibited Conduct, the protections of the First Amendment and applicable state law must be considered if issues of speech or expression are involved. Free speech rights apply in the classroom (e.g., classroom lectures and discussions) and in all other education programs and activities (e.g., speakers on campus; campus debates, school plays and other cultural events; and student newspapers, journals, and other publications). In addition, free speech rights apply to the speech of students, faculty and staff.

Moreover, in regulating the conduct of its students, faculty, and staff to prevent or redress discrimination prohibited by Title IX and other non-discrimination laws, great care must be taken not to inhibit open discussion, academic debate, and expression of personal opinions, 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 Prohibited Conduct 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.

This Policy shall be implemented in a manner that recognizes the importance of rights to freedom of speech and expression.

Q. PRESERVATION OF RECORDS

The Title IX Coordinator, Human Resources, and/or the applicable grievance body will maintain for a period of seven (7) years (at a minimum) all records related to the following: all Formal Complaints, including the investigation and disposition, any disciplinary sanctions imposed, any remedies and/or supportive measures provided to the Complainant, any audio or audio/visual recording or transcript of the live hearing, any appeal and results, any information resolution and the results therefrom, and all materials used to train Title IX Coordinators, Title IX Investigators, Decision-Makers, members of a Conduct Body, any person who makes a final determination pursuant to this Policy, and any person who facilitates a voluntary informal resolution process.

The date of the record's creation begins the seven (7) year period. All records maintained pursuant to this provision are considered confidential and subject to applicable state and federal privacy laws.

* * *

In the event of any conflict between the written Policy and the version found on the University's website, the Title IX and Sexual Misconduct Policy found on the University's Title IX [website](#) will govern. The Title IX and 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 between this Policy and Board rules, 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.

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August 16, 2016
August 23, 2017
August 22, 2018
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August 14, 2020

APPENDIX -1-

PROCESSING REPORTS OF PROHIBITED CONDUCT UNDER TITLE IX PROCESS

A. Dismissal of Formal Complaint under Title IX Process, Referral to Sexual Misconduct Process, and Review/Appeal of Dismissal

Upon receipt of the Formal Complaint, the Title IX Coordinator will determine whether the Formal Complaint must be dismissed under the Title IX Process or must be dismissed entirely.

A Formal Complaint under the Title IX Process must be dismissed at any point in the process if any of the following conditions apply:

- The alleged Prohibited Conduct would not constitute Title IX Prohibited Conduct (sexual harassment, sexual assault, dating/domestic violence, or stalking as defined in Section D.1. of this Policy) if proved;
- The alleged Prohibited Conduct did not occur in a University education program or activity; or
- The alleged Prohibited Conduct did not occur against a person in the United States.

A Formal Complaint under the Title IX Process may be dismissed at any point in the process if any of the following conditions apply:

- The Respondent has disassociated from the University;
- The Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations under the jurisdiction of the Title IX Hearing Process therein; or
- Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations under the jurisdiction of the Title IX Hearing Process therein.

Both parties can seek a review/appeal of a dismissal of the Formal Complaint under the Title IX Process by following the process outlined in Section B.5.a. below.

A dismissed Formal Complaint under the Title IX Hearing Process may be addressed under the Sexual Misconduct Process. For additional information regarding the Sexual Misconduct Process, see Appendix 2.

B. Resolution of Formal Complaints Under Title IX Process

Once the determination is made that the Formal Complaint can proceed under the Title IX Process, the Formal Complaint 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 in response to a report of Prohibited Conduct. 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. When the Title IX Coordinator believes that with or without the Complainant's desire to participate in formal procedures, a non-deliberately indifferent response to the allegations requires an investigation, the Title IX Coordinator will have the discretion to initiate formal procedures by signing the Formal Complaint. For more information, review Section B.1. below. A Formal Complaint must be filed by the Complainant or signed by the Title IX Coordinator in order to initiate the informal or formal procedures described below.

The Title IX Coordinator may consolidate Formal Complaints against more than one Respondent or by more than one Complainant against one or more Respondents or by one party against the other party where the allegations of Prohibited Conduct arise out of the same facts or circumstances. If a report is filed with the Title IX Coordinator that is not subject to this Policy, the Title IX Coordinator may refer the report to the appropriate University official.

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

1. Limited Action Under Title IX Process

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 does not identify the Respondent;
- The Complainant declines to respond¹ to communications from the Title IX Office staff prior to or after a Formal Complaint is filed;
- 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 Limited Action is taken, no record of the complaint will be entered in the Respondent's official personnel file or Office of Student Conduct record. However, the Title IX Coordinator's Office will record the facts of the complaint and the Limited Action taken in response as part of its internal records.

If a Formal Complaint has been filed and Limited Action is later taken, the Formal Complaint will be dismissed. 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 supportive measures to the Complainant, providing targeted training/prevention programming, and/or imposing other non-punitive remedies as appropriate. A Complainant who has not filed a Formal Complaint and 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 Title IX Coordinator may sign a Formal Complaint, or take other appropriate action. Factors to be considered by the Title IX Coordinator (or

¹ 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, by not responding to communications, or by otherwise not participating in the process.

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 of 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 file a Formal Complaint, the University may be limited in its ability to meaningfully investigate and respond to a report of Prohibited Conduct. In such instances, the Title IX Coordinator may sign a Formal Complaint to initiate informal or formal procedures² 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.

2. Informal Procedures and Resolution for Formal Complaints Under Title IX Process

If a Formal Complaint is filed, the parties may request to resolve the Complaint through informal procedures. Informal Resolution is not an appropriate method to resolve Title IX Formal Complaints involving a student Complainant and employee Respondent. If the Formal Complaint is resolved informally, no record of the complaint will be entered in the Respondent's official personnel file or Office of Student Conduct record. However, the Title IX Office will record the facts of the complaint and the resolution achieved as part of its internal records.

A party, after receiving notice of all relevant allegations, potential Policy violations, and the options for processing a Formal Complaint under this Policy, may request that the University agree to resolve the Prohibited Conduct through Informal Resolution, which would not involve a full investigation and adjudication. All parties must agree to participate voluntarily in the Informal Resolution process and the University must deem that the matter to be potentially resolved is appropriate for Informal Resolution. The University may gather information necessary through interviewing individuals and other evidence gathering in an effort to determine if the report is appropriate for Informal Resolution. At any time during the Informal Resolution process, either party may change their mind and proceed with a formal investigation or the Complainant may request to withdraw the Formal Complaint. The University may also decide to proceed with a formal investigation and withdraw its approval for the process at any time during the Informal Resolution process. If additional potential Policy violations are revealed during the Informal 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 Informal Resolution process and resolve the additional potential Policy violations. If a report of Prohibited Conduct is resolved by Informal Resolution, the resolution will be deemed final. Should the Informal 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.

To proceed with Informal Resolution, the Title IX Coordinator will first provide the parties with written notice that includes the following information:

² If the University determines to proceed with Formal Procedures without the Complainant's cooperation, the Complainant may receive notice of the outcome and have the right to request a review/appeal as stated herein.

- A description of the allegation(s) in the Formal Complaint;
- The requirements of the Informal Resolution process, including the circumstances under which the University precludes the parties from resuming a Formal Complaint arising from the same allegations;
- Any consequences resulting from participating in the Informal Resolution process, including the records that will be shared and maintained; and
- Any party's right to, at any time prior to agreeing to a resolution, withdraw from the Informal Resolution process and resume the formal process with respect to the Formal Complaint.

Factors the University will consider when determining whether a report of Prohibited Conduct is suitable for Informal 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 and/or with the parties involved;
- 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;
- 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.

A party may end Informal Resolution at any time until a resolution is final and move to the formal process outlined below. Once the Informal Resolution process is final, neither party can request to proceed with the formal process outlined below, and the Complainant cannot file or resume a Formal Complaint arising from the same allegations. Neither party has a right to appeal the outcome of the Informal Resolution process.

3. Formal Investigation and Resolution Procedures Under Title IX Process

The formal investigation procedures are triggered when a Formal Complaint is filed by the Complainant or signed by the Title IX Coordinator. All meetings, discussions, and/or hearings that may occur as part of this formal process are closed to the general public.

a. Time Frames for Title IX Process

Formal Complaints will be resolved as promptly as practicable after the Formal Complaint is made. 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.

The time frames set forth herein may vary, but reasonable efforts will be made to conclude the process as follows:

- An investigation of a Formal Complaint under the Title IX Process within ninety (90) business days from the time a Notice of Allegations letter is sent to the Respondent;

- Any Informal Resolution within sixty (60) business days of the Complainant's request;³
- A Formal Hearing within sixty (60) business days from the issuance of the Investigative Report;
- Any reviews/appeals within sixty (60) business days from the issuance of a Decision-Maker's Written Hearing Determination;
- Any reviews/appeals within fourteen (14) business days of the Title IX Coordinator's issuance of a dismissal of a Formal Complaint.

Extenuating circumstances could require the process to extend beyond the time frames set herein, 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 following: to ensure the integrity and completeness of the investigation, to comply with a request by law enforcement, the complexity of the investigation, the severity and extent of the alleged conduct, University closings or limited operations, breaks, holidays, summer terms, to accommodate the delays by witnesses or the parties, pandemics or public health crises, and factors outside the University's control.

b. Equal Opportunity and Access and Reasonable Accommodations

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. Supportive measures and/or emergency removals (as described in Section L below and **Appendices 4 & 5** to this Policy) may be implemented 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 Title IX Prohibited Conduct Investigation or access to the supportive measures provided by the Title IX Office. Students or employees must self-identify if they need reasonable and appropriate accommodations to participate in an investigation or obtain access to the supportive measures provided by the Title IX Office and documentation of the reasonable accommodations required should be provided through the process outlined by the Office of Disability Services (for students) or the Human Resources ADA Coordinator (for employees).⁴

c. Standard of Proof for Title IX Process

The standard used to determine whether the Respondent is responsible for Prohibited Conduct is preponderance of the evidence, which means more likely than not that the alleged conduct occurred and said conduct is in violation of this Policy.⁵ Unless ultimately proven otherwise pursuant to the standards and processes of this Policy, individuals accused of Title IX Prohibited Conduct are presumed to be not responsible for any alleged violation.

