

**UNA's Policy and Procedures: Equal Opportunity, Harassment and Nondiscrimination  
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## **POLICY AND PROCEDURES: Equal Opportunity, Harassment and Nondiscrimination**

The University of North Alabama affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the UNA's Equity Resolution Process, as detailed below. The Equity Resolution Process is applicable regardless of the status of the parties involved, who may be members or non-members of the campus community, students, student organizations, faculty, administrators and/or staff. UNA reserves the right to act on incidents occurring on-campus or off-campus, when the off-campus conduct could have an on-campus impact or impact on the educational mission of UNA.

The Assistant Vice President for Student Affairs serves as the Title IX Coordinator. The Assistant Vice President for Human Resources oversees implementation of the UNA's Equal Opportunity plan. Both the Title IX Coordinator and the Assistant Vice President for Human Resources oversee the UNA's policy on equal opportunity, harassment and nondiscrimination. Reports of discrimination, harassment and/or retaliation should be made to the Title IX Coordinator, Assistant Vice President for Human Resources, or Deputy Coordinators promptly, but there is no time limitation on the filing of complaints, as long as the accused individual remains subject to UNA's jurisdiction. All reports are acted upon promptly while every effort is made by the UNA to preserve the privacy of reports. Anonymous reports may also be filed online, using the reporting form posted at <http://www.una.edu/titleix>. Reporting is addressed more specifically on p. 16, Section 7. Reports of discrimination by the Title IX or Assistant Vice President for Human Resources should be reported to the University President in 110 Bibb Graves Hall, 256-765-4211.

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 Coordinator or the Assistant Vice President for Human Resources determines that the off-campus conduct affects a substantial UNA interest. A substantial UNA interest is defined to include:

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

- b) Any situation where it appears that the accused individual 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 UNA.

Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc. occurring completely outside of the 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 1<sup>st</sup> Amendment.

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 becomes within the scope of employment.

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

Tammy W. Jacques  
 Assistant Vice President for Student Affairs  
 & Title IX Coordinator  
 Guillot University Center 107  
 (256) 765-4223  
[tmwells@una.edu](mailto:tmwells@una.edu)

Catherine D. White  
 Assistant Vice President for Human Resources  
 Bibb Graves 226  
 (256) 765-4291  
[cdwhite1@una.edu](mailto:cdwhite1@una.edu)

**Deputy Coordinators:**

Carrie Bowen	Student Conduct	256-765-5012
Catherine D. White	Human Resources	256-765-4291
Debbie Williams	Athletics	256-765-4788
Dr. Alex Takeuchi	Ombudsman	256-765-5224

**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  
Facsimile: (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/>

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

UNA adheres to all federal and state civil rights laws banning 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 grievance 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, guest or visitor 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 on the basis of their actual or perceived membership in the protected classes listed above is in violation of the UNA policy on nondiscrimination. When brought to the attention of the UNA, any such discrimination will be appropriately remedied by UNA according to the procedures below. The coordinator for non-discrimination policies for students is the Title IX Coordinator, Room 207, Guillot University Center, 256-765-4223, <http://www.una.edu/titleix>. The coordinator for employees is the Assistant Vice President for Human Resources, Room 222, Bibb Graves Hall, 256-765-4291, <http://www.una.edu/humanresources>.

## **2. UNA's Policy on Accommodation of Disabilities**

UNA is committed to full compliance with the Americans with Disabilities Act of 2008, Americans With Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal and state laws pertaining to individuals with disabilities. Under the ADA and its amendments, a person has a disability if he or she has a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by the institution whether qualified or not. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking or caring for oneself.

Inquiries about ADA/504 Compliance would be forwarded to UNA's legal counsel through the Title IX Coordinator or the Assistant Vice President for Human Resources.

### **a. Students with Disabilities**

UNA is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to the academic programs and activities of UNA while at the same time maintaining the integrity of the UNA program requirements.

All accommodations are made on a case-by-case basis. A student requesting accommodations should contact the Disability Support Services' office for academic accommodations. The student is responsible for self-identifying to this office and having a meeting with a provider, providing an impact statement and documentation. During the consultation with the DSS professional, accommodations appropriate to the student's particular needs and academic programs are reviewed. Pertinent material is reviewed by the Disability Support Services Advisory Committee for approval of requested accommodations. Please review the website at <http://www.una.edu/disability-support/> for more information.

