

**UNA’s Policy and Procedures:  
Sexual Harassment, Sexual Misconduct, Intimate Partner  
Violence, Stalking, Retaliation, and any other form of  
Sex and Gender Discrimination (Sexual Misconduct)**

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# SECTION I: Policies

This policy supersedes all other policies that may be listed in the student, staff, and/or faculty handbooks. This policy may be referred to, in its entirety, as the UNA's Sexual Misconduct Policy.

## **Definitions**

As used in this document, the following terms are defined:

- **Reporting party** - refers to the person impacted by alleged discrimination.
- **Responding party** - refers to the person who has allegedly engaged in discrimination.
- **Third-party reports** - reports brought by individuals other than the recipient of the unwelcome behavior.
- **Third-party reporters** – refers to the individual bringing forth the report other than the recipient of the unwelcome behavior.

## **Applicable Scope**

The University of North Alabama affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All the policies outlined in this document are subject to resolution using the UNA Equity Resolution Process (ERP), as detailed below. When the responding party is a member of the university community, the ERP is applicable regardless of the status of the reporting party who may be a member or non-member of the campus community, including students, student organizations, faculty, administrators, staff, guests, visitors, campers, etc.

## **Title IX Administrator**

The Title IX Administrator<sup>1</sup>, along with the Assistant Vice President for Human Resources<sup>2</sup>, oversees implementation of UNA's Policy and Procedures: Sexual Harassment, Sexual Misconduct, Intimate Partner Violence, Stalking, Retaliation, and any other form of Sex and Gender Discrimination. The Title IX Administrator acts with independence and authority free of conflicts of interest. To raise any concern involving a conflict of interest by the Title IX Administrator, contact the University President in 601 Cramer Way, Room 110, (256) 765-4211. To raise concerns regarding a potential conflict of interest with any other administrator involved in the ERP, please contact the Title IX Administrator.

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<sup>1</sup> Note that throughout this document, the term "Title IX Administrator" refers to the Title IX Administrator or their designee.

<sup>2</sup> Note that the Assistant Vice President for Human Resources serves as a Deputy Title IX Coordinator.

**Inquiries about and reports regarding this policy and procedure may be made internally to:**

Title IX Administrator or Deputy Coordinator  
Guillot University Center 202, UNA Box 5023, One Harrison Plaza, Florence, AL 35632  
(256) 765-4223 or (256) 765-4838  
titleix@una.edu

(the following no longer serve this role)

**Deputy Coordinators:**

Carrie Bowen	Student Conduct	(256) 765-5012
Catherine D. White Debbie Williams	Human Resources	(256) 765-4291
	Athletics	(256) 765-4788

**Inquiries may be made externally to:**

Office for Civil Rights (OCR)  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-1100  
Customer Service Hotline #: (800) 421-3481  
Fax: (202) 453-6012  
TDD#: (877) 521-2172  
Email: [OCR@ed.gov](mailto:OCR@ed.gov)  
Web: <http://www.ed.gov/ocr>

Atlanta Office  
Office for Civil Rights  
U.S. Department of Education  
61 Forsyth St. S.W., Suite 19T10  
Atlanta, GA 30303-8927  
Telephone: 404-974-9406  
Fax: 404-974-9471; TDD: 800-877-8339  
Email: [OCR.Atlanta@ed.gov](mailto:OCR.Atlanta@ed.gov)

Equal Employment Opportunity Commission (EEOC)  
Contact: <http://www.eeoc.gov/contact/>

Birmingham Office  
Equal Employment Opportunity Commission (EEOC)  
Ridge Park Place  
1130 22<sup>nd</sup> Street South, Suite 2000  
Birmingham, AL 35205  
(800) 669-4000

**Reporting Sex and Gender Discrimination**

Reports of sex and gender discrimination, sexual harassment, sexual misconduct, intimate partner violence, stalking, and/or retaliation may be made using any of the following options. There is no time limitation on the filing of allegations. However, if the responding party is no longer subject to UNA’s jurisdiction, the ability to investigate, respond and provide remedies may be more limited. Reports may be submitted through the following:

- 1) Report directly to the Title IX Administrator or Deputy Coordinators.

Title IX Administrator      (256) 765-4223  
 Deputy Coordinator      (256) 765-4838

(the following no longer serve this role)

**Deputy Coordinators:**

Carrie Bowen	Student Conduct	(256) 765-5012
Catherine D. White	Human Resources	(256) 765-4291
Debbie Williams	Athletics	(256) 765-4788

- 2) Report online, using the reporting form posted at <http://www.una.edu/titleix> and/or
- 3) UNA Police Department      (256) 765-4357

All reports are acted upon promptly while every effort is made by UNA to preserve the privacy of reports. Such reports may also be anonymous. Anonymous reports will be investigated to determine if remedies can be provided. Additionally, all employees of UNA are designated as mandated reporters and will share a report with the Title IX Administrator and/or Assistant Vice President for Human Resources promptly. Confidentiality and mandated reporting is addressed more specifically in Section I, 9. Reports of misconduct or discrimination committed by the Title IX Administrator should be reported to the University President in 601 Cramer Way, Room 110, (256) 765-4211.

**Jurisdiction**

This policy applies to behaviors that take place on the campus, at University-sponsored events, and may also apply off-campus and to actions online when the Title IX Administrator and/or Assistant Vice President for Human Resources determines that the off-campus conduct affects a substantial University interest. A substantial University interest is defined to include:

- a) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state or federal law;

- b) Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- d) Any situation that is detrimental to the educational interests of the University.

Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc. occurring completely outside of UNA's control (e.g. not on UNA's networks, websites or between UNA email accounts) will only be subject to this policy when those online behaviors can be shown to cause a substantial on-campus disruption. Otherwise, such communications are considered speech protected by the First Amendment. Remedies for such conduct will be provided, but protected speech cannot be legally subjected to discipline.

Off-campus discriminatory or harassing speech by employees may be regulated by UNA only when such speech is made in an employee's official or work-related capacity or if the discriminatory or harassing speech comes within the scope of employment.

If during the investigation it is determined that there is not a violation that falls under Title IX, there may still be a violation according to the University Student Code of Conduct, Faculty Handbook, Staff Handbook, or other University policies, and the individual may be sanctioned accordingly.

## **Policies**

### **1. UNA Policy on Nondiscrimination**

UNA adheres to all federal and state civil rights laws prohibiting discrimination in public institutions of higher education. UNA will not discriminate against any employee, applicant for employment, student or applicant for admission on the basis of race, color, sex, pregnancy, religion, creed, ethnicity, national origin, disability, age, sexual orientation, gender identity, veteran or military status, predisposing genetic characteristics, domestic violence victim status or any other protected category under applicable local, state or federal law, including protections for those opposing discrimination or participating in any resolution process on campus or within the Equal Employment Opportunity Commission or other human rights agencies.

This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community who acts to deny, deprive or limit the educational, employment, residential and/or social access, benefits and/or opportunities of any member of the campus community, guest or visitor on the basis of their actual or perceived membership in the protected classes listed above is in violation of the UNA policy on nondiscrimination. The University will consider, through appropriate and designated procedures, the report of any member of the university community who has reason to believe he/she has been affected by discrimination as listed above. Non-members of the campus community who engage in discriminatory actions within university programs or on university property are not under the jurisdiction of this policy, but can be subject to actions that limit their access and/or involvement with university programs as the result of their misconduct. All vendors serving the university through third-party contracts are subject by those contracts to the policies and procedures of their employers.

Reports of discrimination may be reported to the following areas:

Human Resources	256-765-4291
Student Conduct	256-765-5012
University Ombudsman	256-765-5224
Title IX Administrator	256-765-4223

## **2. UNA Policy on Discriminatory Harassment**

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. University of North Alabama is committed to offering an environment free of discrimination and harassment in accordance with all laws, including but not limited to Titles VI and VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, Title IX of the Education Amendments of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, the Vietnam Era Veterans' Adjustment Assistance Act, as amended by the Jobs for Veterans Act of 2002 (VEVRAA), the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), the Age Discrimination Act of 1975, the Americans with Disabilities Act (ADA) of 1990, the ADA Amendments Act of 2008, and the Genetic Information Nondiscrimination Act of 2008. UNA's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The sections below describe the specific forms of legally prohibited harassment as well as those prohibited under UNA policy.

