

UAFS TITLE IX POLICY FOR COMPLAINTS OF SEXUAL ASSAULT  
AND OTHER FORMS OF SEXUAL HARASSMENT 2023 COMPLAINTS

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š } u ] • • employment, and other programs and activities. Inquiries regarding  
NOTICE OF NONDISCRIMINATION UNDER TITLE IX  
Title IX and 34 C.F.R. Œ š í i ò u Ç • v š š } Title IX Coordinator, the  
of Education Assistant Secretary for Civil Rights, or both.

JURISDICTION AND SCOPE

Sexual harassment as defined in this policy (including sexual assault) is a form of s  
prohibited. Title IX requires the University to promptly and reasonably respond to  
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a person in the United States. At the time that a formal complaint is filed, the compl



Individuals who report prohibited conduct or participate as witnesses will not be subject to disciplinary sanctions for personal consumption of alcohol and/or other substances.

The University may initiate an educational discussion with individuals about their alcohol and/or drug use or may direct these individuals to services such as counseling for alcohol and/or drug use. Amnesty will not be extended for any violations of University policy other than alcohol/drug use. The use of alcohol,

professionals and other employees who are statutorily prohibited from reporting such information and (2) persons designated by the campus as victim advocates.

### OFFCAMPUS CONDUCT

Conduct that occurs off campus that is the subject of a formal complaint or report will be evaluated to determine whether the matter falls to a different department or official within the University.

### CONFIDENTIALITY

Except as compelled by law or as required to conduct a full and fair grievance proceeding in response to a formal complaint, the University will treat the information obtained or produced as part of the Title IX procedures as confidential. The University will keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the FERPA statute, 20 U.S.C. § 1232g FERPA regulations, 34 CFR Part 99, or as required by law, or to carry out the purposes of 34 CFR Part 106, including the conduct of any investigation, hearing, or judicial proceedings arising thereunder.

AVAILABILITY OF COUNSELING AND ADVOCACY\* n BT /F1 1ti1 Tm4t64QAal or com



No party shall be restricted from discussing the allegations under investigation to gather and present relevant evidence.

A party whose participation in a hearing, investigative interview, or other meeting shall be provided with a written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate.

The University shall maintain an administrative file that includes without limitation all documents that is relevant to an Alleged Violation and the reasonable cause process. The administrative file shall not include privileged documents, internal communications, or communications from nonparties that the institution does not intend to introduce as evidence at a disciplinary proceeding. The administrative file shall include, without limitation

- o Exculpatory evidence;
- o Statements by an accuser or an accused student or a student organization;
- o Third-party witness statements;
- o Written communications;
- o Social media posts;
- o Demonstrative evidence;
- o Documents submitted by any participant involved in disciplinary procedures; and

held on the matter.

### INITIAL REPORT/INTAKE PROCESS

*Initial Meeting with Complainant:* Promptly upon receiving a report of conduct that could potentially be a violation of Title IX, the Title IX Coordinator (or designee) will contact the complainant to schedule an initial meeting to, as applicable:

Provide a copy of this policy and a copy of Act 470 of 2023, codified Ark. Code Ann. § 62-1401









*Supportive Measures:* Supportive measures, as defined in this policy, will be based on the facts and circumstances of each situation. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. They may include, but are not limited to, the following:

Counseling

Extensions of deadlines or other course-related adjustments

Modifications of work or class schedules

Campus escort services

Mutual restrictions on contact between the parties







to the non-party. Other sources such as the formal complaint or a prior statement.

*Option for Virtual or Separate Presence:* Live hearings may be conducted with either all parties present in the same geographic location or appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other. Either party may request not to be in the same room as the other. If any party makes such a request, then both parties will be required to attend the hearing from a location or room different from where the Hearing Officer or Hearing Panel is sitting. If the hearing is virtual, or there is a request for separate rooms at a physical location, the University will ensure that all participants are able to simultaneously see and hear the party witness answering questions. Instructions will be provided for accessibility prior to the hearing date.

*Recordings:* An audio or audiovisual recording will be created of the live hearing and will be made available for inspection and review at the request of the parties.

*Advisor's Role at Hearing:* The complainant and respondent may be accompanied by an advisor during the hearing to determine responsibility. A party must identify his or her advisor (if any) at least 5 days prior to the hearing. The advisor may fully participate to the same extent as a party, including by (1) making an opening and closing statement, (2) presenting relevant evidence, and (3) cross-examining adverse witnesses. The advisor can be anyone, including an attorney. A party may arrange for the advisor of choice to attend the hearing. Alternatively, the University will select and provide an advisor to assist a party at the hearing to determine responsibility without fee or charge, upon request. In either scenario, the advisor may only participate in the hearing to the extent allowed under this policy. A party who wants an advisor to be provided by the University should notify the Title IX Coordinator at least 15 days after the filing or receipt of the formal complaint.