### **b. Employees with Disabilities**

Pursuant to the ADA, UNA will provide reasonable accommodation(s) to all qualified employees with known disabilities, where their disability affects the performance of their essential job functions, except where doing so would be unduly disruptive or would result in undue hardship.

An employee with a disability is responsible for requesting an accommodation in writing to the Office of Human Resources and provide appropriate documentation. The Assistant Vice President for Human Resources will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties.

### **3. UNA's Policy on Discriminatory Harassment**

Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. This 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 that are also prohibited under UNA policy.

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

Harassment constitutes a form of discrimination that is prohibited by law. UNA will remedy 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. UNA's harassment 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 may be created by verbal, written, graphic, or physical conduct that is sufficiently severe, persistent/pervasive and objectively offensive that it unreasonably interferes with, limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.<sup>1</sup>

Offensive conduct and/or harassment that does not rise to the level of discrimination or that is of a generic nature not on the basis of a protected status may not result in the imposition of discipline under UNA policy, but will be addressed through civil 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.

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<sup>1</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>.

UNA condemns and will not tolerate discriminatory harassment against any employee, student, visitor or guest on the basis of any status protected by UNA policy or law.

**b. Sexual Harassment**

Both the Equal Employment Opportunity Commission and the State of Alabama regard sexual harassment as a form of sex/gender discrimination and, therefore, as an unlawful discriminatory practice. 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>2</sup> Anyone experiencing sexual harassment in any UNA program is encouraged to report it immediately to the UNA's Title IX Coordinator.

Sexual harassment is:

- unwelcome, sexual or gender-based verbal, written, online and/or physical conduct.<sup>3</sup>

Sexual harassment creates a hostile environment, and may be disciplined when it is:

- sufficiently severe or persistent/pervasive and objectively offensive that it,
  - a. has the effect of unreasonably interfering with, denying or limiting employment opportunities or the ability to participate in or benefit from UNA's educational, social and/or residential program, and is
  - b. based on power differentials (*quid pro quo*), the creation of a hostile environment or retaliation.

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<sup>2</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," which can be found at <http://www2.ed.gov/legislation/FedRegister/other/2001-1/011901b.html>, as well as the April, 2011 Dear Colleague Letter on Campus Sexual Violence, which can be found at: [http://www.whitehouse.gov/sites/default/files/dear\\_colleague\\_sexual\\_violence.pdf](http://www.whitehouse.gov/sites/default/files/dear_colleague_sexual_violence.pdf)

<sup>3</sup> Some examples of possible Sexual Harassment include:

- 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.
- A student repeatedly sends sexually oriented jokes around on an email list s/he created, even 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 a professor'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.

### **c. Sexual Misconduct**

State law defines various violent and/or non-consensual sexual acts as crimes. Additionally, UNA has defined categories of 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, 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 or expulsion/termination, for any act of sexual misconduct or other gender-based offenses, including intimate partner or relationship (dating and/or domestic) violence, non-consensual sexual contact and stalking based on the facts and circumstances of the particular grievance. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, gender, sexual orientation and/or gender identity of those involved. Violations include:

**i. Sexual Harassment (as defined in section b above)**

**ii. Non-Consensual Sexual Intercourse**

Defined as:

- any sexual penetration or intercourse (anal, oral or vaginal)
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation by mouth to genital contact or genital to mouth contact.

**iii. Non-Consensual Sexual Contact<sup>4</sup>**

Defined as:

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<sup>4</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 set forth in Appendix A to this policy. 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 set forth in Appendix A to this policy. 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.



- any intentional sexual touching
- however slight
- with any object
- by a person upon another person
- that is without consent and/or by force

Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

#### **iv. Sexual Exploitation**

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not 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:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed)
- 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
- Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or other sexually transmitted disease (STD) and without informing the other person of the infection, and further includes administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent

#### **v. Consent<sup>5</sup>**

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<sup>5</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 set forth in Appendix A to this policy. 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 set forth in Appendix A to this policy. 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.

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.

A person cannot consent if he or she is 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 individual responding party of sexual misconduct was intoxicated and, therefore, did not realize the incapacity of the other.

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing 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.

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. Silence or the absence of resistance alone is not consent. A person can withdraw consent at any time during sexual activity by expressing in words or actions that he or she no longer wants the act to continue, and, if that happens, the other person must stop immediately.