**a. Discriminatory and Bias-Related Harassment**

Harassment constitutes a form of discrimination that is prohibited by UNA policy as well as the law. UNA condemns and will not tolerate discriminatory harassment against any employee, student, visitor, or guest on the basis of any status protected by policy or law. UNA will address all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, UNA may also impose sanctions on the harasser through appropriate and designated procedures. This policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class, by any member or group of the community.

A hostile environment is created when the harassment is:

- severe, or
- persistent or pervasive, and
- objectively offensive, such that it:  
unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's educational, employment social and/or residential program.<sup>3</sup>

UNA reserves the right to address offensive conduct and/or harassment that

- 1) does not rise to the level of creating a hostile environment, or
- 2) is of a generic nature not on the basis of any status protected by law or by policy.

Addressing such behaviors may not result in the imposition of discipline under UNA policy but will be addressed through respectful confrontation, remedial actions, education, and/or effective conflict resolution mechanisms. For assistance with conflict resolution techniques, employees should contact the Assistant Vice President for Human Resources and students should contact the Director of Student Conduct. Employees and students may also contact the University Ombudsman.

**b. Sexual Harassment**

The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC) and the State of Alabama regard sexual harassment as a form of sex and/or gender discrimination and, therefore, as an unlawful discriminatory practice. Anyone experiencing sexual harassment in

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<sup>3</sup> This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department Of Education Office For Civil Rights, Racial Incidents and Harassment against Students at Educational Institutions Investigative Guidance. The document is available at: <http://www.ed.gov/about/offices/list/ocr/docs/race394.html>.

any UNA program is encouraged to report it immediately to the Title IX Administrator or a Deputy Coordinator. When harassment rises to the level of creating a hostile environment, UNA may also impose sanctions on the harasser through application of the Equity Resolution Process. Remedies, education, and/or training will be provided in response as appropriate. UNA has adopted the following definition of sexual harassment in order to address the special environment of an academic community, which consists not only of employer and employees, but of students as well.<sup>4</sup>

Sexual harassment is:

- Unwelcome;
- sexual, sex-based, and/or gender-based;
- verbal, written, online, and/or physical conduct.

Sexual harassment may be disciplined when it takes the form of *quid pro quo* harassment, retaliatory harassment and/or creates a hostile environment.

A hostile environment is created when sexual harassment is:

- severe, or
- persistent or pervasive, and
- objectively offensive, such that it:  
unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's educational, employment social and/or residential program.

Quid Pro Quo Sexual Harassment:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly as a term or condition of rating or evaluating an individual's educational development or performance.

Some examples of possible sexual harassment include, but are not limited to:

- A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even

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<sup>4</sup> Also of relevance is the Office of Civil Rights 2001 statement on sexual harassment, "Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX."

when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.

- Explicit sexual pictures are displayed in an employee’s office or on the exterior of a residence hall door.
- Two supervisors frequently ‘rate’ several employees’ bodies and sex appeal, commenting suggestively about their clothing and appearance.
- A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
- An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.
- Male students take to calling a particular brunette student “Monica” because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, “sexual relations” and Weight Watchers.
- A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

#### **4. UNA Policy on Sexual Misconduct**

State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, UNA has defined categories of sex and/or gender discrimination as sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, UNA considers non-consensual sexual intercourse violations to be the most serious of these offenses, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, UNA reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension, expulsion, or termination for any act of sexual misconduct or other sex and/or gender-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation and/or gender identity of those involved. Violations include:

##### **i. Sexual Harassment (as defined in Section I, 3b above)**

##### **ii. Non-Consensual Sexual Intercourse**

Defined as:

- any sexual intercourse, which includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth-to-genital contact), no matter how slight the penetration or contact;

- however slight;
- with any object;
- by a person upon another person;
- that is without consent and/or by force.<sup>5</sup>

**iii. Non-Consensual Sexual Contact<sup>6</sup>**

Defined as:

- any intentional sexual touching, which includes:
  - a. intentional contact with the breasts, buttock, groin, genitals, mouth or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or
  - b. any other bodily contact in a sexual manner;
- however slight;
- with any object;
- by a person upon another person;
- that is without consent and/or by force.

**iv. Sexual Exploitation<sup>7</sup>**

Sexual exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another for their own advantage and benefit, or to benefit or advantage anyone other than the one being exploited, and that the behavior does not otherwise fall within the definitions of sexual harassment, non-consensual sexual intercourse or non-consensual sexual contact. Examples of sexual exploitation include, but are not limited to:

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<sup>5</sup> The use of force in non-consensual sexual intercourse and contact-based incidents is not “worse” than the subjective experience of violation of someone who is a victim of sexual intercourse or sexual contact without consent. However, the use of physical force constitutes a stand-alone non-sexual offense as well, as it is our expectation that those who use physical force (restrict, battery, etc.) would face not just the sexual misconduct allegation, but allegations under the code for the additional assaultive behavior.

<sup>6</sup> Under Alabama law, sexual assault encompasses several categories of crimes, and multiple degrees, which include rape, sodomy, sexual misconduct, sexual torture, sexual abuse, enticing a child to enter a place for immoral purposes, indecent exposure and sexual abuse of a child less than 12 years old. See Alabama Code Sections 13A-6-60 through 13A-6-70. It is also a crime under Alabama law for a school employee to engage in sexual contact, a sex act, or deviant sexual intercourse with a student under the age of 19 years. See Alabama Code Sections 13A-6-80 through 13A-6-83. Under Alabama law, the state definitions of sexual assault applicable to criminal prosecutions for sexual offenses may differ from the definition used on campus to address policy violations.

<sup>7</sup> See Alabama Code 13A-6-72., Distributing a private image.

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaging in sexual acts without the consent of the person observed);
- Invasion of sexual privacy.
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
- Prostitution.
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV).
- Engaging in sexual activity with another person while knowingly infected with a sexually transmitted infection (STI) and without informing the other person of the infection.
- Administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent (assuming the act is not completed).
- Exposing one's genitals in non-consensual circumstances.
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

**v. Force and Consent<sup>8</sup>**

**Force:** Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance or produce consent ("Have sex with me or I'll hit you." "Okay, don't hit me, I'll do what you want.").

Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from

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<sup>8</sup> Under Alabama criminal law, "consent" requires a person to expressly or impliedly acquiesce in the actor's conduct. In Alabama, a person is deemed incapable of consenting if that person is: (1) less than 16 years old; (2) mentally defective; (3) mentally incapacitated; or (4) physically helpless. See Alabama Code Section 13A-6-70. Under Alabama law, consent is not a defense to the crimes of a school employee: (1) engaging in a sex act or deviant sexual intercourse with a student under the age of 19; or (2) having sexual contact with a student under the age of 19 years old. See Alabama Code Sections 13A-6-80 through 13A-6-83. The state definition of consent applicable to criminal prosecutions for sexual offenses in Alabama may differ from the definition used on campus to address policy violations.

another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

**NOTE:** Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced.

**Consent:** Consent is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent can be withdrawn once given, as long as the withdrawal is clearly communicated.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidenced.

**Incapacitation:** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

In Alabama, the age of consent is 16. This means that sexual contact by an adult with a person younger than 16 years old may be a crime, and a potential violation of this policy, even if the minor wanted to engage in the act.

