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Title IX and Sexual Misconduct Policy

A. Notice of Nondiscrimination and Office of the Title IX Coordinator

The University of Alabama does not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates, as required by Title IX and its regulations, including in admission and employment. The University is committed to providing an environment free from discrimination based on sex and expects individuals who live, work, teach, and study within this community to contribute positively to the environment and to refrain from behaviors that threaten the freedom or respect that every member of our community deserves.

The University has a designated Title IX Coordinator, Jessica Humber, 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 [Office of Equal Opportunity and Title IX Programs website](#). Inquiries concerning the application of Title IX may be made to the University's Title IX Coordinator or to the Office of Civil Rights.

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 University employees; identifies reporting procedures for individuals who have

information about conduct that reasonably may constitute a Policy violation; explains the difference between the University conduct process and criminal investigations; identifies the UA offices to whom a Complainant may confidentially report Prohibited Conduct to obtain supportive measures without officially notifying the University; and explains University supportive measures, emergency removals and other support services.

This Policy and corresponding Procedures are not contractual in nature; rather, they are guidelines that the University intends to use for addressing reports of Prohibited Conduct. The University reserves the right to amend or alter the conditions and terms contained in this Policy and corresponding Procedures 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 Office of Equal Opportunity and Title IX Programs (hereinafter "Title IX Office").

The University has a comprehensive prevention, education, and awareness plan. Details about the plan may be found at the [Title IX Office website](#).

B. Jurisdiction and Application of Policy

This Policy applies to:

- Allegations of Prohibited Conduct committed by UA students or employees that occur on campus or off campus, but only if the off-campus conduct affects or is detrimental to the University community and/or the pursuit of University objectives, to be determined in the University's sole discretion;
- 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 abroad, research, online, or internship programs).

For purposes of this Policy, "on campus" means any University-owned or leased property and streets or pathways contiguous to University property.

If a Respondent is no longer affiliated with the University when the report or Formal Complaint of Prohibited Conduct is received, the University may elect not to investigate the allegations but reserves the right to document the report and address the allegations as appropriate with the Respondent prior to Respondent returning to the University as a student, employee, or campus visitor.

The University's ability to respond to a report of Prohibited Conduct under this Policy is based on its disciplinary authority over the Respondent. If the Respondent is not an employee or student, the University's ability to take disciplinary action is determined by the context of the Prohibited Conduct and the nature of the relationship of the third-party Respondent to the University. 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.

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.

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.

This Policy shall be administered by the Office of Equal Opportunity and Title IX Programs.

C. Relevant Definitions

1. Prohibited Conduct Defined (UA Definitions)

For purposes of this Policy, conduct that is deemed, by a preponderance of the evidence (which means more likely than not the alleged conduct occurred), to be sex-based and meet the definitions of any of the types of Prohibited Conduct identified below or in the [Definitions Table](#) available on the [Conduct Covered by Title IX page of Title IX website](#) (whether defined by UA, or by state (AL) or federal (FED) laws, as amended from time to time), constitutes a violation of this Policy. The definitions listed in the **Definitions Table** on the website are hereby incorporated by reference in this Policy.

A person whose sex-based conduct potentially 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-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 **the Definitions Table** have not been updated to reflect the most recent federal or state language.

Certain types of Prohibited Conduct (i.e., sex-based harassment) may encompass other types of Prohibited Conduct by definition. If a more specific definition is applicable to the specific conduct alleged, the more specific definition will apply to the charges for allegations under this Policy.

a. Intimate Partner Violence: Dating/Domestic Violence and Harassing Communications

- **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 under the family or domestic violence laws of Alabama, or a person similarly situated to a spouse of the Complainant;
- B. By a person with whom the Complainant shares a child in common;
- C. By a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner;
- D. By 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 of Alabama.

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;
- Knowingly entering or unlawfully remaining in a dwelling with the intent to commit a crime;
- Behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use or maintain economic resources to which they are entitled.

• **Harassing Communications** is excessive communications, including any attempt to unreasonably, intentionally, and repeatedly make contact with the Complainant over their stated objections. Harassing Communications may be committed by a person who has been in a romantic or intimate relationship with the Complainant or by other individuals whose intent for the communications is sex-based or related to a prior sexual encounter.