In Alabama, a minor (meaning a person under the age of 16 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 16 years old is a crime, as well as a violation of this policy, even if the minor wanted to engage in the act.

**4. Dating Violence**

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

- A. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- B. For the purposes of this definition:
  - i. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
  - ii. Dating violence does not include acts covered under the definition of domestic violence.

**5. Domestic Violence<sup>6</sup>**

A felony or misdemeanor crime of violence committed:

- A. By a current or former spouse or intimate partner of the victim;
- B. By a person with whom the victim shares a child in common;
- C. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
- D. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- E. By any other person against an adult or youth victim who is protected.

**6. Stalking<sup>7</sup>**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

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<sup>6</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 set forth in Appendix A to this policy. 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.

<sup>7</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 set forth in Appendix A to this policy. 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.

- A. Fear for the person's safety or the safety of others; or
- B. Suffer substantial emotional distress.
- C. For the purposes of this definition, course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicated to or about a person, or interferes with a person's property.

## **UNIVERSITY OF NORTH ALABAMA POLICY ON CONSENSUAL RELATIONSHIPS<sup>8</sup>**

The University of North Alabama (the "University") is committed to providing an environment for work and learning as free as possible from conflicts of interest, favoritism and exploitation. Where an individual exercises direct supervision to coerce another person to enter into a non-consensual relationship, the harm to that person and to the institution is evident. Even where the relationship is consensual, there is significant potential for harm when there is a power difference between the parties involved - - for example, between a supervisor and an employee or between a faculty or staff member and a student. Any evaluation or supervision provided may be suspect in view of such relationship.

A consensual relationship with a subordinate is likely to interfere with the ability of a superior to act and make decisions fairly and without bias. Even if the superior is able to avoid showing favoritism, the other individuals in the learning or workplace environment are likely to see themselves as being less favored and disadvantaged by the personal relationship. Additionally, the damage can continue long beyond the consensual relationship and can make people suspicious of any future professional interactions between the individuals.

The following policy is directed to faculty-student relationships, to staff-student relationships, to employee-employee relationships, and to student paraprofessional staff-student relationships. While the University normally has no interest in private romantic or sexual relationships between individuals, the University has adopted a consensual relationship policy for the following reasons: to avoid the types of problems outlined above, to protect individuals from the type of injury that either a subordinate or superior individual to such relationship can incur, to protect the integrity of the learning and work environment

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<sup>8</sup> Under Alabama law, a sexual act, deviant sexual intercourse or sexual contact by a school employee with a student under the age of 19 years is a crime; consent by the student is not a defense. See Alabama Code Sections 13A-6-80 through 13A-6-83. See Appendix A attached hereto for the full text of these type of criminal offenses.

and evaluation process, and to provide information and guidance to members of the University community. This Policy addresses consensual relations only. Non-consensual or coerced relationships are addressed in the University Policy on Sexual Harassment.

## **I. Definitions**

For purposes of this policy, the following terms are defined as follows:

- A. Consensual Relationship. Any dating, romantic, sexual, or marriage relationship willingly undertaken by the parties.
- B. Direct Supervision. Includes but is not limited to the following activities: academic instruction, course teaching, formal mentoring, overseeing, directing, examining, grading, advising, supervising, evaluating, recommending, promoting, paraprofessional student staff member duty coverage areas, employing and other employment actions including directly setting of salary or wages, any disciplinary action, including suspension, expulsion and termination, and exercising responsibility for grades, honors or degrees.
- C. Student Paraprofessional: “A paraprofessional is defined as a student who is selected, trained, and supervised in assuming responsibilities and performing tasks that are intended to (1) directly promote the individual personal development of his or her peers, (2) foster the creation and maintenance of environments that stimulate and support residents’ personal and educational development, and/or (3) perform tasks that ensure the maintenance of secure, clean, healthy, psychologically safe, and esthetically pleasing living accommodations.” (*Winston & Fitch, p. 317, 1993*).

## **II. Policy Regarding Faculty-Student, Staff-Student, and Paraprofessional Student Staff-Student Consensual Relationships**

Interactions between the faculty members, staff members, or paraprofessional student staff members and students at the University are guided by mutual trust, confidence and/or professional ethics. Professional faculty-student, staff-student, or paraprofessional student staff-student relationships have a power differential between faculty members, staff members, or paraprofessional student staff and students; personal faculty-student, staff-student, or paraprofessional student staff-student relationships carry risks of conflict of interest, breach of trust, abuse of power, and/or breach of professional ethics.