Examples of lack of consent include, but are not limited to:

- Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00pm until 3:00am, Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being “a prude.” Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a “hand job” (hand to genital contact). Amanda never would have done it but for Bill's incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn't want it, she could have left. **Bill is responsible for violating the university Non-Consensual Sexual Contact policy. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not valid when forced. Sex without consent is sexual misconduct.**
- Jiang is a junior at the university. Beth is a sophomore. Jiang comes to Beth's residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a baby-sitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her, Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? **Jiang would be held responsible in this scenario for Non Consensual Sexual Intercourse. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one's partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.**
- Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his room, and John comes on to Kevin, initiating sexual activity. Kevin asks him if he is really up to this, and John says yes. Clothes go flying, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he does

not let that stop him. When Kevin runs into John the next day, he thanks him for the wild night. John remembers nothing, and decides to make a report to the Dean. **This is a violation of the Non-Consensual Sexual Intercourse Policy. Kevin should have known that John was incapable of making a rational, reasonable decision about sex. Even if John seemed to consent, Kevin was well aware that John had consumed a large amount of alcohol, and Kevin thought John was physically ill, and that he passed out during sex. Kevin should be held accountable for taking advantage of John in his condition. This is not the level of respectful conduct the university expects.**

## 5. UNA Policy on Intimate Partner Violence<sup>9</sup>

Intimate Partner Violence (IPV) is defined any instance of violence or abuse - verbal, physical, or psychological - that occurs between those who are in or have been in an intimate relationship with each other.

Examples include, but are not limited to:

- A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy is a violation of the dating violence policy.
- An ex-girlfriend shames her female partner, threatening to out her as a lesbian if she doesn't give the ex another chance. Psychological abuse is a form of dating violence.
- A graduate student refuses to wear a condom and forces his girlfriend to take hormonal birth control though it makes her ill, in order to prevent pregnancy.
- Married employees are witnessed in the parking garage, with one partner slapping and scratching the other in the midst of an argument.

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<sup>9</sup> Under Alabama law, domestic violence, which has three levels of degrees, is defined as one of several specific types of crimes against a victim, such as the crime of assault in the first degree, and the victim is a current or former spouse, parent, child, any person with whom the defendant has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship with the defendant. Under Alabama law, domestic violence offenses also include, but are not limited to, the crime of domestic violence by strangulation or suffocation. For domestic violence offenses in Alabama, see Alabama Code Sections 13A-6-130 through 13A-6-139. For selected offenses from which a domestic violence offense can result, see Alabama Code Sections 13A-6-20 through 13A-6-25. The state definition of domestic violence applicable to criminal prosecutions for domestic violence in Alabama may differ from the definition used on campus to address policy violations.

## 6. **UNA Policy on Stalking<sup>10</sup>**

Stalking is repetitive and menacing pursuit, following, harassing, and/or interfering with the peace and/or safety of another.

### Examples of Stalking, but are not limited to:

- A student repeatedly shows up at another student's on-campus residence, always notifying the front desk attendant that they are there to see the resident. Upon a call to the resident, the student informs residence hall staff that this visitor is uninvited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus place of employment and requesting that they go out on a date together.
- A graduate student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the graduate student thanked the student and stated that it was not necessary and would appreciate if the gift deliveries stop. The student then started leaving notes of love and gratitude on the graduate assistant's car, both on-campus and at home. Asked again to stop, the student stated by email: "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything necessary to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. We are meant to be together".

## 7. **Retaliation**

Retaliation is defined as an adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing an allegation or for assisting in providing information relevant to a claim of harassment is a serious violation of UNA policy and may be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Administrator, the Assistant Vice President for Human Resources, or to a Deputy Coordinator and will be promptly investigated. UNA is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

### Examples of possible Retaliation, but are not limited to:

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<sup>10</sup> Under Alabama law, stalking is a crime and includes stalking in the first degree, stalking in the second degree, aggravated stalking in the first degree and aggravated stalking in the second degree. See Alabama Code Sections 13A-6-90 through 13A-6-94. The state definition of stalking applicable to criminal prosecutions for stalking in Alabama may differ from the definition used on campus to address policy violations.

- Student-athlete A files an allegation against a coach for sexual harassment. The coach subsequently cuts the student-athlete's playing time in half without a legitimate justification.
- A faculty member complains of gender inequity in pay within her department. The Department Chair then revokes his prior approval allowing her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
- A student from Organization A participates in a sexual misconduct hearing against the responding individual, also a member of Organization A. The student is subsequently removed as a member of Organization A because he participated in the hearing.

## **8. Remedial Action**

Upon notice of alleged discrimination, UNA will implement initial remedial, responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, providing counseling and/or medial services, academic support, living or working arrangement adjustments, transportation accommodations, visa and immigration assistance, student financial aid counseling, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources.

UNA will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest, or visitor upon a finding that he/she has engaged in harassing or discriminatory behavior or retaliation.

UNA will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the University's ability to provide the accommodations or protective measures.

Procedures for handling reported incidents are fully described below.

## **9. Confidentiality and Reporting of Offenses under this Policy**

All UNA employees (faculty, staff, and administrators) are considered "responsible employees" and expected to report actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions. All employees receiving reports of a potential violation of UNA policy are expected to promptly contact the Title IX Administrator or the Assistant Vice President for Human Resources, within 24 hours of becoming aware of a report or incident.

In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to appropriate university officials – thereby offering options and advice without any obligation to inform an outside agency or campus official unless a reporting party has requested information to be shared. Other resources exist for reporting parties to report crimes and policy violations and these resources will take action when an incident is reported to them. The following describes the reporting options at UNA:

**a. Confidential Resources**

If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with:

- Student Counseling Services                    256-765-5215
- University Health Services                    256-765-4328
- Women’s Center                                    256-765-4380
- Center for Social Inclusion                    256-765-5137
- North Alabama Crisis Center                256-767-1100 (hotline)
- Safe Place (domestic violence)            256-767-6210 (hotline)/256-767-3076 (office)
- Local or state assistance agencies
- On or off-campus members of the clergy/chaplains

All of the above-listed individuals will maintain confidentiality except in extreme cases of immediacy of threat or danger or abuse of a minor. For UNA students, licensed counselors from Student Counseling Services are available to assist UNA students who have paid the Student Health & Wellness Fee and can be seen by appointment or on a walk-in basis for crisis intervention during usual UNA operating hours. The professional staff of Student Counseling Services are considered confidential reporters under Title IX and UNA Policy, and will only submit anonymous statistical information for Clery Act purposes. If the Counselor believes circumstances represent the potential for greater harm for the student-client or the UNA community at large, the limits of confidentiality and personal safety planning will be discussed in greater detail with the student-client. For UNA employees, counseling benefits are available through a Blue Cross Blue Shields (BCBS) provider. To obtain provider information, go to <https://www.una.edu/humanresources/benefits/health-insurance.html> to view the providers.

**b. Formal Reporting Options**

UNA employees have a duty to report, unless they fall under the “Confidential Reporting” section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared with the Title IX Administrator and/or Assistant Vice President for Human Resources. Employees must promptly share all details of the reports they receive. Generally, climate surveys, classroom writing assignments or discussions, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Administrator by employees, unless the reporting party clearly indicates that they wish a report to be made. Remedial actions may result from such disclosures without formal University action.

If a reporting party does not wish for his/her name to be shared, does not wish for an investigation to take place, or does not want a resolution to be pursued, then reporting party may make such a request to the Title IX Administrator or appropriate Deputy Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. Note that UNA’s ability to remedy and respond to a reported incident may be limited if the reporting party does not want the University to proceed with an investigation and/or the Equity Resolution Process.

In cases indicating pattern, predation, threat, weapons and/or violence, UNA will likely be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow UNA to honor that request, the University will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by the University when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporting party, and only a small group of officials who need to know will be told, including but not limited to: Title IX Administrator, Assistant Vice President for Human Resources, UNA Police, and the UNA CARE Team. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party’s rights and privacy. Additionally, anonymous reports can be made by victims and/or third parties using the online

reporting form posted at <http://www.una.edu/titleix>. Note that these anonymous reports may prompt a need for the University to investigate.