For purposes of this definition, the existence of a romantic or intimate 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.

b. 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:

- Intentionally following an individual without a reasonable justification for being in a particular area or taking a particular route;
- Persistent and unwanted attempts to contact an individual;
- Sending or leaving unwanted gifts, cards, notes, or similar items;
- Cyber-stalking, meaning the use of electronic media, such as the internet, social networks, blogs, other online spaces and platforms, phones, text messages, or other similar devices or forms of contact; or
- 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 or without their knowledge.

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

c. 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; 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.

d. 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. This includes using Artificial Intelligence or other electronic software or applications to generate such sounds or images of the individual;
- 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);
- Any sexual exploitation of children or minors; or
- Knowingly exposing another individual to a sexually transmitted disease/infection or HIV without their consent.

e. Consent

The term "**consent**" used when describing different types of Prohibited Conduct 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. 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.

f. Title IX Sex-Based Harassment

Title IX Sex-Based Harassment is 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:

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.

g. Non-Title IX Sex-Based Harassment

Non-Title IX Sex-Based Harassment is (a) unwelcome abusive or hostile behavior, (b) that is discriminatory on the basis of sex, sexual orientation, gender identity, or gender expression, and (c) the conditions in either (1) or (2) below are present:

1. An employee or a student 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.

h. Sex-Based Discrimination

Sex Discrimination is treatment of a group or individual, either intentionally or unintentionally, in a less favorable, negative, or detrimental manner as compared to others based on the individual's sex, sexual orientation, gender identity, gender expression, or pregnancy that denies or limits a reasonable individual's work or educational environment or effectively denies a reasonable individual's equal access to participate in or benefit from the University's resources, programs, services, and/or education program or activities.

i. Failure to Comply

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

For purposes of this Policy, failure to comply includes a failure to comply with a No Contact Order, Alternative Dispute Resolution agreement, or other directive issued by the Title IX Office or the Office of Student Conduct.

If a party to a No Contact Order or Alternative Dispute Resolution agreement fails to comply 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 against an employee or faculty member in accordance with the Employee and/or Faculty Handbooks.

j. Retaliation

Retaliation is any action by a student, employee, or person authorized by the University to provide aid, benefit, or service under the University's education program or activity that a reasonable person would expect to have the effect of intimidating, threatening, coercing, or discriminating against a person for one of the following purposes:

1. Interfering with any rights or privileges secured under these Policies, and/or other applicable laws prohibiting Prohibited Conduct under those Policies; or
2. Because the person has reported information; made a complaint; testified, assisted or participated or refused to participate in any manner in an investigation, proceeding or hearing pursuant to the applicable grievance procedures; participated or refused to participate in the informal resolution process; and/or sought reasonable accommodations.

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.

Disciplinary action separate from the original report of Prohibited Conduct may be taken based on a finding of responsibility for retaliation. An individual is protected from retaliation regardless of the validity or reasonableness of the original allegation of Prohibited Conduct and when there is a finding of not responsible based on the allegations in the original report of Prohibited Conduct.

Examples of retaliatory actions could include unjustified discipline, 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 resolution of a report of Prohibited Conduct.

The following actions do not constitute retaliation:

- Initiating a Code of Student Conduct charge or employee investigation/action against an individual for making a materially false statement in bad faith with regard to making a report or in the course of an investigation or 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;
- Advising the parties and participants in any proceeding of the consequences of making false statements;
- Warning the parties and witnesses that retaliation is prohibited and informing the parties and witnesses of the consequences of retaliating against another for exercising their rights;
- Warning the parties not to discuss or disseminate the allegations in a manner that constitutes retaliation or unlawful tortious conduct; and
- For employees and other persons authorized by the University to provide aid, benefit, or service under the University's education program or activity, requiring participation and assistance as a witness with an investigation, proceeding, or hearing under these Policies.

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 address sex discrimination and to institute corrective measures under this Policy and on behalf of the University.**
- **Awareness Programs:** Community-wide or audience-specific programming, initiatives, and strategies that increase the audience's knowledge and share information and resources to prevent violence, promote safety, and reduce perpetration.
- **Complainant:** An individual who is alleged to be the victim of alleged Prohibited Conduct in violation of this Policy.
- **Confidential Employee:** (1) A University employee whose communications are privileged or confidential under Federal or State Law. An employee's confidential status is only with respect to information received while the employee is functioning within the scope of their duties to which privilege or confidentiality applies; (2) A University employee designated by UA as confidential for the purpose of providing services to persons related to sex discrimination. If the employee also has a duty not associated with providing those services, the employee's confidential status is only with respect to information received about sex discrimination in connection with providing those services; or (3) A University employee who is conducting an Institutional Review Board-approved human-subjects research study designated to gather information about sex discrimination, but the employees' confidential status is only with respect to information received while conducting the study.