A. Prohibited Relationships.

Faculty members and staff members shall not engage in, and are prohibited from, consensual relationships with students whenever a faculty member or staff member has direct supervision with respect to the student. Should a consensual relationship exist prior to the beginning of the professional relationship, or develop, or appear likely to develop, while the faculty member or staff member is, or would be, in a position of direct supervision over the student, the faculty member or staff member shall immediately report such relationship with his or her immediate supervisor and initiate steps to avoid and/or terminate the position of direct supervision. Avoidance or termination includes but is not limited to the student not enrolling in a course; a qualified alternative faculty member or teaching assistant taking the position of direct supervision; transfer of the student to another course, section, seminar, etc. taught by a different faculty member or teaching assistant; assigning or transferring the student to, or the student selecting, another academic advisor; or the student dropping or withdrawing from a course.

Paraprofessional student staff members shall not have a romantic and/or sexual relationship with anyone currently in their duty coverage area. A consensual friendship based relationship may exist even if one or both partners consider it casual, temporary, or episodic. The policy applies to even a single intimate, sexual, or romantic encounter. If the potential for such a relationship should develop, the paraprofessional student staff member must immediately notify his/her supervisor in writing. A paraprofessional student staff member must understand if he/she wishes to pursue such a relationship, appropriate action will be taken. This would include, but not be limited to, offering the resident the option to voluntarily move to another complex, or having the paraprofessional student staff member moved to an appropriate location if the ability to do so is present. A paraprofessional student staff member should not be assigned to rounds within an area where a resident with whom he/she is in a relationship currently lives, and should not become involved in a disciplinary incident involving said party absent an emergency situation.

B. Discouraged Relationships.

The following faculty-student, staff-student, and paraprofessional student staff-student relationships are strongly discouraged at the University in light of the potential for apparent and actual conflicts of interest. Should such relationships arise, however, they are required to be disclosed and managed as indicated below:

1. Even when no position of direct supervision exists, a faculty member or staff member who engages in a romantic or sexual relationship with a student must promptly disclose the existence of the relationship to his or her immediate supervisor if there exists a reasonable possibility that a conflict of interest may arise. Relationships, in which a conflict of interest exists or is likely to arise, appear to third parties to create an unfair advantage for the student or to be exploitative of the student and may later develop into conflicts of interest that are prohibited in A above.
2. When the student is a graduate student in the same department or academic program as the faculty member, or is an undergraduate student and is majoring or minoring in the same department as the faculty member or department of a staff and/or paraprofessional student staff member, a potential conflict of interest exists. A conflict of interest also may arise if the student is studying in a department separate from the faculty member. The faculty, staff, or paraprofessional student staff member must promptly disclose the relationship to his or her immediate supervisor when a potential conflict of interest exists or is reasonably likely to arise.
3. Once the relationship is disclosed, the immediate supervisor will evaluate the situation to determine whether an actual conflict of interest exists or is likely to arise and will develop a management plan to address the potential conflict of interest. The faculty, staff, or paraprofessional student staff member has the professional and ethical responsibility to remove himself or herself from any decisions that may reward or penalize the student involved and otherwise comply with the management plan.
4. A paraprofessional student staff member shall report immediately to his/her supervisor the potential for, or existence of, any romantic and/or sexual relationship with anyone living within any on-campus housing unit. This will permit the UNA administration to take any appropriate measures. Each matter will be analyzed on a case-by-case

basis depending upon the specific facts and context of the relationship. If paraprofessional staff are required to address an incident with said party, they should recuse themselves and contact a back-up paraprofessional student staff member. If another paraprofessional student staff member is not available, the supervisor on duty should be contacted.

### **III. Policy Regarding Employee/Employee Consensual Relationships**

An employee should be aware that entering into a consensual relationship with another employee that exercises direct supervision over the employee creates the potential for risk to both parties. In particular, such a relationship will limit that supervisor/employee's ability to direct work or promote that employee's career and creates conflicts of interest and perceptions of undue advantage.