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex and/or gender harassment or discrimination of which they become aware is a violation of UNA policy and can be subject to disciplinary action for failure to comply.

#### **10. Federal Timely Warning Obligations**

Parties reporting sexual misconduct should be aware that under the Clery Act, University administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. The University will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

#### **11. False Allegations**

Deliberately making false and/or malicious accusations under this policy, as opposed to making erroneous allegations in good faith, are a serious offense and will be subject to appropriate disciplinary action.

#### **12. Amnesty for Reporting Party and Witnesses**

The UNA community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to UNA officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that reporting parties choose to report to university officials, and that witnesses come forward to share what they know. To encourage reporting, UNA pursues a policy of offering reporting parties and witnesses amnesty from minor policy violations related to the incident.

**Students:** Sometimes students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to UNA Police). The University

pursues a policy of amnesty for students who offer help to others in need. [While policy violations cannot be overlooked, the University will provide educational options, rather than punishment, to those who offer their assistance to others in need.] Students may refer to the Medical Amnesty policy at, <https://www.una.edu/student-conduct/policies/medical-amnestygood-samaritan.html>.

**Employees:** Sometimes employees also are hesitant to report harassment or discrimination they have experienced for fear that they may get themselves in trouble. For example, an employee who has violated the consensual relationship policy and is then assaulted in the course of that relationship might hesitate to report the incident to University officials. The University may, at its discretion, offer employee reporting parties amnesty from such policy violations (typically more minor policy violations) related to the incident. Amnesty may also be granted to witnesses on a case-by-case basis.

### **13. Federal Statistical Reporting Obligations**

Certain campus officials – those deemed Campus Security Authorities - have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to UNA Police regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

### **14. UNA Policy on Consensual Relationships**

UNA is committed to providing an environment for work and learning as free as possible from conflicts of interest, favoritism and exploitation. The entire Consensual Relationship Policy can be found on the Human Resources website at <https://www.una.edu/employee-policy-manual/policies/consensual-relationships-policy.html>.

## **SECTION II: Equity Resolution Process for Allegations of Sexual Harassment, Sexual Misconduct, Intimate Partner Violence, Stalking, Retaliation and any other form of Sex and Gender Discrimination**

The University of North Alabama will act on any formal or informal allegation or notice of violation as outlined in this policy that is received by the Title IX Administrator, Assistant Vice President for Human Resources, Deputy Coordinators, UNA Police or a member of the administration, faculty, or other employee.

The procedures described below apply to all allegations of sexual harassment, sexual misconduct, intimate partner violence, stalking, retaliation, and/or any other form of sex and gender based discrimination involving students, staff or faculty members. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g. vandalism, physical abuse of another, etc.). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty and staff handbooks.

### **Overview**

Upon notice to the Title IX Administrator and/or Assistant Vice President for Human Resources, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe a potential policy has been violated. If so, UNA will initiate a confidential investigation that is thorough, reliable, impartial, prompt and fair. The investigation and the subsequent resolution process determines whether the policy has been violated. If so, UNA will promptly implement effective remedies designed to end the discrimination, prevent its recurrence and address its effects.

## 1. **Equity Resolution Process (ERP)**

Allegations under this policy are resolved using the ERP. Members of the ERP pool, also known as investigators, are announced in an annual distribution of this policy to campus, prospective students, their parents and prospective employees. The list of members and a description of the panel can be found at <http://www.una.edu/titleix>. Members of the ERP pool are trained in all aspects of the resolution process, and can serve in any of the following roles, at the direction of the Title IX Administrator, Assistant Vice President for Human Resources, or Deputy Coordinators:

- To serve in a mediation or restorative justice role in conflict resolution
- To investigate allegations
- To act as process advisors to those involved in the Equity Resolution Process
- To serve on due process hearing panels for allegations of tenured faculty members
- To serve on appeal panels

ERP pool members also recommend proactive policies, and serve in an educative role for the community. The President, in consultation with the Title IX Administrator and the Assistant Vice President for Human Resources, appoints the panel, which reports to the Title IX Administrator. ERP pool members receive annual training organized by the Title IX Administrator, including a review of UNA policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety and promote accountability. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings and recommend appropriate sanctions; confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance. All ERP members are required to attend this annual training to be eligible to serve.

The Equity Resolution Process pool includes:

- At least 6 members of the academic affairs tenured faculty
- At least 6 members of the staff
- At least 1 representative from Human Resources
- At least 2 representatives from Athletics
- At least 1 representative from ROTC

Panel members are usually appointed to three-year terms. Individuals who are interested in

serving in the pool are encouraged to contact the Title IX Administrator or the Assistant Vice President for Human Resources. No member of the pool may be a practicing attorney.

## **2. Reporting Misconduct**

Any member of the community, guest or visitor who believes that a policy outlined in this document has been violated should contact the Title IX Administrator, Assistant Vice President for Human Resources, or Deputy Coordinators.

It is also possible for employees to notify a supervisor, or for students to notify an administrative advisor or faculty member. Any member of the community, including visitors, may contact UNA Police to make a report. These individuals will in turn notify the Title IX Administrator. UNA's website also includes a reporting form at [www.una.edu/titleix](http://www.una.edu/titleix) which may serve to initiate the resolution process.

All employees receiving reports of a potential violation of UNA policy are expected to promptly contact the Title IX Administrator or the Assistant Vice President for Human Resources, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with privacy: specific information on any allegations received by any party will be reported to the Title IX Administrator or the Assistant Vice President for Human Resources, but, subject to UNA's obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, UNA will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.

As necessary, UNA reserves the right to initiate a report, to serve as a reporting party, and to initiate proceedings without a formal report by the reporting party.

### 3. Preliminary Inquiry

Following receipt of notice or a report of misconduct, the Title IX Administrator<sup>11</sup> or the Assistant Vice President for Human Resources engages in a preliminary inquiry to determine if there is reasonable cause to believe a policy has been violated. The preliminary inquiry is typically 2-4 business days in duration. This inquiry may also serve to help determine if the allegations evidence violence, threat, pattern, predation and/or weapon, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not evidenced, the Title IX Administrator and/or Assistant Vice President for Human Resources may respect a reporting party's request for no action, and will investigate only so far as necessary to determine appropriate remedies. As necessary, UNA reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.

In cases where the reporting party wishes to proceed or UNA determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Administrator and/or Assistant Vice President for Human Resources/Deputy Coordinator will direct a formal investigation to commence and the allegation will be resolved through one of three processes discussed briefly here and in greater detail in Section II, 8:

- Conflict Resolution – typically used for less serious offenses and only when both parties agree to conflict resolution
- Informal Resolution – a resolution without a hearing panel, or
- Formal Resolution – a resolution of contested allegations with a hearing panel for alleged misconduct involving tenured faculty members, only.

The process that is followed considers the preference of the parties, but is ultimately determined at the discretion of the Title IX Administrator and/or the Assistant Vice President for Human Resources. Conflict Resolution may only occur if selected by all parties and approved by the Title IX Administrator and/or the Assistant Vice President for Human Resources.

If conflict resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to investigation, unless a

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<sup>11</sup> If circumstances require, the President or Title IX Administrator may designate another person to oversee the process below, should an allegation be made against the Administrator or the Administrator be otherwise unavailable or unable to fulfill their duties.

pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.

Once an investigation is commenced, the Title IX Administrator and/or Assistant Vice President for Human Resources will provide written notification of the investigation to the responding party at an appropriate time during the investigation. UNA aims to complete all investigations within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Administrator and/or Assistant Vice President for Human Resources with notice to the parties as appropriate.

If, during the preliminary inquiry or at any point during the investigation, the Title IX Administrator and/or Assistant Vice President for Human Resources determines that there is no reasonable cause to believe that policy has been violated, the process will end unless the reporting party requests that the Title IX Administrator and/or Assistant Vice President for Human Resources makes an extraordinary determination to re-open the investigation or to forward the matter for a hearing (if a hearing is applicable). This decision lies in the sole discretion of the Title IX Administrator and/or Assistant Vice President for Human Resources.