³ If the Informal Resolution process is requested, all other time frames are tolled as of the date of the request.

⁴ 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). The Human Resources ADA Coordinator is located at 1001 HR Administration Building and may be reached at (205) 348-7733 or emarbutt@fa.ua.edu.

⁵ This standard will apply to all charges, including any that incorporate or reference a state or federal criminal law.

d. Formal Investigation Procedure under the Title IX Process

The formal investigation procedure followed pursuant to the Title IX Process is determined by the Respondent's role with the University:

i. *Formal Complaint against student Respondent*

Formal 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 Title IX 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 and Appendix.⁶ Hearings and reviews/appeals for Formal Complaints against a student involving Prohibited Conduct are discussed in detail below.

ii. *Formal Complaint against faculty or staff Respondent*

Formal 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 Persons and/or, if applicable, Human Resource Business Partners. All matters involving incidents of Title IX Prohibited Conduct allegedly committed by a faculty or staff member will be handled in a manner consistent with the requirements, accommodations, procedures, and processes outlined in this Policy and Appendix.⁷ Hearings and reviews/appeals for Formal Complaints against a faculty or staff member involving Prohibited Conduct are discussed in detail below.

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

Consistent with the jurisdiction of this Policy, in instances where a Formal Complaint is received against a community member/third party/campus visitor⁸ (not a student or employee) related to alleged Prohibited Conduct occurring at any location involving a University education program or activity, the Title IX Coordinator (or a designated investigator) may conduct an investigation.⁹ A conclusion by the appropriate Decision-Maker that Prohibited Conduct in violation of this Policy has occurred may subject the community member/third party/campus visitor to disciplinary action. 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.

e. Formal Investigation Title IX Process

- i. *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

⁶ 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.

⁷ To the extent there is an inconsistency between the substance of this Title IX Prohibited Conduct Policy and Procedure and the University's Equal Opportunity and Discriminatory Harassment Policy and Procedure related to the handling of sexual or gender based harassment allegations against University employees, the terms of this Policy will control.

⁸ 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.

⁹ When the Respondent is not a student or employee, the process that will be followed depends upon whether UA exercises substantial control over the Respondent and the specific context in which the Prohibited Conduct occurred. If UA exercises substantial control over both the Respondent and the specific context of the Prohibited Conduct, the Title IX Process will apply. Otherwise, the Sexual Misconduct Process will be utilized. Whether UA exercises substantial control is a fact-specific inquiry determined in the sole discretion of the Title IX Coordinator.

discuss available University supportive measures as well as the rights and options for filing a Formal 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 will also have the opportunity to raise issues or otherwise suggest specific questions directly related to the investigation for the investigator(s) to ask of the Respondent or any potential witnesses, provided the questions are directly related to the allegations and appropriate. The investigator(s) reserves the right to alter the wording of any proposed question. 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 dismissal of the Formal Complaint. However, if the alleged conduct presents an issue of overall campus safety and/or is sufficiently grave, the investigation may continue if the Title IX Coordinator signs the Formal Complaint.

- ii. *Notice of Allegations and Discussion with Respondent*— Notice of the Formal Complaint, with allegations of Title IX Prohibited Conduct, is deemed to have been properly provided when written notification of the allegations and alleged violations of the Code of Student Conduct, Employee Handbook, or Faculty Handbook is sent to the Complainant's and Respondent's assigned University of Alabama email address, delivered via Certified Mail to their last known address, or personally delivered to the them. University-issued email is the University's primary means of communication with students and employees. Students and employees are responsible for all communication delivered to their University-issued email address.

An effort will be made to set the initial investigative meeting with the Respondent at least seven (7) calendar days after delivery of the written notification of the alleged violation(s). Pre-scheduled meetings are scheduled around a student's academic schedule. Should a student wish to reschedule an appointment or meet sooner than the designated time, they should make such request in a timely manner. The University will make a reasonable effort to accommodate student scheduling conflicts but will not permit unreasonable delays in the investigation process. Students and employees are advised to keep their most current local address, permanent address, and local telephone number (or cell phone number) updated in the [myBama](#) records system.

At the initial investigative meeting, the allegations will be discussed with the Respondent. The investigator(s) and the Respondent will discuss the Respondent's rights as well as available University supportive measures while the investigation is pending. The Respondent will be given the opportunity to respond to the allegations and offer evidence directly related to the allegations and/or potential witnesses. The Respondent will also have the opportunity to raise issues or otherwise suggest specific questions for the investigator(s) to ask of the Complainant or any potential witnesses, provided the questions are directly related to the allegations and appropriate. The investigator(s) reserves the right to alter the wording of any proposed question. The Respondent is not required to make a statement or otherwise provide information relevant to the investigation. A Respondent's failure to make a statement shall not be used as an admission of responsibility during the formal investigative procedure. However, the process will continue and a decision regarding responsibility may be made based on the available statements and evidence at the formal hearing.

- iii. *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 to limit the number of witnesses whose sole purpose is to provide character information, as duplicative evidence is not relevant. The investigator(s) may also elect not to interview witnesses unlikely to have information directly related to the allegations as determined in the sole discretion of the investigator(s). The investigator(s) will make reasonable attempts to obtain other directly related evidence available from the parties, witnesses, or other University departments.
1. Complainant's Prior Sexual Behavior: For reports involving sexual assault/rape, evidence of the Complainant's sexual predisposition or prior sexual 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. Evidence of specific instances of sexual behavior by the Complainant may be offered to show:
 - Sexual encounters between the Complainant and the Respondent for purposes of establishing consent; or
 - That a person other than the Respondent was the source of semen, injury, or other physical evidence.
 2. Complainant's Prior False Allegations: Evidence that the Complainant made prior bad faith, materially false allegation(s) of Prohibited Conduct may be offered as evidence of Complainant's credibility. For purposes of this Policy, a prior bad faith, materially false allegation is one that has been adjudicated as false by a court of law or other body adjudicating a claim of Prohibited Conduct, including proceedings conducted by the University, as defined by this Policy.
 3. Respondent's Prior Prohibited Conduct: Evidence that the Respondent has been adjudicated as responsible for an allegation(s) of Prohibited Conduct that is similar in nature may be directly related to the allegation(s) in that it could prove motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident (all indicia of Respondent's credibility). For purposes of this Policy, adjudications include those by a court of law or other body adjudicating a claim of Prohibited Conduct, including proceedings conducted by the University, as defined by this Policy.
- iv. *Parties' Review of Evidence*— Once the investigator(s) has made reasonable attempts to obtain all inculpatory evidence (that may support a finding or conclusion that Respondent engaged in Prohibited Conduct) and exculpatory evidence (that may support a finding or conclusion that a Respondent did not engage in Prohibited Conduct), student and employee Complainants and Respondents will be given a reasonable opportunity to review and respond to the evidence obtained during the investigation. The investigator(s) will send each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The parties will have ten (10) calendar days to submit a written response, including suggesting specific questions relevant to the investigation for the investigator(s) to ask of the other party or any potential witnesses, which the investigator(s) will consider prior to submitting the investigation file for completion.

- v. *Respondent Disassociation from the University*— If a Respondent voluntarily withdraws from the University, fails to re-enroll for a subsequent semester, is no longer employed by the University or otherwise is no longer associated with the University after an investigation is initiated but before an Investigative Report is issued or, if properly requested, before a hearing is fully conducted, the Title IX Coordinator may dismiss the Formal Complaint. For student Respondents, a hold will be placed on the Respondent’s record that prevents them from registering or enrolling at the University in the future. The Respondent may be prohibited from entering campus or attending campus-sponsored events. The Respondent’s Conduct Record/personnel file may indicate that they disassociated from the University after a complaint was asserted and pending disciplinary review. Resolution of the case and permission from the Title IX Office will be required before a disassociated Respondent is permitted to return to the University.
- vi. *Investigative Report*—Following the investigation, and provided the Formal Complaint has not been dismissed, the Title IX Coordinator (or designee), in consultation with relevant campus partners, will prepare an Investigative Report that summarizes the relevant evidence. For cases that fall within the Title IX Process jurisdiction, the Investigative Report will not include a determination regarding responsibility or recommended sanctions/remedies or employment actions. The Investigative Report will be issued in an electronic format to both parties and their advisor(s), if any.

4. Title IX Hearing Procedures/Process

a. Scheduling a Formal Hearing and Pre-Hearing Meeting

Following the issuance of an Investigative Report, the case will automatically be referred to a live formal hearing, unless the parties agree to resolve the Formal Complaint through Informal Resolution.

Once the Investigative Report is issued and the case is referred to the live formal hearing, both parties must have an advisor for the sole purpose of conducting cross-examination on behalf of that party. The advisor can be selected by the parties and may be an attorney. If the parties do not have an advisor, the University will provide an advisor for the live formal hearing.

The Title IX Coordinator will schedule separate pre-hearing meetings with the parties and their advisor(s). Attendance is mandatory for both the parties and their advisor(s). The meeting is to discuss processes for the live formal hearing and appropriate decorum. Each party must notify the Title IX Coordinator (or designee) at least seven (7) calendar days prior to the pre-hearing meeting if they will be accompanied by an advisor of their choice and at their own expense at the live formal hearing.

b. Decision-Maker

The Hearing Administrator will appoint a trained Decision-Maker. The Hearing Administrator (or designee) shall make inquiries of the prospective Decision-Maker to ascertain whether the Decision-Maker 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 Decision-Maker from serving. The identity of the Decision-Maker shall be provided to both the Respondent and the Complainant and their respective advisors prior to the hearing.