- **Disciplinary Sanctions:** Consequences imposed on a Respondent following a determination under this Policy that the Respondent is in violation of this Policy.
- **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. 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, and student employees are considered "employees." Volunteers, graduate students with assistantships, and independent contractors are not considered "employees." For purposes of this Policy, staff includes post docs, researchers, and medical residents.
- **Formal Complaint:** A document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that the University investigate the allegation of Prohibited Conduct. 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. 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 Procedure 1, including, but not limited to, overseeing the hearing process and appointing a Decision-Maker to participate in hearings.
- **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 the Office of Academic Affairs and/or Human Resource Business Partners and/or Consultants.
- **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 on the Title IX website.
- **Party:** A Complainant or Respondent.
- **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 on the Title IX website. 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.
- **Reasonable Person:** A reasonable person under similar circumstances and with similar identities to the Complainant.
- **Remedies:** Measures provided, as appropriate, to a Complainant or any other person the Title IX Office identifies as having had their equal access to UA's education programs or activities limited or denied by sex discrimination.
- **Report:** Notification to the Title IX Coordinator (or any individual required to make a report to the Title IX Coordinator) of potential Prohibited Conduct, regardless of whether the person making the notification is the person alleged to be the victim of Prohibited Conduct.
- **Respondent:** A person who is alleged to have engaged in Prohibited Conduct that would violate this Policy.
- **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. Risk reduction techniques are described in more detail on the Title IX website.
- **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.
- **Supportive Measures:** Individualized measures offered as appropriate, as reasonably available, without unreasonably burdening a Complainant or Respondent, not for punitive or disciplinary reasons, and without fee or charge to the Complainant or Respondent to: (1) Restore or preserve that party's access to the University's education program or activity, including measures that are designed to protect the safety of the party's or the University's educational environment; or (2) Provide support during the grievance procedures or informal resolution process.

D. 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 or other applicable resources depending on the circumstances of the individual situation. For more information, please see the [University's Medical Emergency Assistance Policy](#).

E. 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. The University's Code of Student Conduct, Code of Ethical Conduct, Equal Opportunity and Non-Discrimination Policy Statement, Harassment Policy, Employee Handbook, Faculty Handbook, and Anti-Retaliation 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 addressed pursuant to the Procedures located on the Title IX website.

F. 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 within the jurisdiction of this Policy, of which it has Actual Knowledge as appropriate pursuant to this Policy and applicable procedures.

In order to take appropriate action, the University must have Actual Knowledge of Prohibited Conduct that may constitute a violation of this Policy. The University is deemed to have Actual Knowledge when a report is made to the Title IX Coordinator and/or other employees of the Title IX Office who are the only University officials who have authority to address sex discrimination and to institute corrective measures under this Policy and on behalf of the University.

A Complainant has the option to speak with UAPD or other 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 criminal complaint. The initial decision to report the alleged Prohibited Conduct to anyone ultimately rests with the Complainant. Even if a Complainant elects not to report alleged Prohibited Conduct to UAPD, other law enforcement, or the Title IX Office, they may still pursue resources that allow for “Confidential” reporting as outlined below.

1. Reporting Procedures

a. **Mandatory Reporting of Child Abuse to UAPD**

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 who are subject to Prohibited Conduct to report 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. Individuals reporting alleged 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. 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. 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.

With regard to criminal investigations, preservation of the evidence (such as clothing, bodily fluids, and other physical evidence) will strengthen the investigation, which may result in a greater likelihood of holding the accused accountable. Please see the Title IX website for additional guidance relating to preservation of evidence.