*Evidentiary Matters and Procedure:* The parties, through their advisors, shall have an equal opportunity to question the opposing party and other witnesses, including fact and expert witnesses, and present other inculpatory or exculpatory evidence. Formal rules of evidence will not be observed during the hearing. The Hearing Officer or Hearing Panel will conduct the initial questioning of witnesses prior to the questioning by an advisor.

posed by the Hearing Officer or Hearing Panel. The questions may include challenges to credibility. other questioning or speaking participation by an advisor will be allowed. A party may not examine a party or witness directly, rather, a party must utilize the services of an advisor for the purpose of posing questions to another party or witness. A party not represented by an advisor may, however, submit a list of proposed questions to the Hearing Officer or Chair of the Hearing Panel and ask that the questions be posed to the opposing party or witness.

The decision maker(s) cannot draw an inference about responsibility based solely on the fact that a party or witness does not participate in a hearing, the panel should weigh the facts and circumstances in determining whether to consider, and what weight to assign, any statements furnished outside the hearing process.

The Hearing Officer or Chair of the Hearing Panel will make determinations regarding relevancy of questions before a party or witness answers. If a determination is made to exclude the question based on relevancy, the Hearing Officer or Panel Chair will provide an explanation of why the question was deemed irrelevant and excluded.

The Hearing Officer or Panel Chair may disallow the attendance of an advisor if, in the discretion of the Hearing Officer or Panel Chair, the advisor is disruptive or obstructive to the hearing or otherwise warrants removal. Advisors will not be permitted to badger or question the opposing party or any witness in an abusive or threatening manner. Absent accommodation due to disability, the parties may not be accompanied by any other individual during the hearing process except as set forth in this policy.

*Decision of the Hearing Officer or*



*Remedies:*



## RETALIATION PROHIBITED

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, 34 C.F.R. Part 106, or this policy, or because an individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this part. Intimidation, threats, coercion, or discrimination, including changes against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise from the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sex discrimination or harassment, for the purpose of interfering with any right or privilege secured by Title IX, 34 C.F.R. Part 106 policy, constitutes retaliation. However, the exercise of rights protected under the First Amendment does not constitute retaliation.

## FALSE REPORTS

Willfully making a false report of sexual harassment or submitting false information during these proceedings is a violation of University policy and is a serious offense. However, a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith. Any person who willfully makes or participates in making a false or frivolous report of discrimination, harassment, retaliation or sexual misconduct will be subject to disciplinary action. False reporting may also violate state criminal statutes and civil defamation laws.

## EXTERNAL REPO

Email:programcomplaints@nsf.gov

### EFFECTIVE DATE

The University reserves the right to make changes and amendments to this Policy as needed, with appropriate notice to the campus community. However, the Policy in force at the time that a Complaint is filed will be the Policy used throughout the investigation, hearing and any appeals

### RETENTION OF RECORDS

For a period of at least seven years, the University will maintain the records of:

Each sexual harassment investigation, including any determination regarding responsibility, any recordings or transcripts, disciplinary sanctions, and remedies provided to the complainant

Any appeal and the result therefrom

Any informal resolution and the result therefrom

All materials used to train Title IX Coordinators, investigators, decision makers, and any person who facilitates an informal resolution process. These materials will be made publicly available

Records of any actions, including supportive measures, taken in response to a report or formal

conclusion that its response was not deliberately indifferent.

Documentation pertaining to terminations, expulsions or educational sanctions may be retained indefinitely.

### DEFINITIONS

*Complainant:* Any individual who is alleged to be the victim of conduct that could constitute sexual harassment. DEFINITION



under the law means spouses, former spouses, parents and children, persons related by blood within the fourth degree of consanguinity, in-laws, any children residing in the household, persons who presently or in the past

sex offense includes incest, the nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law) and statutory rape (nonforcible sexual intercourse with a person who is under the statutory age of consent). A forcible sex offense is any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent. A forcible sex offense includes:

Forcible rape the penetration, no matter how slight, of the vagina or anus with any part of the body or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Forcible sodomy Oral or sexual intercourse with another person, forcibly and/or against that person, or with a person who is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity;

Sexual assault with an object Using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person, or with a person who is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.

Forcible fondling The touching of the private body parts of another person for the purpose of

*Supportive Measures:* Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without a fee or charge to the complainant or respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to

educational environment or deter sexual harassment.