#### **A. Prohibited Relationships.**

A University employee shall not engage in, and is prohibited from, consensual relationships with another employee whenever one employee has direct supervision with respect to the other employee. Should a consensual relationship exist prior to the beginning of the period of direct supervision, or develop, or appear likely to develop, while an employee is, or would be, in a position of direct supervision over another employee, the employee exercising direct supervision shall immediately report such relationship to his or her immediate supervisor and steps to avoid and/or terminate the position of direct supervision shall be taken. Avoidance or termination includes but is not limited to the subordinate employee not accepting such position; another appropriate employee assuming the position of direct supervision; or transfer of the subordinate employee to another position not directly supervised by the other employee.

#### **B. Discouraged Relationships.**

The following relationships between employees are strongly discouraged at the University in light of the potential for apparent and actual conflicts of interest. Should such relationships arise, however, they are required to be disclosed and managed as indicated below:

1. Even when no position of direct supervision exists, an employee who engages in a romantic or sexual relationship with another employee must promptly disclose the existence of the relationship to his or her immediate supervisor if there exists a reasonable possibility that a conflict of interest may arise. Relationships, in which a conflict of



interest exists or is likely to arise, may later develop into conflicts of interest that are prohibited in A above.

2. Once the relationship is disclosed, the immediate supervisor will evaluate the situation to determine whether an actual conflict of interest exists or is likely to arise and will develop a management plan to address the potential conflict of interest. An employee has the professional and ethical responsibility to remove himself or herself from any decisions that may reward or penalize the other employee involved and otherwise comply with the management plan.

#### **IV. Sanctions/Intent**

University responses to violations of this Policy will vary as appropriate to the facts and circumstances of each case and persons in violation of this Policy shall be subject to sanctions ranging from verbal warnings to dismissal or termination. The University reserves the right to take disciplinary action against members of the University community who make false allegations of unreported consensual relationships. This Policy is not intended to intrude on the privacy of members of the University community but is intended primarily to be instructive and corrective.

A paraprofessional staff member who engages in a prohibited relationship and/or fails to report will be subject to discipline up to and including termination from job duties and referral for possible violation of the Student Code of Conduct or Title IX. Other, lesser sanctions may be imposed depending upon the circumstances.

#### **7. Other Civil Rights Offenses, When the Act is Based Upon the Status of a Protected Class**

- Threatening or causing physical harm, extreme verbal abuse or other conduct which threatens or endangers the health or safety of any person on the basis of their actual or perceived membership in a protected class
- Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of their actual or perceived membership in a protected class
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another on the basis of actual or perceived membership in a protected class
- Hazing, defined as acts likely to cause physical or psychological harm or social ostracism to any person within the UNA community, when related to the admission, initiation, pledging, joining, or any other group-affiliation activity (as defined further in

the hazing policy) on the basis of actual or perceived membership in a protected class; hazing is also illegal under Alabama law and prohibited by UNA policy

- Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally on the basis of actual or perceived membership in a protected class
- Any other UNA rules, when a violation is motivated by the actual or perceived membership of the victim on the basis of sex or gender or in a protected class, may be pursued using this policy and process.

Sanctions for the above-listed “Other Civil Rights Behaviors” behaviors range from reprimand up through and including expulsion (students) or termination of employment.

## **5. Retaliation**

Retaliation is defined as any intentional, adverse action taken by a responding individual or allied third party, absent legitimate nondiscriminatory purposes, against a participant or supporter of a participant in a civil rights resolution proceeding or other protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing a complaint or for assisting in providing information relevant to a claim of harassment is a serious violation of UNA policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator or 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.

## **6. Remedial Action**

UNA will implement initial remedial and 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 arrangement adjustments, 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 who has been found to engage in harassing or discriminatory behavior or retaliation. Procedures for handling reported incidents are fully described below. Deliberately false and/or malicious accusations of harassment, as opposed to grievances which, even if erroneous, are made in good faith, are just as serious an offense as harassment and will be subject to appropriate disciplinary action.

## **7. Confidentiality and Reporting of Offenses Under This Policy**

UNA employees are expected to report actual or suspected discrimination or harassment to appropriate officials, though there are some limited exceptions. In order to make informed choices, one should 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 UNA officials - thereby offering options and advice without any obligation to inform an outside agency or individual unless you have requested information to be shared. Other resources exist for you to report crimes and policy violations and these resources will take action when you report victimization to them. The following describes the three reporting options at UNA:

### **a. Confidential Reporting**

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 256-765-4328
- Rape Response 256-767-1100 (hotline)/256-765-0025 (office)
- Safe Place 256-767-6210 (hotline)/256-767-3076 (office)  
(domestic violence resource)
- Local or state assistance agencies
- On or off-campus members of the clergy/chaplains

Representatives above 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, call BCBS at 1-800-292-8868.