The Decision-Maker will be responsible for conducting the hearing, including determining relevancy of questions and evidence, maintaining proper decorum, and making a determination regarding Respondent's responsibility for the allegation(s) of Prohibited Conduct.

c. Hearing Process¹⁰

- i. *Closed Hearings:* Hearings shall be closed to the public. Admission of any person, other than a parties' chosen or appointed advisor, shall be at the discretion of the Decision-Maker. The Decision-Maker also has the discretion to remove any person from the hearing at any time when they deem it necessary.
- ii. *Evidence:* All evidence each party wishes to be considered by the Decision-Maker 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 Decision-Maker, 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 Decision-Maker to consider must be submitted to the Hearing Administrator (or designee) at least ten (10) calendar days prior to the hearing. The Hearing Administrator (or designee) will provide the submitted materials to the Decision-Maker. Any materials submitted and/or discovered fewer than ten (10) calendar days before the hearing may only be considered at the sole discretion of the Decision-Maker.
 - o For information regarding admissibility of evidence of Complainant's prior sexual behavior, Complainant's prior bad faith allegations, and Respondent's prior Prohibited Conduct, refer to Section B.3.e.iii of this Appendix 1.
- iii. *Written Response to Investigative Report:* The Investigative Report issued following the Title IX Office's initial investigation will be included in the materials submitted to the Decision-Maker for review prior to the hearing. Complainant and/or Respondent may submit a written response to the Investigative Report. Such written response must be submitted to the Hearing Administrator (or designee) at least ten (10) calendar days prior to the hearing. The Hearing Administrator (or designee) will provide the submitted materials to the Decision-Maker and make the materials available for inspection by the Complainant and Respondent at least seven (7) calendar days prior to the hearing, consistent with FERPA or other regulation governing the disclosure of education records.
- iv. *Witnesses:* The Complainant and the Respondent have the right to request witnesses to be available for the hearing, subject to the discretion of the Decision-Maker. The Hearing Administrator (or designee) will send the Complainant and the Respondent a list of potential hearing witnesses. Each party must provide a list of additional potential hearing witnesses to the Hearing Administrator (or designee) at least ten (10) calendar days prior to the hearing. The Hearing Administrator (or designee) will provide the witness list(s) to the Conduct Body and all relevant parties involved in the matter at least seven (7) calendar days prior to the hearing. Any hearing witness requested 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 Decision-Maker and generally will only be allowed based on new information not known during the investigation process.
- v. *Direct Examination by Decision-Maker:* The Decision-Maker will conduct all direct examination of parties and witnesses. The parties' advisors may not conduct direct examination and are limited to cross-examination of the parties and witnesses.

¹⁰ Further procedures governing the Title IX Process are available on the Title IX Office [website](#).

- vi. *Cross-Examination by Parties' Advisors:* Following direct examination by the Decision-Maker, the parties' advisors may ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility. Such questioning must be conducted directly, orally, and in real time by the parties' advisor and never by a party. Only relevant questions may be asked of a party or witness, and duplicative questions, including those asked and answered, are considered irrelevant. Before a Complainant, Respondent, or witness answers a question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-Maker's determination regarding a question's relevancy is considered final and may not be challenged during the hearing by the parties or their advisors.
 - o If a party or witness does not submit to cross-examination at the live hearing, the Decision-Maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer questions.
 - o Documents and records may not be relied on to the extent they contain the statements of a party or witness who has not submitted to cross-examination. This rule, however, does not apply to a situation where the evidence involves intertwined statements of both parties (e.g., a text message or email thread) and one party refuses to submit to cross-examination.
- vii. *Record of Hearing:* A record of all hearings before a Decision-Maker will be created. The record shall be the property of the University. Parties and their advisors shall not make their own recording of the hearing. Upon request, the record will be available for review or inspection as appropriate.

d. Notification of Written Hearing Determination and Final Outcome

After the hearing, the Decision-Maker shall determine whether the evidence presented at the hearing supports a finding that the alleged Prohibited Conduct more likely than not occurred, and this decision will be provided concurrently to both parties in a written Hearing Determination. If the Decision-Maker concludes that the evidence presented at the hearing supports a finding that the alleged Prohibited Conduct more likely than not occurred, the Hearing Determination will also include any disciplinary sanctions imposed and whether remedies will be provided to the Complainant as a result of the finding.

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), any sanctions assigned to the Respondent by the University, and whether remedies will be provided by the University to the Complainant

5. Reviews/Appeals Under Title IX Process

a. Review/Appeal of Dismissal of Formal Complaint under Title IX Process

Both parties may seek a review/appeal of a dismissal of a Formal Complaint under the Title IX Process based on any of the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- New evidence that was not reasonably available at the time the determination regarding dismissal was made, that could affect the outcome of the matter; or
- The Title IX Coordinator or investigator(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

Any such request for a review/appeal must be submitted within three (3) calendar days of the issuance of the decision dismissing the Formal Complaint. Upon receipt of the request for review/appeal, the Title IX Coordinator will notify each party of the review/appeal. The parties will have five (5) calendar days from the issuance of this notice to submit a written statement in support of, or challenging, the dismissal of the Formal Complaint under the Title IX Process. The dismissal, the request for review/appeal, and the parties' written statement (if any) will be considered by the review/appeal Decision-Maker. The review/appeal Decision-Maker will issue a written decision describing the result of the review/appeal and the rationale for the result.

b. Review/Appeal Following Formal Hearing

Following a hearing, both the Complainant and Respondent have a right to seek a review/appeal of the Decision Maker's determination with regard to a finding of responsibility or non-responsibility and/or the imposed sanctions/remedies. A review/appeal may be requested on any of the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- To determine if the sanction(s) imposed were grossly disproportionate to the violation(s) committed;
- New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter; and
- The Title IX Coordinator, or investigator(s), or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

If a party is seeking a review/appeal, they must submit that request in writing on the form available through the Title IX Office [website](#) within seven (7) calendar days of the issuance of the determination and/or sanction(s). If either party requests a review/appeal, any accompanying sanction(s) will be on hold and will not take effect until the determination is final. If seven (7) calendar days pass without a party timely and properly requesting a review/appeal, the determination and/or sanction(s) will be deemed final.

When one party files a request for review/appeal, the other party will be notified of the request in writing by the Title IX Office. Both parties will be given an opportunity to submit a written statement to the Title IX Office in support of, or challenging, the responsibility determination from the formal hearing. Such submission must be made within seven (7) calendar days of the notification of the request for review/appeal.

The Decision-Maker for the review/appeal will be different from anyone who made the determination regarding responsibility or dismissal and must not be either the investigator or the

Title IX Coordinator. The Decision-Maker will be free from conflict of interest and bias and receive appropriate training.

Following the review/appeal, the Decision-Maker will issue a written decision describing the result of the review/appeal and the rationale for such result. This decision will be final and provided simultaneously to both parties.

Any additional processes or procedures applicable to reviews/appeals will be available on the Title IX website.

6. Sanctions/Remedies

Following a determination of responsibility pursuant to the applicable investigation or hearing or review/appeal procedures as discussed herein, the University may impose a range of sanctions/remedies as identified below. Sanctions/remedies imposed will be determined on the basis of the facts of each case and a Respondent's prior conduct history. Additional details regarding any disciplinary process and potential sanctions/remedies may be found in the current Code of Student Conduct, Employee Handbook, or Faculty Handbook. Sanctions/remedies will take effect once the decision is considered final. Sanctions/remedies may include, but are not limited to, any one, or any combination of the ones, listed below.

a. Student as the Respondent

Sanctions/remedies imposed against students are dictated by the Code of Student Conduct. A student found responsible for violation of this Policy is subject to sanctions/remedies up to and including expulsion from the University.¹¹ Lesser disciplinary sanctions/remedies 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 current list of potential student sanctions/remedies is outlined in the Code of Student Conduct found on the Office of Student Conduct's [website](#).

b. Faculty as the Respondent

A determination that a violation of this Policy has occurred shall subject a faculty member to appropriate disciplinary action subject to the current [Faculty Handbook](#). Appropriate sanctions/remedies will be based on such factors as severity, frequency, and degree of deviation from expectations in this Policy. Possible sanctions/remedies may include, but are not limited to, a no contact order, mandatory counseling or referral to the Employee Assistance Program, oral or written reprimand or warning; reassignment to other duties (including removal from future teaching or research or ineligibility to apply for or receive research funds); removal from extracurricular activities, committee assignments, or administrative assignments; restriction on travel abroad or domestic travel; loss of travel or research funds; loss of privileges of rank; reassignment of workspace; placement of a faculty member under the direct supervision of a specified administrator with a specific plan for remediation and for a specific period of time; transfer or reassignment; loss of summer teaching employment for those on less than 12-month contracts; restitution; fines or penalties; loss of merit raises; loss of benefits for a stated period of time (e.g., "regular" or "merit" increase in salary); loss of eligibility for promotion for a stated period of time; revocation of tenure

¹¹ Expulsion as a sanction/remedy recommendation requires a unanimous decision.

and/or dismissal of a tenured faculty member for adequate cause; dismissal of a tenure-track (probationary) faculty member for adequate cause, before the end of the term specified by the Faculty Handbook; dismissal of a renewable contract faculty member before the end of the term specified in a contract or appointment letter between the University and the faculty member; suspension, with or without pay, of a faculty member from service for a stated period; reduction of a faculty member's rank (demotion); reduction of an academic year salary before the end of that academic year; . 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. A current list of potential faculty sanctions/remedies is outlined in the [Faculty Handbook](#).

c. Staff as the Respondent

A determination that a violation of this Policy has occurred shall subject a staff member to appropriate disciplinary action pursuant to the current Employee Handbook found on the Human Resources [website](#). The University has adopted a philosophy of progressive discipline. However, one violation of this Policy could result in termination of employment. Appropriate sanctions/remedies will be based on such factors as severity, frequency, and degree of deviation from expectations in this Policy. Possible sanctions/remedies 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. A current list of potential staff sanctions/remedies is outlined in the [Employee Handbook](#).

d. 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/remedies, 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/remedies 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.

APPENDIX -2-

PROCESSING REPORTS OF PROHIBITED CONDUCT UNDER SEXUAL MISCONDUCT PROCESS

A. Referral of Formal Complaint to the Sexual Misconduct Process

After a Formal Complaint has been dismissed under the Title IX Process and that decision is final, the Title IX Coordinator or designee may proceed with initiating an investigation under the Sexual Misconduct Process as described below.

A Formal Complaint under the Sexual Misconduct Process must be dismissed if:

- The allegations contained in the Formal Complaint would not constitute Prohibited Conduct under this Policy, if proved; or
- It is determined that the allegations contained in the Formal Complaint were false.