#### **4. Interim Remedies and/or Actions**

The Title IX Administrator and/or Assistant Vice President for Human Resources may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations.

These remedies may include, but are not limited to:

- Referral to counseling and health services
- Education to the community
- Altering the housing situation of the responding party [resident student or resident employee (or the reporting party, if desired)]
- Altering work arrangements for employees
- Providing campus escorts
- Providing transportation accommodations
- Implementing contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

UNA may interim suspend a student, employee or organization pending the completion of

ERP investigation and procedures, particularly when, in the judgment of the Title IX Administrator and/or the Assistant Vice President for Human Resources, the safety or well-being of any member(s) of the campus community may be jeopardized by the on-campus presence of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee, or student organization will be given the option to meet with the Title IX Administrator and/or the Assistant Vice President for Human Resources prior to such suspension being imposed, or as soon thereafter as reasonably possible, to show cause why the suspension should not be implemented. The Title IX Administrator and/or Assistant Vice President for Human Resources has sole discretion to implement or stay an interim suspension and to determine its conditions and duration. Violation of an interim suspension under this policy may be grounds for expulsion or termination.

During an interim suspension or administrative leave, a student or employee may be denied access to UNA housing and/or UNA campus/facilities/events. As determined by the Title IX Administrator, this restriction can include classes and/or all other UNA activities or privileges for which the responding party might otherwise be eligible. At the discretion of the Title IX Administrator, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.

To the extent possible, UNA will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the University's ability to provide the interim actions or protective measures.

## **5. Investigation**

Once the decision is made to commence a formal investigation, the Title IX Administrator and/or the Assistant Vice President for Human Resources appoints ERP pool members to conduct the investigation (typically using one to two investigators), usually within 3-5 business days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within 10-15 business days, though some investigations take weeks or even months, depending on the nature, extent and complexity of the allegations, availability of witnesses, police involvement, etc. At times, Deputy Coordinators could serve as investigators.

UNA may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. UNA will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. UNA action will not typically be altered or precluded on the grounds

that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

All investigations will be thorough, reliable, impartial, prompt and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.

The investigators will typically take the following steps, if not already completed (not necessarily in order) by the Title IX Administrator and/or Assistant Vice President for Human Resources:

- In coordination with campus partners (e.g.: the Title IX Administrator), initiate or assist with any necessary remedial actions;
- Determine the identity and contact information of the reporting party;
- Identify all policies allegedly violated;
- Assist with an immediate initial inquiry to determine if there is reasonable cause to believe the responding party has violated policy.
  - If there is insufficient evidence to support reasonable cause, the inquiry should be closed with no further action;
- Meet with the reporting party to finalize his/her statement;
- Prepare the notice of allegations [charges] on the basis of the initial inquiry;
- Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe, and order of interviews of all witnesses and the responding party, who may be given notice prior to or at the time of the interview;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Provide regular updates to the reporting party throughout the investigation, and to the responding party, as appropriate;
- Recommend a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not);
- Prepare and share a draft report with the parties and allow them a period of comment before a report is finalized;
- The Title IX Administrator finalizes and presents the findings to the responding party. This finding is not appealable, and concludes the process, except for a tenured faculty member who may accept the findings, accept the findings in part and reject them in part, or may reject all findings;
- Share the findings and update the reporting party on the status of the investigation without undue delay.

At any point during the investigation, if it is determined there is no reasonable cause to believe that UNA policy has been violated, the Title IX Administrator and/or Assistant Vice President for Human Resources has authority to terminate the investigation and end resolution proceedings. All investigations are conducted so as to provide the responding party with appropriate due process, including written notice of the allegations. The investigators will fully inform the responding party of all evidence obtained in the course of the investigation, and will offer the responding party a full and fair opportunity to respond to and rebut the allegations of misconduct. **In this sense, interviews during the course of the investigation are conducted as administrative hearings.**

Witnesses (as distinguished from the parties) are expected to cooperate with and participate in UNA's investigation and the Equity Resolution Process. Any witness who declines to participate in or cooperate with an investigation will not be permitted to offer evidence or testimony later in hearing (if a hearing is applicable). Failure of a witness to cooperate with and/or participate in the investigation or Equity Resolution Process constitutes a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype, or similar technology, if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing.

## **6. Recording**

No unauthorized audio or video recording of any kind other than as required by UNA procedure is permitted during investigation meetings or other Equity Resolution Process proceedings. UNA may record or transcribe proceedings, and those recordings or transcriptions will be made available to the reporting party and/or respondent. Deliberations will not be recorded. The record will be the property of UNA and maintained according to UNA's record retention policy. Individuals may not record any meetings pursuant to this process.

## **7. Advisors**

Each party is allowed to have an advisor of their choice present with them for all ERP meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually otherwise not involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the campus

community. The Title IX Administrator and/or Assistant Vice President for Human Resources will also offer to assign a trained ERP pool member to work as an advisor for any party. The parties may choose their advisor from the ERP pool, choose a non-trained advisor from outside the pool, if preferred, or proceed without an advisor.

The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. UNA cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, UNA is not obligated to provide one.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing panelists. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of any interview or meeting with the administrative officials conducting that interview or meeting. This pre-meeting will allow advisors to clarify any questions they may have, and allows UNA an opportunity to clarify the role the advisor is expected to take.

Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Administrator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

UNA expects that the parties will wish to share documentation related to the allegations with their advisors. UNA provides a consent form that authorizes such sharing. The parties must complete this form before UNA is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be

shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by UNA. UNA may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

UNA expects an advisor to adjust their schedule to allow them to attend University meetings when scheduled. UNA does not typically change scheduled meetings to accommodate an advisor's inability to attend. UNA will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process and is not restricted to using the same advisor throughout the process.

The parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.

UNA reserves the right to have the University Attorney present at any point during the process.

## **8. Resolution Processes**

### **a. Conflict Resolution**

Conflict resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the informal resolution process to resolve conflicts. The Title IX Administrator, Assistant Vice President for Human Resources, and/or Deputy Coordinators will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue and the susceptibility of the conduct to conflict resolution. In a conflict resolution meeting, a trained administrator will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Administrator will keep records of any resolution that is reached, and failure to abide by the accord can result in appropriate responsive actions.

Conflict resolution will not be the primary resolution mechanism used to address reports of sexual misconduct or violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Title IX Administrator, Assistant Vice President

for Human Resources, and/or Deputy Coordinators believe that it could be beneficial. It is not necessary to pursue conflict resolution first in order to pursue informal resolution, and either party participating in conflict resolution can stop that process at any time and request a shift to an informal resolution.

**b. Informal Resolution:**

Informal Resolution is pursued for any behavior that falls within this policy, unless Conflict Resolution is elected. Informal resolution is used when:

- A responding party does not admit responsibility for the alleged policy violations;
- A responding party admits responsibility for all or part of the alleged policy violations at any point in the process;
- When the investigation reaches a finding that the parties accept;
- When both parties elect to resolve the allegation using the Informal Resolution process and the Title IX Administrator and/or Assistant Vice President for Human Resources assents;
- When the Title IX Administrator and/or Assistant Vice President for Human Resources implements the results of an investigation for non-tenured employee;
- When the Title IX Administrator and/or Assistant Vice President for Human Resources implements the results of an investigation for a tenured employee should the individual choose this option;
- As a way to document the evidence through an investigation that will inform a formal hearing on allegations involving a tenured faculty member.

Typically, within ten (10) days of the close of an investigation, the recommended findings of the investigation will be referred to the Title IX Administrator and/or Assistant Vice President for Human Resources for finalization. The Title IX Administrator and/or Assistant Vice President for Human Resources is not bound by the recommendations of the investigation but should show due deference while assuring that the requirements of Title IX are met. Once the determination is finalized, the Title IX Administrator and/or Assistant Vice President for Human Resources or the investigator(s) or both will meet with the parties individually to explain the finding(s) of the investigation and final determination. This determination is final once approved by the Title IX Administrator and/or Assistant Vice President for Human Resources.