## **b. Formal Reporting Options**

UNA employees have a Duty to Report, unless they fall under the “Confidential Reporting” section above. Parties bringing a complaint may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator and/or Deputy Coordinators. Otherwise, employees must share all details of the reports they receive. If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Coordinator or Deputy Coordinators, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law.

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 victim requests confidentiality and the circumstances allow UNA to honor that request, UNA will offer interim supports and remedies to the victim and the community, but will not otherwise pursue formal action. A party bringing a complaint has the right, and can expect, to have complaints taken seriously by UNA when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to: Division of Student Affairs, Office of 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 party bringing a complaint’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 institution to investigate.

## **8. Federal Timely Warning Obligations**

Victims of sexual misconduct should be aware that UNA 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. UNA will make every effort to 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.

# **EQUITY RESOLUTION PROCESS FOR RESOLVING COMPLAINTS OF HARASSMENT, SEXUAL MISCONDUCT AND OTHER FORMS OF DISCRIMINATION**

UNA will act on any formal or informal complaint or notice of violation of the policy on Equal Opportunity, Harassment and Nondiscrimination, that is received by the Title IX Coordinator, Assistant Vice President for Human Resources, Deputy Coordinators, or UNA Police, or a member of the administration.

The procedures described below will apply to all complaints involving students, staff or faculty members. Redress any requests for responsive actions for complaints brought involving non-members of the community are also covered by these procedures.

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

Members of the ERP 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 are trained in all aspects of the Equity Resolution Process, and can serve in any of the following roles, at the direction of the Title IX Coordinator, Ombudsman, and the Assistant Vice President for Human Resources:

- To provide sensitive intake and initial counseling of complaints
- To serve in a mediation role [restorative justice] in conflict resolution
- To investigate complaints
- To act as advisors to those involved in complaints
- To serve on appeal panels for complaints

ERP members also recommend proactive policies, and serve in an educative role for the community. The President, in consultation with the Title IX Coordinator and the Assistant Vice President for Human Resources, appoints the panel, which reports to the Title IX Coordinator. ERP members receive annual training organized by the Title IX Coordinator, including a review of UNA policies and procedures, so that they are able to provide accurate information to members of the community. All ERP members are required to attend this annual training.

The Equity Resolution Panel includes:

- 2 Co-chairs: [e.g., one representative from HR and one from Student Affairs]

- At least 5 members of academic affairs faculty
- At least 5 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. Appointments to the ERP should be made with attention to representation of groups protected by the harassment and non-discrimination policy. The ERP panel members have an obligation to keep all information confidential involving investigations. Individuals who are interested in serving on the ERP are encouraged to contact the Title IX Coordinator or the Assistant Vice President for Human Resources.

## **2. Filing a complaint**

Any member of the community, guest or visitor who believes that the policy on Equal Opportunity, Harassment and Nondiscrimination has been violated should contact the Title IX Coordinator, 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, or any member of the community may contact UNA Police. These individuals will in turn notify the Title IX Coordinator and/or the Assistant Vice President for Human Resources. UNA's website also includes a reporting form at [www.una.edu/titleix](http://www.una.edu/titleix) which may serve to initiate a complaint.

All employees receiving reports of a potential violation of UNA policy are expected to promptly contact the Title IX Coordinator 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 the maximum possible privacy: specific information on any complaints received by any party will be reported to the Title IX Coordinator 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 a report of a complaint. In all cases, UNA will give consideration to the party bringing a complaint with respect to how the complaint is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution when an alleged victim chooses not to initiate or participate in a formal complaint.

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

## **3. Equity Resolution Process Intake**

Following receipt of notice or a complaint, the Title IX Coordinator<sup>9</sup> or the Assistant Vice President for Human Resources will, promptly assign an ERP panel member to work as advisor to the person who reported the complaint. A party bringing a complaint may also choose from the ERP pool or choose a non-trained advisor from outside the pool, if preferred, or proceed without an advisor. Normally, within two business days, an initial determination is made whether a policy violation may have occurred and/or whether conflict resolution might be appropriate. If the complaint does not appear to allege a policy violation or if conflict resolution is desired by the party bringing a complaint, and appears appropriate given the nature of the alleged behavior, then the complaint does not proceed to investigation.