Aside from those situations where a Formal Complaint under the Sexual Misconduct Process must be dismissed, the choice of how to proceed with a report of Prohibited Conduct lies with the Title IX Coordinator. It is in the Title IX Coordinator's discretion to determine whether to proceed with an investigation of a Formal Complaint under the Sexual Misconduct Process, proceed with Informal Resolution of a complaint, take Limited Action, or dismiss the Formal Complaint. When appropriate, the Title IX Coordinator or designee will consult with the Complainant before making this determination. A decision to dismiss a Formal Complaint under the Sexual Misconduct Process is final. Claims of sexual or gender-based harassment or discrimination under Title VII will follow the procedures set forth in the Equal Opportunity and Discriminatory Harassment Policy.

B. Resolution of Formal Complaints Under the Sexual Misconduct Process

Once the determination is made that the Formal Complaint will proceed under the Sexual Misconduct Process, the Formal Complaint may generally be addressed through Limited Action, Preliminary Procedures/Support Measures, Informal procedures, or Formal procedures as described below.

1. Limited Action Under the Sexual Misconduct Process

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

- The Complainant requests that the report of Prohibited Conduct not be disclosed to the Respondent;
- The Complainant does not identify the Respondent;
- The Complainant declines to respond¹ to communications from the Title IX Office staff prior to or after a Formal Complaint is filed;
- The Complainant requests that the University not investigate the incident or end an ongoing investigation;
- The Complainant requests that no disciplinary action be taken against the Respondent; or
- Other circumstances as deemed appropriate by the Title IX Coordinator.

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

¹ 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, by not responding to communications, or by otherwise not participating in the process.

request for Limited Action will be honored. If Limited Action is taken, no record of the complaint will be entered in the Respondent's official personnel file or Office of Student Conduct record. However, the Title IX Office will record the facts of the complaint and the Limited Action taken in response as part of its internal records.

If a Formal Complaint has been filed and Limited Action is later taken, the Formal Complaint will be dismissed. 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 supportive measures to both parties, providing targeted training/prevention programming, and/or imposing other non-punitive remedies as appropriate.

2. Preliminary Procedures and Supportive Measures

Prior to filing a Formal Complaint, the Title IX Coordinator may institute any of the following preliminary procedures or supportive measures to gather additional information regarding potential allegation(s) of Prohibited Conduct, to prevent future incidents of Prohibited Conduct, or provide support to the parties. These procedures are considered non-punitive and non-disciplinary in nature. If preliminary procedures are utilized, no record of the allegation(s) will be entered in the Respondent's official personnel file or Office of Student Conduct record. However, the Title IX Coordinator's Office will record the facts of the allegation(s) and the procedures utilized as part of its internal records.

- a. Preliminary Inquiry: The Title IX Coordinator 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 Complainant, witnesses, and/or gather other information to make a determination regarding whether to proceed with a Formal Complaint. If, in the sole discretion of the Title IX Coordinator or designee, there is insufficient information to move forward with a Formal Complaint and Complainant does not sign a Formal Complaint, the Title IX Office will close its inquiry. The Title IX Office may offer supportive measures as it deems appropriate based on the information learned in the preliminary inquiry. The University reserves the right to reopen an inquiry or move forward with a Formal Complaint at any time.
- b. Informal Discussion with Title IX Office: The Title IX Office may notify the Respondent of the allegation(s), paying appropriate attention to a Complainant's request for confidentiality and Respondent's rights should a Formal Complaint be filed in the future. The Title IX Coordinator may take whatever steps short of disciplinary sanctions that they deem appropriate to address the allegation(s). Examples include providing supportive measures to both parties, notifying Respondent of the Title IX Coordinator's knowledge of a criminal report, or other circumstances as deemed appropriate by the Title IX Coordinator.
- c. Mutual No Contact Order: If reasonable, the Title IX Office may issue a mutual No Contact Order at the request of either party or in the Title IX Coordinator's discretion. It is not considered punitive when the issuance of a mutual No Contact Order is done as an Informal Procedure or supportive measure.

3. Informal Procedures and Resolution for Formal Complaints under Sexual Misconduct Process

After a Formal Complaint is filed, the parties may request to resolve the Complaint through informal procedures. If the Formal Complaint is resolved informally, no record of the Complaint will be entered in Respondent's official personnel file or Office of Student Conduct record unless otherwise determined as part of the terms of the resolution. The Title IX Office will record the facts of the Complaint and the resolution achieved as part of its internal records.

A party, after receiving notice of the Formal Complaint, potential Policy violations, and the options for processing a Formal Complaint under this Policy, may request that the University agree to resolve the Prohibited Conduct through Informal Resolution. All parties must agree to participate voluntarily in the Informal Resolution process and the University must deem that the matter to be potentially resolved is appropriate for Informal Resolution. The University may gather information necessary through interviewing individuals and other evidence gathering in an effort to determine if the report is appropriate for Informal Resolution. At any time during the Informal Resolution process, either party may change their mind and proceed with a formal investigation or the Complainant may request to withdraw the Formal Complaint. The University may also decide to proceed with a formal investigation and withdraw its approval for the process at any time during the Informal Resolution process. If additional potential Policy violations are revealed during the Informal 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 Informal Resolution process and resolve the additional potential Policy violations. If a report of Prohibited Conduct is resolved by Informal Resolution, the resolution will be deemed final. Should the Informal 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 Informal Resolution process.

Factors the University will consider when determining whether a report of Prohibited Conduct is suitable for Informal 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 and/or with the parties involved;
- 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;
- 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.

A party may end Informal Resolution at any time until a resolution is final and move to the formal process outlined below.

4. Formal Investigation and Resolution Procedures under Sexual Misconduct Process

The formal investigation procedures are triggered when the Title IX Coordinator elects to proceed with an investigation following the filing of a Formal Complaint. All meetings, discussions, and/or hearings that may occur as part of this formal process are closed to the general public.

a. Time Frames for Sexual Misconduct Process

Formal Complaints will be resolved as promptly as practicable after the Formal Complaint is made. The University will provide the parties with periodic updates as it deems appropriate, 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 as is appropriate by law. The University reserves the right to delay resolution of the formal process to ensure the integrity and completeness of the investigation, to comply with a request by law enforcement, the complexity of the investigation, the severity and extent of the alleged conduct, University closings or limited

operations, breaks, holidays, summer terms, to accommodate the delays by witnesses or the parties, pandemics or public health crises, and factors outside the University's control.

b. Equal Opportunity and Access and Reasonable Accommodations

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.² Both the Complainant and Respondent will be updated on the status of the investigation and the outcome of any proceeding in an equitable manner. Supportive measures and/or emergency removals (as described in Section L and Appendices 4 & 5 to this Policy) may be implemented 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 or employees must self-identify if they need reasonable and appropriate accommodations to participate in an investigation or obtain access to the -supportive measures provided by the Title IX Office and documentation of the reasonable accommodations required should be provided through the process outlined by the Office of Disability Services (for students) or the Human Resources ADA Coordinator (for employees).³

c. Standard of Proof for Sexual Misconduct Process

The standard used to determine whether the Respondent is responsible for Prohibited Conduct is preponderance of the evidence, which means more likely than not that the alleged conduct occurred and said conduct is in violation of this Policy.⁴ Unless ultimately proven otherwise pursuant to the standards and processes of this Policy, individuals accused of Prohibited Conduct are presumed to be not responsible for any alleged violation.

d. Formal Investigation Procedure under the Sexual Misconduct Process

The formal investigation procedure followed pursuant to the Sexual Misconduct Process is determined by the Respondent's role with the University:

i. *Formal Complaint against student Respondent*

Formal 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 and Appendix.⁵ Hearings and reviews/appeals for -Formal Complaints against a student involving Prohibited Conduct are discussed in detail below.

ii. *Formal Complaint against faculty or staff Respondent*

² Complainants who are not University students or employees at the time of the report are not entitled to access to information obtained during the investigation, the outcome of the investigation, or any other record that would be protected by FERPA or otherwise considered as part of the investigation file.

³ 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). The Human Resources ADA Coordinator is located at 1001 HR Administration Building and may be reached at (205) 348-7733 or emarbutt@fa.ua.edu.

⁴ This standard will apply to all charges, including any that incorporate or reference a state or federal criminal law.

⁵ 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.

Formal 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 Persons and/or, if applicable, Human Resource Business Partners. Following the investigation, the Title IX Coordinator will provide a report to the applicable University 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.

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

Consistent with the jurisdiction of this Policy, in instances where a Formal Complaint is received against a community member/third party/campus visitor⁶ (not a student or employee) related to alleged Prohibited Conduct occurring at any location involving a University education program or activity, the Title IX Coordinator (or a designated investigator) may conduct an investigation and make a determination regarding whether the conduct in question is in violation of University policy.⁷ 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. The conclusion by the Title IX Coordinator that Prohibited Conduct has or has not occurred and any disciplinary action taken, is applicable, is final. 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 education program or activity. 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.

e. Formal Sexual Misconduct Investigation Process

- i. *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 supportive measures as well as the rights and options for filing a Formal 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 will also have the opportunity to raise issues or otherwise suggest specific questions directly related to the investigation for the investigator(s) to ask of the Respondent or any potential witnesses, provided the questions are directly related to the allegations and appropriate. The investigator(s) reserves the right to alter the wording of any proposed question. 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 dismissal of the Formal Complaint. 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.

⁶ 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.

⁷ When the Respondent is not a student or employee, the process that will be followed depends upon whether UA exercises substantial control over the Respondent and the specific context in which the Prohibited Conduct occurred. If UA exercises substantial control over both the Respondent and the specific context of the Prohibited Conduct, the Title IX Process will apply. Otherwise, the Sexual Misconduct Process will be utilized. Whether UA exercises substantial control is a fact-specific inquiry determined in the sole discretion of the Title IX Coordinator.

- ii. *Notice of Allegations and Discussion with Respondent*— Notice of the Formal Complaint with allegations of Prohibited Conduct is deemed to have been properly provided when written notification of the allegations and alleged violations of the Code of Student Conduct, Employee Handbook, or Faculty Handbook is sent to the Complainant’s and Respondent’s assigned University of Alabama email address, delivered via Certified Mail to the their last known address, or personally delivered to the them. University-issued email is the University’s primary means of communication with students and employees. Students and employees are responsible for all communication delivered to their University-issued email address. Students and employees are advised to keep their most current local address, permanent address, and local telephone number (or cell phone number) updated in the myBama records system.