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 during an individual’s participation in a climate survey, focus group, or Institutional Review Board-approved human subject research protocol (i.e., IRB research) or as part of a routine academic experience (e.g., classroom discussion, writing assignment, research project, etc.) unless the reporting party clearly states that they want a report to be made or are seeking assistance.

d. **Mandatory Reporting of Prohibited Conduct to the University**

All non-confidential Employees, Graduate Students with an Assistantship, and Resident Advisors in Housing and Residential Communities are required to report known or suspected

conduct that may constitute Prohibited Conduct learned within the scope of their job duties to the Title IX Office.

When a report is made to an employee, the 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.

e. Reporting Requirements of Other Student Employees

All other student employees, except as specifically outlined in subsection (d) above, who learn of conduct that reasonably may constitute Prohibited Conduct within the scope of their job duties may either 1) notify the Title IX Office of the report or 2) provide the contact information of the Title IX Coordinator and direct the reporter to the [Title IX website](#) where they can learn how to make a report of Prohibited Conduct.

f. Failure to Report by Individuals Considered Mandatory Reporters

A mandatory reporter's failure to promptly report Prohibited Conduct as described above may result in disciplinary action.

g. How to Report

Anyone can submit a report of Prohibited Conduct by contacting any employee in the Title IX Office. Contact information for employees in the Title IX Office can be found on the Title IX Office [Title IX website](#). Contact information for the Title IX Coordinator is:

Jessica Humber

2418 Capital Hall, Tuscaloosa, AL 35487

(205) 348-5496

titleix@ua.edu

Individuals may also submit reports online by visiting the Title IX Office [Title IX Office website](#) and completing the online incident form.

2. Confidential and Anonymous Reports

a. Confidential Employees

University employees who qualify for the confidentiality privilege (i.e. Confidential Employees) 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 or volunteers 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 Collegiate Recovery and Intervention Services; Department of Athletics Counselors; the Informal Resolution Program Director; University employees who are conducting an

Institutional Review Board-approved human-subjects research study designated to gather information about sex discrimination, but only with respect to information received while conducting the study; 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.

b. Reports to Confidential Employees

The University is not deemed to have knowledge of alleged sex discrimination or other Prohibited Conduct under this Policy based on a report to a Confidential Employee. When Confidential Employees learn of conduct that reasonably may constitute Prohibited Conduct in the scope of their duties to which the privilege of confidentiality applies, they are encouraged to 1) explain the employee's status as a Confidential Employee, including the circumstances in which the employee will not notify the Title IX Office about conduct that may reasonably constitute sex discrimination; 2) explain how to contact the Title IX Coordinator; 3) direct the reporter to the Title IX website, where they can learn how to make a report of sex discrimination; and 4) explain that the Title IX Office may be able to offer and coordinate supportive measures, as well as, initiate formal or informal processes under the grievance procedures.

c. Confidential Clery Act Reporting

If a Complainant desires confidentiality, 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.

d. Anonymous Reports

Anonymous reports may be made via the UA System Hotline by visiting the [hotline website](#) or calling 1-866-362-9476. The University is not deemed to have 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.

3. Confidentiality and Privacy within the Title IX Office's Investigation and Proceedings

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 corresponding investigation, including the conduct of any active review, investigation,

hearing or judicial proceeding, appeal, or resolution of matters within the scope of Title IX or this Policy. University employees assisting with a Title IX matter are expected to safeguard private information in accordance with applicable laws (including, but not limited to, FERPA, HIPAA, and other privacy laws). 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.

Complainants are advised that requests for confidentiality/privacy 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 and/or administrative leave, to address an immediate threat to the physical health or safety of any students, employees, 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.

The University will take reasonable steps to protect the privacy of the parties and witnesses during its grievance procedures. These steps will not restrict the ability of the parties to obtain and present evidence, including by speaking to witnesses, or to otherwise prepare for or participate in the grievance procedures. Individuals involved in Prohibited Conduct investigations and proceedings are encouraged to exercise discretion with regard to sharing of information about the Prohibited Conduct report and will be advised to not share 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, such as family members, confidential resources, or advisors, or obtaining and presenting evidence. 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 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 student and employee parties have the following rights:

a. **Complainant's Rights**

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 procedures for filing a Formal Complaint with UA;
- 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 abuse (See [Section H.1.a](#));
- 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 on the Title IX website. If the Complainant requests such supportive measures and if they are reasonably available, they will be provided regardless of 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 an advisor at all University proceedings relevant to the investigation and hearing process, if applicable and subject to the limitations outlined herein and in the applicable Procedures;
- 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 applicable 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.