For Tenured Faculty:

For allegations involving a tenured faculty member and a finding that policy was violated, the responding party may choose to admit responsibility for all or part of

the alleged policy violations. If the responding party admits responsibility, in whole or in part, the Title IX Administrator and/or Assistant Vice President for Human Resources will render a determination that the individual is in violation of UNA policy for the admitted conduct and will normally proceed to convene a formal hearing on any remaining or disputed violations.

For admitted violations by a tenured faculty member, the Title IX Administrator and/or Assistant Vice President for Human Resources, in consultation as appropriate, will determine an appropriate sanction or responsive action. If the sanction and/or responsive action is accepted by both the reporting party and responding party, the Title IX Administrator and/or Assistant Vice President for Human Resources will implement it, and act promptly and effectively to stop the harassment or discrimination, prevent its recurrence and remedy the effects of the admitted conduct upon the reporting party and the community. No formal hearing is permitted.

However, if either party rejects the sanction and/or responsive action, a formal hearing will be held on the sanction and/or responsive action only, according to the procedures outlined below under Section II, 9, Formal Hearing Panel Procedures for Tenured Faculty Members.

If alleged misconduct is resolved at this stage, the Title IX Administrator and/or Assistant Vice President for Human Resources will inform the parties of the final determination within three (3) days of the resolution, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official UNA records; or emailed to the parties' UNA issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will also include information on when the results are considered by UNA to be final and any changes that occur prior to finalization.

**c. Formal Resolution**

For all contested allegations involving a tenured faculty member that are not resolved through either Conflict Resolution or Informal Resolution, the Title IX Administrator and/or Assistant Vice President for Human Resources will initiate a formal hearing

panel within ten (10) days of the conclusion of the investigation, barring unusual circumstances. (See Section II, 9 as outlined below.)

## **9. Formal Hearing Panel Procedures for Tenured Faculty Members**

### **a. Hearing Panels**

The Title IX Administrator and/or Assistant Vice President for Human Resources will refer the investigation findings to a Chair, which will be a tenured faculty member appointed from the ERP. The Chair is a non-voting ex-officio member to coordinate the hearing logistics. The Chair will empanel three tenured faculty members from the available ERP pool to the hearing panel, none of whom have been previously involved with the allegation. An alternate will sit in throughout the process if needed or at the discretion of the Chair. Those who served as investigators will be witnesses in the hearing of the allegation and therefore may not serve as hearing panel members. Those who are serving the parties as advisors, if any, are not eligible to serve as panelists. The panel will meet at a time determined by the Chair.

### **b. Notice of Hearing**

At least five (5) days prior to the hearing, or as far in advance as is reasonably possible if an accelerated hearing is scheduled with the consent of the parties, the Chair will send a letter to the parties with the following information. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The letter will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures and a statement of the potential sanctions and/or responsive actions that could result.
- The time, date and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities. If any party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of a panel member or other advisor of their choosing at the hearing (See Section II, 7: “Advisors” above).

Hearings for possible violations that occur near or after the end of an academic term and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by UNA and remain within the sixty (60) day goal for resolution.

**c. Hearing Procedures**

Hearing panels will usually be convened within ten to fifteen (10-15) days of the completion of the investigation, and will be conducted in private. The panel has the authority to hear all collateral misconduct, meaning that it hears all allegations of discrimination, harassment and retaliation, but also may hear any additional alleged policy violations that have occurred in concert with the discrimination, harassment or retaliation, even though those collateral allegations may not specifically fall within the panel's jurisdiction. Accordingly, investigations should be conducted with as wide a scope as necessary.

Participants will include the non-voting Chair, the three (3) tenured faculty members of the panel, the investigator(s) who conducted the investigation, the reporting party, responding party, advisors to the parties and any called witnesses.

**Pre-Hearing**

The Chair will exchange the names of witnesses who will be participating in the hearing, all pertinent documentary evidence and the investigation report between the parties at least two (2) days prior to the hearing. Any witness scheduled to participate in the hearing must have been interviewed first by investigators (or have proffered a written statement), unless all parties consent to the participation of that witness in the hearing. In addition, the parties will be given a list of the names of each of the hearing panel members at least two (2) days in advance of the hearing. All objections to any panelist must be raised in writing to the Chair as soon as possible. Hearing panel members will only be unseated if the Chair concludes that their bias precludes an impartial hearing of the allegation. The panelists will be given a list of the names of the parties and witnesses at least two (2) days in advance of the hearing. Any panelist or Chair who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties and all witnesses in advance of the hearing.

The Chair, in consultation with the parties and investigators, may decide in advance of the hearing that certain witnesses do not need to be physically present if their testimony can be adequately summarized by the investigator(s) in the investigation report or during the hearing. All parties will have ample opportunity to present facts and arguments in full and question all present witnesses during the hearing, though formal cross-examination is not used between the parties. If alternative attendance or questioning mechanisms are desired (screens, Skype, questions directed through the Chair, etc.), such as when the reporting party does not want to be in the same room as the responding party for the hearing, then the parties should request them from the

Chair at least two (2) days prior to the hearing. Any alternatives offered must be implemented in a way that they do not compromise the rights or fairness of the responding party. In the case of documented disabilities for which accommodations in the process are necessary, UNA will make reasonable accommodations for the parties when requested in advance.

### **Investigator Presents the Report**

Once the procedures are explained and the participants are introduced, the investigator(s) will present the report of the investigation first, and be subject to questioning by the parties and the panel. The investigator(s) will be present during the entire hearing process but will only be present during deliberations at the request of the Chair. The recommended finding of the investigation is not admissible in the hearing, though any undisputed conclusions of the investigation report will not be revisited, except as necessary to determine sanctions and/or responsive actions. Once the investigator(s) present their report and are questioned, the panel will permit the parties to provide relevant information in turn and permit questioning of and by the parties. The panel will then permit all present witnesses to provide relevant information, and the panel and the parties will each be allowed to ask questions of the witnesses. Questions are usually directed to the parties and witnesses through the panel at the discretion of the Chair.

### **Evidence Presented at the Hearing**

Formal rules of evidence do not apply. Any evidence that the panel believes is relevant and credible may be considered, including history and pattern evidence. The Chair will address any evidentiary concerns prior to and/or during the hearing, may exclude irrelevant or immaterial evidence, and may ask the panel to disregard evidence lacking in credibility or that is improperly prejudicial. The Chair will determine all questions of procedure and evidence. Anyone appearing at the hearing to provide information will respond to questions on his/her own behalf.

Unless the Chair determines it is appropriate, no one will present information or raise questions concerning: (1) incidents not directly related to the possible violation, unless they show a pattern; (2) the sexual history of the reporting party (though there may be a limited exception made in regards to the sexual history between the parties), (3) or the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators will supply the panel with information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

There will be no observers in the hearing. The Chair may allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the panel or the parties involved, and then be excused. The panel does not hear from character witnesses but will accept up to two (2) letters supporting the character of each of the parties.

In hearings involving more than one responding party or in which two (2) or more reporting parties have accused the same individual of substantially similar conduct, the standard procedure will be to hear the allegations jointly; however, the Title IX Administrator and/or Assistant Vice President for Human Resources may permit the hearing pertinent to each responding party to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each responding party.

Proceedings are private. All persons present at any time during the hearing are expected to maintain the privacy of the proceedings in accord with UNA policy. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose and should discuss doing so with their advisors.

Hearings (except for deliberations) are recorded for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. Panel members, the parties, and appropriate administrative officers of UNA will be allowed to listen to the recording in a location determined by the Title IX Administrator and/or Assistant Vice President for Human Resources. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Administrator and/or Assistant Vice President for Human Resources.