If the Respondent is a student, an effort will be made to set the initial investigative meeting with the student Respondent at least seven (7) calendar days after delivery of the written notification of the alleged violation(s). Pre-scheduled meetings are scheduled around a student’s academic schedule. Should a student wish to reschedule an appointment or meet sooner than the designated time, they should make such request in a timely manner. The University will make a reasonable effort to accommodate student scheduling conflicts, but will not permit unreasonable delays in the investigation process. At the initial investigative meeting, the allegations; will be discussed with the Respondent. The investigator(s) and the Respondent will discuss the Respondent’s rights as well as available University supportive measures while the investigation is pending. The Respondent will be given the opportunity to respond to the allegations and offer evidence directly related to the allegations and/or potential witnesses. The Respondent will also have the opportunity to raise issues or otherwise suggest specific questions for the investigator(s) to ask of the Complainant or any potential witnesses, provided the questions are directly related to the allegations and appropriate. The investigator(s) reserves the right to alter the wording of any proposed question. The Respondent is not required to make a statement or otherwise provide information relevant to the investigation. A Respondent’s failure to make a statement shall not be used as an admission of responsibility during the formal investigative procedure. However, the process will continue and a decision regarding responsibility may be made based on the available statements and evidence.

1. Acceptance of Responsibility by a Student Respondent Prior to Final Outcome: After receiving notice of the allegations but prior to the issuance of a determination, a student Respondent may accept responsibility for the asserted violation of the Policy. By doing so, the student Respondent waives their right to review/appeal the finding of responsibility, if applicable, 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/remedies. If a student Respondent accepts responsibility for the alleged conduct prior to a final outcome being issued, the acceptance of responsibility may be considered a mitigating factor with regard to the issuance of sanctions/remedies. Both the Complainant and the Respondent shall be informed concurrently in writing of the Respondent’s acceptance of responsibility, sanctions assigned to the Respondent by the University, and whether remedies will be provided by the University to the Complainant, if applicable.
2. No Appeal of Sanctions: Neither party has the right to seek a review/appeal of the determination or the sanctions/remedies assigned to a Respondent who has accepted responsibility prior to a final outcome.

- iii. *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 to limit witnesses whose sole purpose is to provide character information. The investigator(s) may also elect not to interview witnesses not likely to have information directly related to the allegations as determined in the sole discretion of the investigator(s). The investigator(s) will make reasonable attempts to obtain other directly related evidence available from the parties, witnesses, or other University departments.
1. Complainant’s Prior Sexual Behavior: For reports involving sexual assault/rape, evidence of the Complainant’s sexual predisposition or prior sexual 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. Evidence of specific instances of sexual behavior by the Complainant may be offered to show:
 - Sexual encounters between the Complainant and the Respondent for purposes of establishing consent; or
 - That a person other than the Respondent was the source of semen, injury, or other physical evidence.
 2. Complainant’s Prior False Allegations: Evidence that the Complainant made prior bad faith, materially false allegation(s) of Prohibited Conduct may be offered as evidence of Complainant’s credibility. For purposes of this Policy, a prior bad faith, materially false allegation is one that has been adjudicated as false by a court of law or other body adjudicating a claim of Prohibited Conduct, including proceedings conducted by the University, as defined by this Policy.
 3. Respondent’s Prior Prohibited Conduct: Evidence that the Respondent has been adjudicated as responsible for allegation(s) of Prohibited Conduct that is similar in nature may be offered in that it could prove motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident (all indicia of Respondent’s credibility). For purposes of this Policy, adjudications include those by a court of law or other body adjudicating a claim of Prohibited Conduct, including proceedings conducted by the University, as defined by this Policy.
- iv. *Student-Parties’ Review of Evidence*— Once the investigator(s) has made reasonable attempts to obtain all inculpatory evidence (that may support a finding or conclusion that Respondent engaged in Prohibited Conduct) and exculpatory evidence (that may support a finding or conclusion that a Respondent did not engage in Prohibited Conduct), student Complainants and Respondents will be given a reasonable opportunity to review and respond to the evidence obtained during the investigation.⁸ The investigator(s) will send each student party and the party’s advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The student parties will have ten (10) calendar days to submit a written response, including suggesting specific questions relevant to the investigation for the investigator(s) to ask of the other party or any potential witnesses, which the investigator(s) will consider prior to submitting the investigation file for completion.

⁸ For faculty or staff Respondents whose alleged Prohibited Conduct falls outside of the Title IX Process, there are no rights to review evidence unless otherwise granted in the Faculty or Employee Handbooks.

- v. *Respondent Disassociation from the University*— If a Respondent voluntarily withdraws from the University, fails to re-enroll for a subsequent semester, is no longer employed by the University or otherwise is no longer associated with the University after an investigation is initiated but before an Investigative Report- is issued or, if properly requested and applicable, before a hearing is fully conducted, the University may dismiss the Formal Complaint. For student Respondents, a hold will be placed on the Respondent’s record that prevents them from registering or enrolling at the University in the future. The Respondent may be prohibited from entering campus or attending campus-sponsored events. The Respondent’s Conduct Record/personnel file may indicate that they disassociated from the University after a complaint was asserted and pending disciplinary review. Resolution of the case and permission from the Title IX Office will be required before the disassociated Respondent is permitted to return to the University.
- vi. *Investigative Report*—Following the investigation and provided the Formal Complaint has not been dismissed, the Title IX Coordinator (or designee), in consultation with relevant campus partners, will prepare an Investigative Report that summarizes the relevant evidence and outlines whether the evidence more likely than not supports a finding of responsibility with proposed/recommended sanctions/remedies or employment actions. For student Respondents, the Investigative Report will contain detailed information about the parties’ right to request a formal hearing and/or review/appeal. The Respondent and Complainant, if Complainant is a student or employee, will be notified concurrently in writing of the findings, if applicable.

5. Sexual Misconduct Hearing Procedures/Process

a. Right to Request Formal Hearing under the Sexual Misconduct Process

A party’s right to request a formal hearing pursuant to the Sexual Misconduct Hearing Process is dependent upon whether the accused party is subject to the Code of Student Conduct, Employee Handbook, or Faculty Handbook.

- *Student as Respondent* – Both the Complainant and Respondent may request a formal hearing regarding the decision contained in the Title IX Coordinator’s Investigative Report.
- *Employee as Respondent* – When a UA employee is the Respondent in a Prohibited Conduct investigation under this Policy and Appendix, procedures described in the Employee Handbook or Faculty Handbook as applicable will be followed.
- *Community Member/Third Party/Campus Visitor as Respondent* – If the Respondent is not an employee or student, there is no right to request a formal hearing.

b. Sexual Misconduct Formal Hearing Procedures involving Student Respondents

- i. *Requesting a 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 on the form available through the Title IX Office’s [website](#) and delivered to the Conduct Administrator⁹ within seven (7) calendar days of the issuance of the Investigative Report. If seven (7) calendar days pass without a party properly requesting a formal hearing, the determinations contained in the Investigative Report will be deemed final and any accompanying sanctions/remedies will take effect seven (7) calendar days after the issuance of the Investigative Report. If a formal hearing is requested, any accompanying sanctions/remedies will be on hold and

⁹ The term “Conduct Administrator” is defined in Article II of the Code of Student Conduct, which can be found on the Office of Student Conduct’s [website](#).

will not take effect until the decision is final. A formal hearing may be requested in the circumstances described below:

- Respondent's Options: If the Title IX Coordinator determines that a reasonable person could find that the alleged Prohibited Conduct more likely than not occurred, the Investigative Report will also include sanctions/remedies approved by the Conduct Administrator. The Respondent will be given an opportunity to 1) accept responsibility for the allegations and sanctions; (2) accept responsibility for the decision and request a review/appeal of the sanctions; or 3) request a formal hearing. Complainant will be given an opportunity to request a review/appeal of the sanctions.
 - Complainant's Options: If the Title IX Coordinator determines that a reasonable person could not find that the alleged Prohibited Conduct more likely than not occurred, the Complainant will be given the opportunity to request a formal hearing. If the Title IX Coordinator determines that a reasonable person could find that the alleged Prohibited Conduct more likely than not occurred, the Complainant may request review/appeal of the sanctions.
- ii. *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.
- iii. *Student Hearing Process*— 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.
- Support Person/Advisor: 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 one support person/advisor¹⁰ of their choice, at their own expense. The support person/advisor, 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 hearing. The Chairperson of the Conduct Body may remove or dismiss a support person/advisor who becomes disruptive or who does not abide by the limitations on their participation.
 - Submission of Evidence Pre-Hearing: 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 ten (10) calendar days prior to the hearing. The Conduct Administrator (or designee) will provide the submitted materials to the Conduct Body and make copies available

¹⁰ For more information, visit the Title IX Office [website](#).

for inspection by the Complainant and Respondent at least seven (7) calendar days prior to the hearing, consistent with FERPA or other regulation governing the disclosure of education records. Any materials submitted and/or discovered fewer than ten (10) calendar days before the hearing may only be considered at the sole discretion of the chairperson of the Conduct Body.

- Written Response to Investigative Report: The Investigative Report 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 Investigative Report. Such written response must be submitted to the Conduct Administrator (or designee) at least ten (10) 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 seven (7) calendar days prior to the hearing, consistent with FERPA or other regulation governing the disclosure of education records.
- Request to Review Investigative File: Once the Investigative Report 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 Investigative Report.
- Witnesses: The Complainant and the Respondent have the right to present witnesses, subject to the discretion of the Chairperson. The Conduct Administrator (or designee) will send the Complainant and the Respondent a list of potential hearing witnesses. Each party must provide a list of potential hearing witnesses to the Conduct Administrator (or designee) at least ten (10) 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 seven (7) 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 not be allowed.
- Questioning of Parties: 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) seven (7) 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 Chairperson, 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 Chairperson 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.
- Evidence at Hearing: 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.

- Conduct Body's Decision: 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/remedies 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.