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.

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 on the [Title IX website](#));
- 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 an advisor at all University proceedings relevant to the investigation and hearing process, if applicable and subject to the limitations outlined herein;
- 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 prior to any final resolution being made, if applicable 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.
-

G. 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 or investigator 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 Executive Director in the Office of Equal Opportunity and Title IX Programs (or designee). Regardless of the time period, such objection must occur before the Title IX Coordinator, Executive Director, or designee makes a final determination under the Policy. If the objection as to a conflict or bias is made with respect to the hearing or appellate Decision-Maker such objection must occur before the scheduled hearing or when asserting the appeal.

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. 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 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.

If the Title IX Coordinator, Executive Director, or designee determines that the objection is reasonable, the challenged person will be replaced. The decision of the Title IX Coordinator, Executive Director, or designee regarding a challenge will be final.

H. Processing Reports and Formal Complaints of Prohibited Conduct

Reports of Prohibited Conduct will receive prompt attention under this Policy. A Formal Complaint must

be filed by a Complainant or signed by the Title IX Coordinator in order to initiate the informal or formal procedures described in **the applicable Procedures** available on the [Title IX Office website](#).

1. Resolution of Reports of Prohibited Conduct

Once a report of Prohibited Conduct is made, the University will contact the individual identified as the Complainant to discuss the resolution options and supportive measures available to them, based on the information known at the time of the report. Ultimately, the choice of how to proceed with a report of Prohibited Conduct lies with the Title IX Coordinator, in consultation with the Complainant.

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 where no Formal Complaint has been filed may be handled according to the following paths:

If the Title IX Coordinator signs the Formal Complaint, the Title IX Coordinator will notify the Complainant prior to doing so and make efforts to appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures.

The Title IX Coordinator may sign a Formal Complaint based on the Office's 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.

a. **Limited Action**

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

- The Complainant requests that the report of Prohibited Conduct not be disclosed to the Respondent;
- The Complainant does not identify the Respondent;
- The Complainant declines to respond to communications from the Title IX Office staff after a report is made;
- 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 report will be entered in the Respondent's official Office of Student Conduct record. However, the Title IX Coordinator's Office will record the facts of the report and the Limited Action taken in response as part of its internal records.

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. A

Complainant who has not filed a Formal Complaint and whose actions have triggered a response of Limited Action may elect to file a Formal Complaint in the future if the University has jurisdiction over the Respondent and if such procedures are available to the Complainant.

If a Formal Complaint has been filed (as outlined in the below section), a Complainant's actions may trigger a Limited Action response. 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. If Limited Action is taken after a Formal Complaint has been filed, 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.

b. Preliminary Procedures and Supportive Measures

After receiving a report of Prohibited Conduct, 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 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.

i. 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.

ii. Educational Conversation with Title IX Coordinator

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), including providing education to the Respondent about the Policy and its requirements, notifying Respondent of the Title IX Coordinator's knowledge of a criminal report, assisting the Respondent with supportive measures, or other circumstances as deemed appropriate by the Title IX Coordinator.

iii. Supportive Measures

In the absence of a Formal Complaint, the Title IX Coordinator can still implement supportive measures for the Complainant and/or Respondent (as appropriate) to address the effects of the Prohibited Conduct or the report. This includes providing academic advocacy, safety planning, and the issuance of a mutual No Contact Order. 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 a supportive measure. For more information about supportive measures, please review [section I](#) below.

2. Resolution of Formal Complaints of Prohibited Conduct

a. Filing the Formal Complaint

The following individuals may file a Formal Complaint alleging Prohibited Conduct:

- The Complainant of the report of Prohibited Conduct; or
- The Title IX Coordinator, after making the determination described in the Policy.