### **Deliberation and Decisions**

The three (3) members of the hearing panel and the non-voting Chair will deliberate in closed session to determine whether the responding party is responsible or not responsible for the policy violation(s) in question. The panel will base its determination(s) on a preponderance of the evidence (i.e., whether it is more likely than not that the responding party committed each alleged violation). If a responding party is found responsible by a majority of the panel, the panel will recommend appropriate sanctions (see Section II, 10). For the panel to make a recommendation of termination of the responsible employee(s), the recommendation must be based on reasons outlined under Termination for Cause in the Faculty Handbook 2.6.2 and/or federal law under Title VII or Title IX.

The Chair will prepare a written deliberation report and deliver it to the Title IX Administrator and/or Assistant Vice President for Human Resources, detailing the recommended finding, the information cited by the panel in support of its recommendation, and any information the hearing panel excluded from its consideration and why. The report should conclude with any recommended sanctions. This report should not exceed two (2) pages in length and must be submitted to the Title IX Administrator and/or Assistant Vice President for Human Resources within two (2) business days of the end of deliberations, unless the Title IX Administrator and/or Assistant Vice President for Human Resources grants an extension.

The Title IX Administrator and/or Assistant Vice President for Human Resources, in consultation with the Provost's office, will finalize the recommendations and will inform the parties of the final determination - both the finding(s) and applicable sanction(s) - within seven (7) business days of the hearing, without significant time delay between notifications. Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official UNA records; or emailed to the parties' UNA-issued email account. Once mailed, emailed and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the finding on each alleged policy violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will also include information on when the results are considered by UNA to be final, any changes that occur prior to finalization, and any appeals options that are available.

## **10. Sanctions**

The investigators, or hearing panel if applicable, assigned to the resolution will recommend sanctions or responsive actions. Final sanctions or responsive actions will be determined by the Title IX Administrator, Assistant Vice President for Human Resources, and/or Deputy Coordinators. In cases involving termination of an employee, the final decision will be rendered by the appropriate Vice President. Factors considered when determining a sanction and/or responsive action may include:

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- Any other information deemed relevant by the investigators or hearing panel

- The need for sanctions and/or responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions and/or responsive actions to prevent the future recurrence of discrimination, harassment and/or retaliation
- The need to remedy the effects of the discrimination, harassment and/or retaliation on the reporting party and the community

**a. Employee Sanctions**

Responsive actions for an employee who has engaged in harassment, discrimination, retaliation or any other behaviors falling within the scope of this policy may include:

- *Warning – verbal or written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions, UNA may assign any other sanctions as deemed appropriate.

**b. Student Sanctions**

The following are the usual sanctions that may be imposed upon students or organizations singly or in combination:

- *Warning:* A formal statement that the behavior was unacceptable and a warning that further infractions of any UNA policy, procedure or directive will result in more severe sanctions and/or responsive actions.
- *Probation:* A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any UNA policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders and/or other measures deemed appropriate.
- *Suspension:* Termination of student status for a definite period of time not to exceed two years, and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their

tenure at UNA. A registration and transcript hold will be placed on a student's record. If a student requests an official transcript, a letter will be sent with the transcript about the student's status at UNA. Students will be required to complete a re-admission review upon re-enrolling at UNA.

- *Expulsion*: Permanent termination of student status, revocation of rights to be on campus for any reason or attend UNA-sponsored events. A registration and transcript hold will be placed on a student's record. If a student requests an official transcript, a letter will be sent with the transcript about the student's status at UNA.
- *Withholding Diploma*. If the student has an Equity Resolution case pending, UNA may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities. UNA may withhold a student's diploma as a sanction if the student is found responsible for an alleged violation.
- *Revocation of Degree*. UNA reserves the right to revoke a degree awarded from the University for fraud, misrepresentation or other violation of UNA policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions*. Deactivation, de-recognition, and/or loss of all privileges (including university registration) for a specified period of time.
- *Other Actions*: In addition to or in place of the above sanctions, UNA may assign any other sanctions as deemed appropriate.

## 11. Notification of Outcomes

The outcome of a Title IX investigation involving employees is a part of the personnel record of the employees and is subject under Alabama law. However UNA observes the legal exceptions that allow for notification of the parties involved and others whom UNA determines to inform based on the law and this policy.

Students who bring any sort of sex discrimination complaint against faculty or staff may be informed of the outcome of the investigation and the resolution.

The outcome of a Title IX investigation involving students is part of the education record of the student parties involved, and is protected from release under a federal law, FERPA. However, UNA observes the legal exceptions that allow for notification of the parties involved and others whom UNA determines to inform based on the law and this policy.

UNA may release publicly the name, nature of the violation, and the sanction for any employee or student who is found in violation of UNA policy that is a “crime of violence,” including: arson; burglary; robbery; criminal homicide; sex offenses; assault; destruction, damage, and/or vandalism of property; and kidnapping or abduction. UNA will release this information to the reporting party in any of these offenses regardless of the outcome.

**12. Withdrawal or Resignation While Charges Pending**

Students: UNA does not permit a student to withdraw if that student has an allegation pending for violation of one these policies. Should a student decide to leave and/or not participate in the investigation the process will nonetheless proceed in the student’s absence to a reasonable resolution and that student will not be permitted to return to UNA unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

Employees: Should an employee resign with unresolved allegations pending, the records of the Title IX Administrator and/or Assistant Vice President for Human Resources will reflect that status, and any UNA responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire.

**13. Appeals**

All requests for appeal considerations must be received (not postmarked) in writing to the Title IX Administrator and/or Assistant Vice President for Human Resources within three (3) business days of the delivery of the written finding of the resolution process.

A three-member panel of the ERP designated by the Title IX Administrator and/or Assistant Vice President for Human Resources who was not involved in the investigation previously will consider all appeal requests. Any party may appeal, but appeals are limited to the following:

- A procedural error or omission occurred that significantly impacted the outcome of the investigation (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.

- The sanctions fall outside the range of sanctions UNA has designated for this offense or the cumulative disciplinary history of the responding party.

The appeals panel of the ERP will review the appeal request(s). The original finding and sanction and/or responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, thus the decision is final. When any party requests an appeal, the other party (parties) will be notified and joined in the appeal. The party requesting appeal must show that the grounds for an appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately.

Where the ERP appeals panel finds that at least one of the grounds is met, and proceeds, additional principles governing the hearing of appeals include the following:

- Appeals decisions by the ERP panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
- Appeals are not intended to be full rehearings of the complaint. In most cases, appeals are confined to a review of the written documentation or record of the original investigation and the pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original investigators for reconsideration. Other appeals may be remanded at the discretion of the Title IX Administrator and/or Assistant Vice President for Human Resources or heard by the three-member panel of the ERP.
- Sanctions imposed are implemented immediately unless the Title IX Administrator and/or Assistant Vice President for Human Resources or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
- The Chair will prepare a written report and deliver it to the Title IX Administrator and/or Assistant Vice President for Human Resources, detailing the decision(s) on each appeal ground, how each member voted, the information cited by the panel in support of its recommendation and any information the appeals panel excluded from its consideration and why. The report should conclude with recommended changes to sanctions and/or responsive actions, if any. This report should not exceed two pages in length and must be submitted to the Title IX Administrator and/or Assistant Vice President for Human Resources within two (2) days of the end of deliberations.
- The Title IX Administrator and/or Assistant Vice President for Human Resources will normally, after conferring with the ERP appeals panel, render a written decision on the appeal to all parties within two to three (2-3) business days from hearing of the appeal.

- All parties should be informed of whether the grounds for an appeal are accepted and the results of the appeal decision.
- Once an appeal is decided, the outcome is final: further appeals are not permitted.

#### **14. Long-Term Remedies and/or Actions**

Following the conclusion of the Equity Resolution Process and in addition to any sanctions implemented, the Title IX Administrator may utilize long-term remedies or actions to stop the harassment or discrimination, remedy its effects and prevent reoccurrence. These remedies and/or actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanently altering the housing situation of the responding party (resident student or resident employee (or the reporting party, if desired))
- Permanently altering work arrangements for employees
- Providing campus escorts
- Climate surveys
- Policy modification
- Providing transportation accommodations
- Implementing long-term contact limitations between the parties
- Offering adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Administrator, long-term remedies may also be provided even when the responding party is found not responsible.