6. Reviews/Appeals under Sexual Misconduct Process

a. Review/Appeal of Dismissal of Formal Complaint under Sexual Misconduct Process

Under the Sexual Misconduct Process, neither party can seek a review/appeal of a dismissal of a Formal Complaint.

b. Review/Appeal Following Investigative Report and Formal Hearing under Sexual Misconduct Process

i. *Review/Appeal Procedures for Cases involving Student Respondents*

Following the issuance of the Title IX Coordinator's Investigative Report, both the Complainant and the Respondent have a right to seek a review/appeal of the imposed sanctions/remedies. Following a hearing, both the Complainant and Respondent have a right to seek a review/appeal of the Conduct Body's decision with regard to a finding of responsibility or non-responsibility and/or the imposed sanctions/remedies. A review/appeal may be requested on any of the following grounds:

- Procedural irregularity that affected the outcome of the matter;
- To determine if the sanction(s) imposed were grossly disproportionate to the violation(s) committed;
- New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter; or
- The Title IX Coordinator, investigator(s), or member of the Conduct Body had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter.

If a party is seeking a review/appeal, they must submit that request in writing on the form available through the Title IX Office [website](#) within seven (7) calendar days of the issuance of the decision and/or sanction(s). If either party requests a review/appeal, any accompanying sanction(s) will be on hold and will not take effect until the determination is final. If seven (7) calendar days pass without a party timely and properly requesting a review, the decision and/or sanction(s) will be deemed final.

The process and timing for the review/appeal 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 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/remedies 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.

ii. *Review/Appeal Procedures for Cases involving Employee Respondents*

When a UA employee is the Respondent in a Prohibited Conduct investigation, whether a review/appeal exists and applicable procedures, if any, to be followed are described in the [Employee Handbook](#) or [Faculty Handbook](#).

- iii. *Review/ Appeal Procedures for Cases involving Community Member/Third Party/Campus Visitor Respondents*
If the Respondent is not an employee or student, there is no right to request a review/appeal.

7. Sanctions/Remedies

Following a determination of responsibility pursuant to the applicable investigation or hearing or review/appeal procedures as discussed herein, the University may impose a range of sanctions/remedies as identified below. Sanctions/remedies imposed will be determined on the basis of the facts of each case and a Respondent's prior conduct history. Additional details regarding any disciplinary process and potential sanctions/remedies may be found in the current Code of Student Conduct, Employee Handbook, or Faculty Handbook.

Sanctions/remedies will take effect once the decision is considered final. Sanctions/remedies may include, but are not limited to, any one, or any combination of the ones, listed below.

a. Student as the Respondent

Sanctions/remedies imposed against students are dictated by the Code of Student Conduct. A student found responsible for violation of this Policy is subject to sanctions/remedies up to and including expulsion from the University.¹¹ Lesser disciplinary sanctions/remedies 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 current list of potential student sanctions/remedies is outlined in the Code of Student Conduct found on the Office of Student Conduct's [website](#).

b. Faculty as the Respondent

A determination that a violation of this Policy has occurred shall subject a faculty member to appropriate disciplinary action subject to the current [Faculty Handbook](#). Appropriate sanctions/remedies will be based on such factors as severity, frequency, and degree of deviation from expectations in this Policy. Possible sanctions/remedies may include, but are not limited to, a no contact order, mandatory counseling or referral to the Employee Assistance Program, oral or written reprimand or warning; reassignment to other duties (including removal from future teaching or research or ineligibility to apply for or receive research funds); removal from extracurricular activities, committee assignments, or administrative assignments; restriction on travel abroad or domestic travel; loss of travel or research funds; loss of privileges of rank; reassignment of workspace; placement of a faculty member under the direct supervision of a specified administrator with a specific plan for remediation and for a specific period of time; transfer or reassignment; loss of summer teaching employment for those on less than 12-month contracts; restitution; fines or penalties; loss of merit raises; loss of benefits for a stated period of time (e.g., "regular" or "merit" increase in salary); loss of eligibility for promotion for a stated period of time; revocation of tenure and/or dismissal of a tenured faculty member for adequate cause; dismissal of a tenure-track (probationary) faculty member for adequate cause, before the end of the term specified by the Faculty Handbook; dismissal of a renewable contract faculty member before the end of the term specified in a contract or appointment letter between the University and the faculty member; suspension, with or

¹¹ Expulsion as a sanction/remedy recommendation requires a unanimous decision.

without pay, of a faculty member from service for a stated period; reduction of a faculty member's rank (demotion); reduction of an academic year salary before the end of that academic year; 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. A current list of potential faculty sanctions/remedies is outlined in the [Faculty Handbook](#).

c. Staff as the Respondent

A determination that a violation of this Policy has occurred shall subject a staff member to appropriate disciplinary action pursuant to the current Employee Handbook found on the Human Resources website. The University has adopted a philosophy of progressive discipline. However, one violation of this Policy could result in termination of employment. Appropriate sanctions/remedies will be based on such factors as severity, frequency, and degree of deviation from expectations in this Policy. Possible sanctions/remedies 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. A current list of potential staff sanctions/remedies is outlined in the [Employee Handbook](#).

d. 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/remedies, 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/remedies 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.

APPENDIX -3-

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) 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 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	
UA	<p><u>Dating and Domestic Violence</u></p> <p>Dating Violence is violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.</p> <p>(i) The existence of such a relationship shall be determined based on the Complainant’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.</p> <p>(ii) For the purposes of this definition—</p> <p>(A) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.</p> <p>(B) Dating violence does not include acts covered under the definition of domestic violence.</p> <p>Domestic Violence is a felony or misdemeanor crime of violence committed—</p> <p>(A) By a current or former spouse or intimate partner of the Complainant;</p> <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;</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.¹</p> <p>Examples of such acts include, but are not limited to:</p> <p>(i) Physical contact to the Complainant causing an injury;</p> <p>(ii) Destruction or damage to the Complainant’s property;</p> <p>(iii) Physical contact done for the purpose of harassing or alarming the Complainant.</p> <hr/> <p><u>Harassing Communications</u></p> <p>Intimate Partner Violence (Harassing Communications) is excessive communications, including any attempt to unreasonably, intentionally, and repeatedly make contact with the Complainant over their stated objections, committed by a person who has been in a romantic or intimate relationship with the Complainant. Communication must be considered severe and/or pervasive from both a subjective and an objective standpoint.</p> <p>For purposes of this definition, the existence of such a relationship shall be determined based on the Complainant’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.</p>
FED	<p>Dating Violence: Same as UA definition above. See 34 C.F.R. § 668.46(a)</p>

¹ Paragraph E only applies to Title IX Prohibited Conduct.

	<p>Domestic Violence: Same as UA definition above. See 34 C.F.R. § 668.46(a)</p>
AL	<p>First Degree Domestic Violence- ALA. CODE § 13A-6-130(a) (1) 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; or burglary in the first degree pursuant to Section 13A-7-5 and the Complainant is a current or former spouse, parent, step-parent, child, step-child, any person with whom the defendant has a child in common, a present household member, or a person who has or had a dating relationship with the defendant. (2) For the purposes of this section, a household member excludes non-romantic or non-intimate co-residents, and a dating relationship means a current or former relationship of a romantic or intimate nature characterized by the expectation of affectionate or sexual involvement by either party.</p> <p>Second Degree Domestic Violence - ALA. CODE § 13A-6-131(a) (1) 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 victim is a current or former spouse, parent, step-parent, child, step-child, any person with whom the defendant has a child in common, a present household member, or a person who has or had a dating relationship with the defendant. (2) For the purpose of this section, a household member excludes non-romantic or non-intimate co-residents, and a dating relationship means a current or former relationship of a romantic or intimate nature characterized by the expectation of affectionate or sexual involvement by either party.</p> <p>Third Degree Domestic Violence - ALA. CODE § 13A-6-132(a) (1) 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 victim is a current or former spouse, parent, step-parent, child, step-child, any person with whom the defendant has a child in common, a present household member, or a person who has or had a dating relationship with the defendant. (2) For the purpose of this section, a household member excludes non-romantic or non-intimate co-residents, and a dating relationship means a current or former relationship of a romantic or intimate nature characterized by the expectation of affectionate or sexual involvement by either party.</p>

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>The term “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>Examples of such acts include, but are not limited to:</p> <ul style="list-style-type: none"> • Following an individual without a reasonable justification for being in a particular area or taking a particular route; • Lying in wait; • Any other act done for the purpose of trying to find an individual or learn information about that individual’s location and/or activities over the individual’s stated objections. <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 reasonable 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: Same as UA definition. See 34 C.F.R. § 668.46(a)</p>
AL	<p>First Degree Stalking- ALA. CODE § 13A-6-90(a) 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) 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	<p>The term “consent” used when describing different types of prohibited acts of sexual misconduct under UA’s Title IX and Sexual Misconduct Policy (such as sexual assault/rape) 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.</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 consent, or if consent is obtained by force, deception, or coercion. A lack of resistance, verbal or physical, 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> <ol style="list-style-type: none"> a. Incapacitated due to alcohol, drugs, or other substances including, but not limited to, prescription medication. <ol style="list-style-type: none"> i. <i>Determining consent when alcohol or other drugs are involved:</i> 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

	<p>Respondent knew or reasonably should have known of the Complainant's ability to give consent will be considered. An individual's use of alcohol, drugs, or other substances 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 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 decreased level of cognitive functioning. The existence of any one of these factors may support a finding of incapacitation, and thus the inability to consent to sexual activity. 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.</p> <ul style="list-style-type: none"> 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. <p>“Coercion” for purposes of this Policy is the use of expressed or implied threats or intimidation for the purpose of obtaining sexual favors, which would place a reasonable person in fear of immediate harm. 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.</p> <p>“Force” for purposes of this Policy is the use of physical violence or intimidation to overcome another person's free will.</p>
FED	Federal regulations do not provide a definition of consent.
AL	<p>Lack of Consent - ALA. CODE § 13A-6-70</p> <ul style="list-style-type: none"> (a) Unless otherwise stated, an element of every offense defined in this article is that the sexual act was committed without consent of the victim. (b) Lack of consent results from either of the following: <ul style="list-style-type: none"> (1) Forcible compulsion; Being incapable of consent. (c) A person is deemed incapable of consent if he or she is either: <ul style="list-style-type: none"> (1) Less than 16 years old; (2) Incapacitated. (d) Consent to engage in sexual intercourse, sodomy, sexual acts, or sexual contact may be communicated by words or actions. The existence of a current or previous marital, dating, social, or sexual relationship with the defendant is not sufficient to constitute consent. Evidence that the victim suggested, requested, or otherwise communicated to the defendant that the defendant use a condom or other birth control device or sexually transmitted disease protection, without additional evidence of consent, is not sufficient to constitute consent.
SEXUAL ASSAULT & OTHER SEXUAL OFFENSES	
UA	<p><u>Sexual Assault/Rape (Nonconsensual Sexual Penetration)</u> is defined as 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. Attempts or assaults to commit sexual assault/rape are also included; however, statutory rape and incest are excluded.</p> <p><u>Sexual Assault/Fondling (Nonconsensual Sexual Contact)</u> is 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 their age or because of their temporary or permanent mental incapacity. For purposes of this definition, “private body parts” include an individual's genitalia, breasts, or buttocks.</p> <p><u>Incest</u> is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.</p>