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.

b. Title IX Coordinator Initiated Formal Complaints

There are times when the Title IX Coordinator (or designee), after considering the alleged facts known at the time of the report, may decide to sign a Formal Complaint without the Complainant's participation. If the Title IX Coordinator (or designee), after considering the below factors, 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 may sign a Formal Complaint. Factors to be considered by the Title IX Coordinator (or designee) to determine when to sign a Formal Complaint of Prohibited Conduct include, but are not limited to, the following:

- The Complainant's request not to proceed with initiation of a Formal Complaint;
- The Complainant's reasonable safety concerns regarding initiation of a Complaint;
- The risk of additional Prohibited Conduct perpetrated by the Respondent if a Formal Complaint is not initiated;
- The severity of the alleged Prohibited Conduct, including whether the Prohibited Conduct, if established, would require the removal of the Respondent from campus or imposition of another disciplinary sanction to end the Prohibited Conduct and prevent its recurrence;
- The age and relationship of the parties, including whether the Respondent is an employee of the University;
- The scope of the alleged Prohibited Conduct, including information suggesting a pattern of ongoing Prohibited Conduct or Prohibited Conduct alleged to have impacted multiple individuals;
- The availability of evidence to assist a Decision-Maker in determining whether the Prohibited Conduct occurred;

- Allegations of the Respondent's prior Prohibited Conduct based on credible evidence; and
- Whether the University could end the alleged Prohibited Conduct and prevents its recurrence without initiating a Formal Complaint under the Policy and these Procedures.

If the Title IX Coordinator signs the Formal Complaint, the Title IX Coordinator will notify the Complainant prior to doing so and make efforts to appropriately address reasonable concerns about the Complainant's safety or the safety of others, including by providing supportive measures.

The Title IX Coordinator may sign a Formal Complaint based on the Office's 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.

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

Upon receipt of the Formal Complaint, 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.

The Title IX Coordinator must dismiss a Formal Complaint under this Policy if:

- The allegations contained in the Formal Complaint would not constitute Prohibited Conduct under this policy, if proven (the University will make reasonable efforts to clarify the allegations with the Complainant); or
- It is determined that the allegations contained in the Formal Complaint were false.

In addition, at any time prior to a hearing or issuance of a Finding Report, the Title IX Coordinator may dismiss a Formal Complaint 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 Policy;
- 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 Policy (for example, where Complainant has ceased participating in the process).

d. Notification of Dismissal of a Formal Complaint and Appeal Rights

Upon dismissal of a Formal Complaint, the Title IX Coordinator shall send written notice of the dismissal to both parties, if applicable, simultaneously that includes the reason(s) for the dismissal, and the options for appeal if applicable.

Both parties may seek an appeal of a dismissal of a Formal Complaint based on any of the following grounds:

- Procedural irregularity that would change the outcome;

- New evidence that would change the outcome and that was not reasonably available at the time the determination regarding dismissal was made; 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 would change the outcome.

Any such request for an 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 appeal, the Title IX Coordinator will notify each party of the 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. The dismissal, the request for appeal, and the parties' written statement (if any) will be considered by the appeal Decision-Maker. The Decision-Maker will be someone who did not take part in an investigation of the allegations or dismissal of the Formal Complaint and is trained consistent with Title IX and its implementing regulations. The appeal Decision-Maker will issue a written decision describing the result of the appeal and the rationale for the result. The appeal procedures will be applied equally for the parties. Reasonable efforts will be made to conclude an appeal of the dismissal of a Formal Complaint within fourteen (14) business days of the Title IX Coordinator's issuance of the dismissal.

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 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.

When a Formal Complaint is dismissed, the Title IX Coordinator will, at a minimum offer supportive measures to both parties, if applicable, as appropriate. The Title IX Coordinator will also take other prompt and effective steps, as appropriate, to ensure that sex discrimination does not continue or recur within the University's education program or activity.

3. Procedures for Processing Formal Complaints of Prohibited Conduct

Once a Formal Complaint has been filed and the determination is made that the Formal Complaint can proceed under the Policy, the Formal Complaint may generally be resolved through the processes described in the applicable grievance procedure. The applicability of the grievance procedures depends on the status of the parties and the type of Prohibited Conduct reported or alleged.

The current grievance procedures can be found on the [Title IX Office's website](#).

a. **Determining a Party's Status**

When a Complainant or Respondent is both a student and an employee, the Title IX Office must make a fact-specific inquiry to determine what Procedures apply. In making this determination, the Title IX Office must consider whether the party's primary relationship with the University is to receive an education and whether the alleged Prohibited Conduct occurred while the party was performing employment-related work.