The University will maintain as confidential any long-term remedies and/or actions or protective measures, provided confidentiality does not impair the University's ability to provide the actions or protective measures.

#### **15. Failure to Complete Sanctions, Comply with Interim and Long-term Remedies, and/or Responsive Actions**

All responding parties are expected to comply with conduct sanctions, responsive actions and/or corrective actions within the timeframe specified by the Title IX Administrator and/or Assistant Vice President for Human Resources. Failure to abide by these conduct

sanctions, responsive actions, and/or corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions, responsive actions, and/or corrective actions; and/or suspension, expulsion, and/or termination from UNA and may be noted on a student's education record or employee file. A suspension or administrative leave will only be lifted when compliance is achieved to the satisfaction of the Title IX Administrator and/or Assistant Vice President for Human Resources.

## 16. Records

In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept by the Title IX Administrator in a database. UNA records will be retained and/or disposed of in accordance with the Public Universities of Alabama General Records Disposition Authority,

<http://www.archives.alabama.gov/officials/staterda.html>.

## 17. Statement of the Rights of the Parties

### *a. Statement of the Reporting Party's rights:*

- The right to investigation and appropriate resolution of all credible allegations of sexual misconduct or discrimination made in good faith to UNA officials;
- The right to be informed in advance of any public release of information regarding the incident;
- The right not to have any personally identifiable information released to the public, without their consent;
- The right to be treated with respect by UNA officials.
- The right to have UNA policies and procedures followed without material deviation;
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence;
- The right not to be discouraged by UNA officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities;
- The right to be informed by UNA officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the reporting party so chooses. This also includes the right not to be pressured to report, as well;

- The right to have reports of sexual misconduct responded to promptly and with sensitivity by campus law enforcement and other campus officials;
- The right to be notified of available counseling, mental health, victim advocacy, health, legal assistance, student financial aid, visa and immigration assistance, or other student services, both on campus and in the community;
- The right to a campus no contact order (or a trespass order against a non-affiliated third party) when someone has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the reporting party or others;
- The right to notification of and options for, and available assistance in, changing academic and living situations after an alleged sexual misconduct incident, if so requested by the reporting party and if such changes are reasonably available (no formal report, or investigation, campus or criminal, need occur before this option is available). Accommodations may include:
  - Change of an on-campus student's housing to a different on-campus location;
  - Assistance from UNA support staff in completing the relocation;
  - Transportation accommodations;
  - Arranging to dissolve a housing contract and pro-rating a refund;
  - Exam (paper, assignment) rescheduling;
  - Taking an incomplete in a class;
  - Transferring class sections;
  - Temporary withdrawal;
  - Alternative course completion options.
- The right to have UNA maintain such accommodations for as long as is necessary, and for protective measures to remain confidential, provided confidentiality does not impair the University's ability to provide the accommodations or protective measures;
- The right to be fully informed of campus policies and procedures as well as the nature and extent of all alleged violations contained within the report;
- The right to ask the investigators to identify and question relevant witnesses, including expert witnesses;
- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law;
- The right to be informed of the names of all witnesses who will be called to give testimony, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (This does not include the name of the reporting party, which will always be revealed);
- The right not to have irrelevant prior sexual history admitted as evidence;

- The right to regular updates on the status of the investigation and/or resolution;
- The right to resolution by appropriately trained personnel who are free of impermissible conflicts of interest and able to render impartial decisions;
- The right to a hearing panel that is not single-sex in its composition, if a panel is used;
- The right to preservation of privacy, to the extent possible and permitted by law;
- The right to meetings, interviews and/or hearings (if applicable) that are closed to the public;
- The right to petition that any UNA representative in the process be recused on the basis of demonstrated bias;
- The right to bring a victim advocate or advisor of the reporting party's choosing to all phases of the investigation and resolution proceeding;
- The right to provide evidence by means other than being in the same room with the responding party;
- The right to have the University compel the presence of student, faculty and staff witnesses, and the opportunity (if desired) to ask questions, [indirectly], of all present witnesses [including the responding party], and the right to challenge documentary evidence;
- The right to be present for all testimony given and evidence presented during any resolution-related hearing;
- The right to make or provide an impact statement in person or in writing to the panel hearing officers following determination of responsibility, but prior to sanctioning;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision by UNA is considered final and of any changes to the sanction to occur before the decision is finalized.

***b. Statement of the Responding Party's rights:***

- The right to investigation and appropriate resolution of all credible reports of sexual misconduct and/or discrimination made in good faith to UNA administrators;
- The right to be informed in advance, when possible, of any public release of information regarding the report.
- The right to be treated with respect by UNA officials;
- The right to have UNA policies and procedures followed without material deviation;
- The right to be informed of and have access to campus resources for medical, health, counseling, and advisory services;

- The right to be fully informed of the nature, policies and procedures of the campus resolution process and to timely written notice of all alleged violations, including the nature of the violation and possible sanctions;
- The right to a hear the report, timely notice of the meeting, and adequate time for preparation;
- The right to review all documentary evidence available regarding the report, subject to the privacy limitations imposed by state and federal law;
- The right to be informed of the names of all witnesses who will be called to give testimony, except in cases where a witness's identity will not be revealed to the responding party for compelling safety reasons (This does not include the name of the reporting party, which will always be revealed.);
- The right not to have irrelevant prior sexual history admitted as evidence in a campus resolution process;
- The right to have reports resolved by personnel who have received appropriate training.
- The right to petition that any UNA representative be recused from the resolution process on the basis of demonstrated bias;
- The right to a panel that is not single-sex in its composition, if a panel is used;
- The right to meetings, interviews and hearings, if applicable, that are closed to the public;
- The right to have the University compel the presence of student, faculty and staff witnesses, and the opportunity to ask questions, [indirectly], of all present witnesses, and the right to challenge documentary evidence;
- The right to have an advisor of their choice to accompany and assist in the campus resolution process;
- The right to a fundamentally fair resolution, as defined in these procedures;
- The right to make or provide an impact statement in person or in writing to the investigators, or hearing board if applicable, following any determination of responsibility, but prior to sanctioning;
- The right to a decision based solely on evidence presented during the resolution process. Such evidence shall be credible, relevant, based in fact, and without prejudice;
- The right to be promptly informed of the outcome and sanction of the resolution process in writing, without undue delay between the notifications to the parties;
- The right to be informed in writing of when a decision of UNA is considered final and of any changes to the sanction to occur before the decision is finalized.

## **18. Disabilities Accommodation in the Equity Resolution Process**

UNA is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the Equity Resolution Process at UNA. Anyone needing such accommodations or support should contact the Director of Disability Services or the Office of Human Resources, who will review the request and, in consultation with the person requesting the accommodation, and the Title IX Administrator, determine which accommodations are appropriate and necessary for full participation.

## **19. Revision**

These policies and procedures will be reviewed and updated annually by the Title IX Administrator and the Assistant Vice President for Human Resources. UNA reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect. The Title IX Administrator may make minor modifications to procedure and/or information that does not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules, etc. The Title IX Administrator may also vary procedures materially with notice (on the University's website, with appropriate date of effect identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this policy and procedure. Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

Any changes required by law may be approved by University Attorney and updated with appropriate date of effect identified without going through Shared Governance. Shared Governance Executive Committee and the University Executive Council will be notified of those changes.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such codes generally.

Approved by Shared Governance on February 6, 2019.

Approved by the Board of Trustees on March 22, 2019.

This policy and procedure was implemented in April 1, 2019.

Updated, in part, by the Title IX Administrator on January 23, 2020.

Approved by the University Attorney on January 31, 2020.

Revised May 16, 2022 to update contact information.