	<p>Statutory Rape is sexual intercourse with a person who is under the statutory age of consent. The age of consent is determined by the applicable age of consent for the jurisdiction where the alleged sexual intercourse occurred. In Alabama, the age of consent is 16 years old.</p>
FED	<p><i>Sexual assault.</i> An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's UCR program and included in Appendix A of this subpart.</p> <p><i>Rape:</i> Same as UA definition. See 34 C.F.R. § 668.46 Appendix A.</p> <p><i>Sex Offenses</i> Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.</p> <p>A. <i>Fondling</i> – Same as UA definition. See 34 C.F.R. § 668.46 Appendix A.</p> <p>B. <i>Incest</i> - Same as UA definition. See 34 C.F.R. § 668.46 Appendix A.</p> <p>C. <i>Statutory Rape</i> - Same as UA definition. See 34 C.F.R. § 668.46 Appendix A.</p>
	<p>The term “sexual assault” means an offense classified as a forcible or nonforcible sex offense under the Uniform Crime Reporting system of the Federal Bureau of Investigation. 20 U.S.C. § 1092(f)(6)(A)(v).</p> <p><i>Sex Offenses, Forcible</i>—Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.</p> <p><i>Forcible Rape</i>—(Except <i>Statutory Rape</i>) The carnal knowledge of a person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity.</p> <p><i>Forcible Sodomy</i>—Oral or anal sexual intercourse with another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.</p> <p><i>Sexual Assault With An Object</i>—To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.</p> <p><i>Forcible Fondling</i>—The touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will or not forcibly or against the person's will in instances where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.</p> <p><i>Sex Offenses, Nonforcible</i>—(Except Prostitution Offenses) Unlawful, nonforcible sexual intercourse.</p> <p><i>Incest</i>—Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.</p> <p><i>Statutory Rape</i>—Nonforcible sexual intercourse with a person who is under the statutory age of consent.</p> <p>See National Incident-Based Reporting System.</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>ALA. CODE § 13A-6-60</p>

<p>(1) FORCIBLE COMPULSION. Use or threatened use, whether express or implied, of physical force, violence, confinement, restraint, physical injury, or death to the threatened person or to another person. Factors to be considered in determining an implied threat include, but are not limited to, the respective ages and sizes of the victim and the accused; the respective mental and physical conditions of the victim and the accused; the atmosphere and physical setting in which the incident was alleged to have taken place; the extent to which the accused may have been in a position of authority, domination, or custodial control over the victim; or whether the victim was under duress. Forcible compulsion does not require proof of resistance by the victim.</p> <p>(2) INCAPACITATED. The term includes any of the following:</p> <p>a. A person who suffers from a mental or developmental disease or disability which renders the person incapable of appraising the nature of his or her conduct.</p> <p>b. A person is temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or intoxicating substance and the condition was known or should have been reasonably known to the offender.</p> <p>c. A person who is unable to give consent or who is unable to communicate an unwillingness to an act because the person is unconscious, asleep, or is otherwise physically limited or unable to communicate.</p> <p>(3) SEXUAL CONTACT. Any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party. The term does not require skin to skin contact.</p> <p>(4) SEXUAL INTERCOURSE. Such term has its ordinary meaning and occurs upon any penetration, however slight; emission is not required.</p> <p>(5) SODOMY. Any sexual act involving the genitals of one person and the mouth or anus of another person.</p>
<p>First Degree Rape – ALA. CODE § 13A-6-61</p> <p>(a) A person commits the crime of rape in the first degree if he or she does any of the following:</p> <p>(1) Engages in sexual intercourse with another person by forcible compulsion;</p> <p>(2) Engages in sexual intercourse with another person who is incapable of consent by reason of being incapacitated;</p> <p>(3) Being 16 years old or older, engages in sexual intercourse with another person who is less than 12 years old.</p>
<p>Second Degree Rape – ALA. CODE § 13A-6-62</p> <p>(a) A person commits the crime of rape in the second degree if, being 16 years old or older, he or she engages in sexual intercourse with another person who is 12 years old or older, but less than 16 years old; provided, however, the actor is at least two years older than the other person.</p>
<p>First Degree Sexual Abuse – ALA. CODE § 13A-6-66</p> <p>(a) A person commits the crime of sexual abuse in the first degree if he or she does either of the following:</p> <p>(1) Subjects another person to sexual contact by forcible compulsion;</p> <p>(2) Subjects another person to sexual contact who is incapable of consent by reason of being incapacitated.</p>
<p>Second Degree Sexual Abuse - ALA. CODE § 13A-6-67</p> <p>(a) A person commits the crime of sexual abuse in the second degree if he or she does either of the following:</p> <p>(1) 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;</p> <p>(2) 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 if he or she does either of the following:</p> <p>(1) Penetrates the vagina, anus, or mouth of another person with an inanimate object, by forcible compulsion, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.</p> <p>(2) Penetrates the vagina, anus, or mouth of a person who is incapable of consent by reason of being incapacitated, with an inanimate object, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire to either party.</p> <p>(3) Penetrates the vagina, 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, sexually abuse, or to gratify the sexual desire of either party.</p> <p>(4) By inflicting physical injury, including, but not limited to, burning, crushing, wounding, mutilating, or assaulting the sex organs or intimate parts of another person, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.</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 herself, or of any person other than his or her spouse, he or she exposes his or her genitals under circumstances in which he or she knows his conduct is likely to cause affront or alarm.</p> <p>Enticing Child to Enter Vehicle, House, Etc. for Immoral Purposes – ALA. CODE § 13A-6-69 (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 (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 (a) A person commits the crime of a school employee having sexual contact with a student under the age of 19 years if he or she is a school employee and engages in sexual contact, as defined by Section 13A-6-60, with a student, regardless of whether the student is male or female. Consent is not a defense to a charge under this section. (b) A person commits the crime of a school employee soliciting a sex act with a student under the age of 19 years if he or she is a school employee and solicits, persuades, encourages, harasses, or entices a student to engage in a sex act including, but not limited to, sexual intercourse, sodomy, or sexual contact, as defined by Section 13A-6-60.</p> <p>Incest – ALA. CODE § 13A-13-3 (a) A person commits incest if he marries or engages in sexual intercourse with a person he knows to be, either legitimately or illegitimately: (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. (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.</p>
SEXUAL EXPLOITATION	
UA	<p>Sexual exploitation is taking or attempting to take 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, videoing, 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; • Exposing one’s genitals without consent for the purpose of sexual gratification; • Intentionally exposing another’s genitals or intimate body parts without their consent; • Engaging in voyeurism (e.g., watching private sexual activity without the consent of the participants or viewing another person’s intimate parts (including genitalia, breasts, or buttocks) in a place where that person would have a reasonable expectation of privacy); • Possessing and/or disseminating child pornography; or • Knowingly exposing another individual to a sexually transmitted disease/infection or HIV without their consent.
FED	n/a
AL	<p>Distributing a Private Image with Intent to Harass, Threaten, Coerce, or Intimidate the Person Depicted – ALA. CODE § 13A-6-240 (a) 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</p>

	<p>person depicted when the depicted person has not consented to the transmission and the depicted person had a reasonable expectation of privacy against transmission of the private image.</p> <p>Sexual Extortion – ALA. CODE § 13A-6-241 (a) A person commits the crime of sexual extortion if he or she knowingly causes or attempts to cause another person to engage in sexual intercourse, sodomy, 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 sadomasochistic abuse, sexual intercourse, sodomy, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct by communicating any threat to injure the body, property, or reputation of any person.</p> <p>Possession and Possession with Intent to Disseminate Obscene Matter Containing Visual Reproduction of Persons Under 17 Years of Age Involved in Obscene Acts – ALA. CODE § 13A-12-192 (a) Any person who knowingly possesses with intent to disseminate any obscene matter that contains a visual depiction of a person under the age of 17 years engaged in any act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a Class B felony. Any transfer of the visual depiction from any electronic device to any other device, program, application, or any other place with storage capability which can be made available or is accessible by other users, is prima facie evidence of possession with intent to disseminate. (b) Any person who knowingly possesses any obscene matter that contains a visual depiction of a person under the age of 17 years engaged in any act of sado-masochistic abuse, sexual intercourse, sexual excitement, masturbation, breast nudity, genital nudity, or other sexual conduct shall be guilty of a Class C felony.</p>
SEXUAL HARASSMENT OR GENDER-BASED HARASSMENT²	
UA	<p>Title IX Sexual or Gender-based Harassment <u>Sexual Harassment</u> includes conduct on the basis of 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.</p> <p><u>Gender-based Harassment</u> includes unwelcome harassment directed at an individual and 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> <p>(1) An employee conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct (often referred to as “quid pro quo” harassment); or</p> <p>(2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity (often referred to as “hostile environment” harassment). In evaluating conduct, the University will consider the totality of known circumstances, including, but not limited to:</p> <ul style="list-style-type: none"> • The frequency, nature and severity of the conduct; • Whether the conduct was physically threatening; • Whether the incident involved severe humiliation rather than was merely offensive; • 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 Complainant was offended by the conduct; • 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.
	<u>Non-Title IX Sexual or Gender-based Harassment</u>

² Reports of Title VII Sexual and Gender-Based Harassment will be addressed under [UA’s Equal Opportunity and Discriminatory Harassment Policy](#).