I. Supportive Measures and Reasonable Accommodations

1. Supportive Measures

For all reports of Prohibited Conduct, the University will take prompt and reasonable action to provide supportive measures to all parties involved. Supportive measures must not unreasonably burden either party and must be designed to protect the safety of the parties or the University's educational environment, or to provide support during the grievance procedures under the Policy. 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 designee) or, if the Complainant desires confidentiality, from the WGRC Victim Advocate. 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 the documents on the [Title IX website](#), other supportive measures may be available based on specific circumstances. Moreover, the University may take action without a request from either party if the University determines doing so is in the best interests of a student, employee, or the University community. The Title IX Coordinator, or if confidentiality is desired, the WGRC Victim Advocate, should be contacted for additional information.

The University will not disclose information about supportive measures to anyone other than the party to whom the supportive measures apply, including informing one party of supportive measures provided to another party, unless disclosure is necessary to provide the supportive measure or provide a party's access to the education program or activity. Disclosure is also permitted in the following limited circumstances:

- The party, or someone with the legal right, has given prior written consent for the disclosure;
- Disclosure is made to a parent, guardian, or other authorized legal representative with the legal right to receive the disclosure;
- To carry out the purposes of the Title IX statute and its implementing regulations, including action taken to address conduct that may constitute Prohibited Conduct under this Policy;
- As required by federal law, federal regulations, or the terms and conditions of a federal award; or
- To the extent such disclosures are not in conflict with the Title IX statute or its implementing regulations when required by State or local law or when permitted by other federal law.

Examples of potential supportive measures that may be available are generally outlined below. For more detailed information on available supportive measures, please see the Supportive Measures page on the [Title IX website](#).

- 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.

2. Equal Opportunity for 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 J](#) below) 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).

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). Information regarding the Human Resources Accommodation Specialist and procedures to request reasonable accommodations can be found on the [HR ADA website](#).

J. Emergency Removals and Administrative Leave

1. Emergency Removals for Student Respondents

a. Standard for Emergency Removal

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. The University, at its discretion, may impose an emergency removal limiting a student Respondent's access to campus based on an individualized safety and risk analysis even if a Formal Complaint has not been filed.

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.

b. Right to Review of Emergency Removal Terms

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.

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. The decision following the review of the emergency removal will be final.

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 appeal proceedings, unless otherwise modified.

2. Administrative Leave for Faculty/Staff Respondents

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.

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.

K. Sanctions for Policy Violations

Following a determination of responsibility for a violation of the Policy, pursuant to one of the applicable Grievance Procedures, the University may impose a range of sanctions/remedies as identified below.

Sanctions/remedies imposed will be determined based on 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.

1. 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. 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, referrals for counseling, 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](#).

2. 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 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](#).

3. 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](#). 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](#).

4. Community Member/Third Party/Campus Visitor as the Respondent

Respondents who are community members, third parties, and/or campus visitors will not be afforded the full process and other protections described under this Policy. It is in the sole discretion of the Title IX Coordinator, in consultation with relevant campus partners, what steps will be taken with respect to a report of Prohibited Conduct involving a community member/third party/campus visitor Respondent. Allegations of Prohibited Conduct against a community member/third party/campus visitor may subject the individual to appropriate actions, 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.

L. 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. For students, see [Article III.A.\(1\) of the Code of Student Conduct](#). For faculty and staff, see [Chapter 2](#),

[Section II of the Employee Handbook](#) and [Chapter 3, Section II of the Faculty Handbook](#).

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.

M. 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. The Title IX Office will defer to the criminal investigation initially while law enforcement is conducting its initial fact-finding investigation.

For additional information about the interplay between criminal and Title IX investigations, as well as general information about criminal investigation procedures, please visit the [Title IX Office's website](#).

N. 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 [the Definitions Table](#)).
- 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 the [Title IX Office's website](#) for more detailed information on the prevention, education, and awareness programs the University offers.

O. 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 and is consistent with First Amendment principles.

P. Preservation of Records

The Office of Equal Opportunity and Title IX Programs 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, 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.

Q. Notice

In the event of any conflict between the written Policy and the version found on the University’s policy website, the Title IX and Sexual Misconduct Policy found on the University’s [policy 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.

Approval Signatures

Step Description	Approver	Date
Division	Cheryl Mowdy: Interim Vice President	08/2024
Workflow Review	Policy Management: Policy Manager [JC]	08/2024

Applicability

College of Community Health Sciences, The University of Alabama - Public, The University of Alabama - Secured