	<p>Harassment is (1) unwelcome abusive or hostile behavior, (2) that is discriminatory on the basis of sex, sexual orientation, gender identity, gender expression, (3) targeted at a particular individual, and (4) the conditions in either (1) or (2) below are present:</p> <p>(1) An employee or a student³ conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct (often referred to as "quid pro quo" harassment); or</p> <p>(2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and/or objectively offensive that it effectively denies a person equal access to the University's education program or activity (often referred to as "hostile environment" harassment). In evaluating conduct, the University will consider the totality of known circumstances, including, but not limited to:</p> <ul style="list-style-type: none"> • The frequency, nature and severity of the conduct; • Whether the conduct was physically threatening; • Whether the incident involved severe humiliation rather than was merely offensive; • 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 Complainant was offended by the conduct; • 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.
FED	<p>Sexual harassment under Title IX means conduct on the basis of sex that satisfies one or more of the following:</p> <p>(1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;</p> <p>(2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or</p> <p>(3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30). 34 C.F.R. § 106.30(a).</p>
AL	n/a
SEXUAL OR GENDER-BASED DISCRIMINATION	
UA	In addition to the Prohibited Conduct outlined herein, unlawful discrimination on the basis of sex, sexual orientation, gender identity, gender expression, and pregnancy is prohibited by this Policy.
FED	<p>Title VII makes it "unlawful ... for an employer to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual ... because of such individual's ..., sex,," 42 U.S.C. § 2000e-2(a)(1). This includes protection for an employee's pregnancy, childbirth, and related medical conditions (42 U.S.C. § 2000e(k)) and an employee's gender identity, gender expression, transgender, and sexual orientation (<i>Bostock v. Clayton Cty., Georgia</i>, 140 S. Ct. 1731 (2020)).</p> <p>Title IX provides that "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance." 20 U.S.C. § 1681(a)</p>
AL	n/a

³ If a student is accused under section (1) of this definition, this would include those situations where the student has a power differential over another student. Allegations of quid pro quo harassment against a student will be addressed as Sexual Misconduct Prohibited Conduct. Allegations of quid pro quo harassment against an employee, which also meet the jurisdictional requirements, will be addressed as Title IX Prohibited Conduct.

APPENDIX -4-

APPENDIX -4-

COMPLAINANT SUPPORTIVE MEASURES

Below are examples of supportive measures¹ that may typically be available to a Complainant following notice of a complaint of Prohibited Conduct.

Accommodation or supportive measure	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 mutual 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/rape service agency serving West Alabama that provides free and confidential safe housing for victims of domestic violence and sexual assault/rape.
	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 N and Appendix 6 of this Policy.
Legal and judicial options (Protective orders, restraining orders, no contact orders, protection from abuse orders, etc.)	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).
	Turning Point *CONFIDENTIAL*	An off-campus domestic violence and sexual assault/rape service agency serving West Alabama that provides legal advocacy.

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 supportive measure 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**—(205) 348-5496 Address: 2418 Capital Hall, 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.

	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.
	Office of Disability Services ⁸ *NOT CONFIDENTIAL*	If requested and if reasonably available, provides reasonable accommodations for students who self-identify as needing reasonable accommodations as it relates to a disability.
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 <i>confidential</i> victim advocacy and case management services to Complainants (including Complainants subjected to sexual harassment, sexual assault/rape, 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/rape to obtain immediate medical care. Whether or not the sexual assault/rape 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) ⁹ (Off-Campus) *CONFIDENTIAL*	Provides emergency care to victims of sexual assault/rape and intimate partner violence. The emergency professionals at DCH Medical Center assist in collecting physical evidence and reducing trauma to victims.
Forensic examinations	Tuscaloosa SAFE Center (Off-Campus) ¹⁰ *CONFIDENTIAL*	Forensic examinations are available free of charge to sexual assault/rape victims by SANE nurses. Also provides medical care for victims, including assessment, treatment, and follow-up.

⁸ Office of Disability Services—(205) 348-4285 Address: 1000 Houser Hall, Box 870185, Tuscaloosa, AL 35487-0185.

⁹ DCH—(205) 759-7111 Address: 809 University Blvd E, Tuscaloosa, AL 35401.

¹⁰ Tuscaloosa SAFE Center—(205) 860-SAFE (7233) Address: 1601 University Blvd. E. Ste. 150, Tuscaloosa, AL 35404.

Medical services	Student Health Center ¹¹ *CONFIDENTIAL*	Provides medical services for students only including, a Walk-In Clinic, Women's Health Services, Laboratory and X-Ray, and Psychiatry.
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/rape (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/Sexual Misconduct and Code of Student Conduct processes.
	Counseling Center ¹² *CONFIDENTIAL*	Provides counseling and psychological services to University students.
	University Medical Center (UMC) Psychiatry and Behavioral Health Clinic ¹³ *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/rape service agency serving West Alabama. Turning Point provides emergency shelter, 24-hour crisis line, individual counseling, support groups, and skills groups.
	On-Call Dean ¹⁴ *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, Strategic Communications, 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/rape, dating/domestic violence, or stalking), the WGRC Victim Advocate becomes the On-Call Dean rep.
	Capstone Family Therapy Clinic ¹⁵ *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) ¹⁶ *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.

¹¹ **Student Health Center**—(205) 348-6262 Address: 750 5th Ave. E, Tuscaloosa, AL 35401.

¹² **Counseling Center**—(205) 348-3863 Address: 1101 Jackson Ave., Tuscaloosa, AL 35487.

¹³ **UMC Psychiatry and Behavioral Health (The Betty Shirley Clinic)**—(205) 348-1265 Address: 850 5th Ave. E, Tuscaloosa, AL 35401.

¹⁴ **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.

¹⁵ **Capstone Family Therapy Clinic**—(205) 348-8154 Address: 214 Child Development Research Center, 5th Ave. E, 2nd Floor, Tuscaloosa AL 35487.

¹⁶ **EAP**—(800) 925-5327 *For more information, visit the Human Resources [website](#).

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 ¹⁷ *CONFIDENTIAL*	Provides emergency care to Complainants of sexual assault/rape and intimate partner violence in the Gadsden area.
Counseling and mental health services	Etowah County District Attorney's Office Victim Service Officer ¹⁸ *CONFIDENTIAL*	Assists in referrals for UA Gadsden Center students and employees seeking off-campus counseling and mental health services in the Gadsden area.

¹⁷ Riverview Regional Medical Center—(256) 543-5200 Address: 600 South 3rd St., Gadsden, AL 35901.

¹⁸ Etowah County District Attorney's Office Victim Service Officer—(256) 549-5362 Address: 801 Forrest Ave., Gadsden, AL 35901.

APPENDIX -5-

APPENDIX -5-

RESPONDENT SUPPORTIVE MEASURES

Below are examples of supportive measures¹ that may be available to a Respondent following notice of a complaint of Prohibited Conduct.

Accommodation or supportive measure	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 mutual no-contact orders, upon request and if reasonably available, to Complainants and Respondents.
Safe housing/relocation³	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 report⁵	UAPD *NOT CONFIDENTIAL*	See Section N and Appendix 6 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 allegations of Prohibited Conduct) contact the Office for Disability Services for registering for longer term reasonable accommodations.
	Office of Disability Services ⁸ *NOT CONFIDENTIAL*	If requested and if reasonably available, provides reasonable accommodations for students who self-identify as needing reasonable accommodations as it relates to a disability.

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

² **Title IX Coordinator—(205) 348-5496** Address: 2418 Capital Hall, Box 870259, Tuscaloosa, AL 35487.

³ If a Respondent is subject to an emergency removal 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 supportive measures as described in **Appendix 4**.

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.

⁸ **Office of Disability Services—(205) 348-4285** Address: 1000 Houser Hall, Box 870185, Tuscaloosa, AL 35487-0185.

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.
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, Strategic Communications, 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.
UA-GADSDEN CENTER OFF-CAMPUS COUNSELING AND MEDICAL SUPPORT SERVICES		
Counseling and professional and personal support	Counseling Center ¹⁴ *CONFIDENTIAL*	Provides counseling and psychological services to University students.

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**—(800) 925-5327 *For more information, visit the Human Resources [website](#).

¹⁴ **Counseling Center**—(205) 348-3863 Address: 1101 Jackson Ave., Tuscaloosa, AL 35487.

APPENDIX -6-

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 the Title IX and Sexual Misconduct Policy, the Code of Student Conduct (for students), the Employee and Faculty Handbooks (for employees), 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 3** 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 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 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 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 in this Policy, 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/rape 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/rape 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 Prohibited Conduct investigation and/or Code of Student Conduct process discussed in this Policy.

Immediate Response to Report: After an alleged sexual assault/rape 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. If immediate medical attention is necessary, the officers will help the Complainant arrange medical care at the emergency room where medical staff will provide medical intervention to the Complainant. The officers will also help the Complainant arrange for a forensic exam to be completed at the Tuscaloosa Safe Center where a Sexual Assault Nurse Examiner will treat potential sexually transmitted infections, pregnancy 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/rapes in the Gadsden Center, the trial will typically be held in the Etowah

County Courthouse located in Gadsden.) Sexual assault/rape 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/rape, 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/rape 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/rape occurred in Tuscaloosa, such medical care can be obtained at DCH Regional Medical Center, adjacent to the university campus.¹ The Tuscaloosa SAFE Center can assist with medical exams in which evidence of sexual assault/rape 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/rape victims at the Tuscaloosa Safe 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 -7-

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 D and **Appendix 3**), 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/rape, 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 Advisors and Community Advisors) 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/rape, 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 on UAPD's [website](#). 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/rape, domestic violence, dating violence, and stalking and reducing the risk of drug-induced sexual assaults/rapes 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/rape. The tips below are provided to help students decrease the potential chance of sexual assault/rape:
 - 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 the [myBama website](#).
- c. The UACT website: 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 available at this [website](#): 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. Women and Gender Resource Center (WGRC): Campus-wide programs coordinated by the WGRC are designed to increase awareness about sexual assault/rape, 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/rape, 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/rape, 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 (CAVT) 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.
- f. **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.
- g. **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.
- h. **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.
- i. **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.
- j. **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.