A full investigation will necessarily be pursued if there is evidence of a pattern of misconduct or a perceived threat of further harm to the community or any of its members. UNA aims to complete all investigations within a 60 business day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator or the Assistant Vice President for Human Resources with notice to the parties.

#### **4. Role of Advisor**

The parties have the right to an advisor/advocate of their own choosing. Advisors/advocates may be a friend, parent, faculty mentor, attorney or any other person to accompany or assist throughout the process. The advisor may not make a presentation or represent the party bringing the complaint or responding party during the investigation and/or hearing. They may confer quietly with their advisee, exchange notes, clarify procedural questions with the investigator and suggest questions to their advisee.

#### **5. Recording**

There will be a single verbatim record, such as an audio recording, for all investigations. 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. UNA may record or transcribe proceedings, and those recordings or transcriptions will be made available to the reporting party and/or respondent.

#### **6. Investigation**

If a party bringing a complaint wishes to pursue a formal complaint or if UNA, based on the alleged policy violation, wishes to pursue a formal complaint, then the Title IX Coordinator or Assistant Vice President for Human Resources appoints two ERP members (also known

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<sup>9</sup> If circumstances require, the President or Title IX Coordinator/Assistant Vice President for Human Resources may designate another person to oversee the process below, should a complaint be made against the Coordinator or the Coordinator be otherwise unavailable or unable to fulfill their duties.

as investigators) to conduct the investigation, usually within two business days of determining that a complaint should proceed. Investigation of complaints brought directly by those alleging harm should be completed expeditiously, normally within 10 business days of notice to the Title IX Coordinator or Assistant Vice President for Human Resources. Investigation may take longer when initial complaints fail to provide direct first-hand information. UNA may undertake a short delay (3-10 days, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. UNA action will not 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 and impartial, and will entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, if necessary.

## **7. Interim Remedies**

If, in the judgment of the Title IX Coordinator 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 presence on-campus of the accused individual or the ongoing activity of a student organization whose behavior is in question, the Title IX Coordinator or the Assistant Vice President for Human Resources (or designee) may provide interim remedies intended to address the short-term effects of harassment, discrimination and/or retaliation, i.e., to redress harm to the alleged victim and the community and to prevent further violations. These remedies may include, but not limited to, referral to counseling and health services, education to the community, altering the housing situation of an accused student or resident employee (or the alleged victim, if desired), altering work arrangements for employees, providing campus escorts, 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. In all cases in which an interim suspension is imposed, the student, employee or student organization will be given the opportunity to meet with the Title IX Coordinator/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 Coordinator/Assistant Vice President for Human Resources has sole discretion to implement or stay an interim suspension under the policy on Equal Opportunity, Harassment and Nondiscrimination, and to determine its conditions and duration. Violation of an interim suspension under this policy will 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 the UNA campus/facilities/events. As determined by the [appropriate administrative officer/Title IX Coordinator/Assistant Vice President for Human



Resources or designee], this restriction includes classes and/or all other UNA activities or privileges for which the student might otherwise be eligible. At the discretion of the [appropriate administrative officer/Title IX Coordinator/Assistant Vice President for Human Resources or designee], alternative coursework options may be pursued to ensure as minimal an impact as possible on the accused student.

## **8. Complaint Resolution**

During or upon the completion of investigation, the investigators will meet with the Title IX Coordinator, Assistant Vice President for Human Resources, and/or Deputy Coordinators. The investigators will make recommendations on outcome and sanction(s). Based on that meeting, the Title IX Coordinator, Assistant Vice President for Human Resources, and/or Deputy Coordinators will make a decision on whether there is reasonable cause to proceed with the complaint. If the Title IX Coordinator, Assistant Vice President for Human Resources, and/or Deputy Coordinators decides that no policy violation has occurred or that the preponderance of evidence (i.e., whether it is more likely than not that the accused individual committed each alleged violation) does not support a finding of a policy violation, then the process will end unless a party or parties request an appeal. If there is reasonable cause, the Title IX Coordinator, Assistant Vice President for Human Resources, and/or Deputy Coordinators will direct the investigation to continue, or if there is a preponderance of evidence of a violation, then the Title IX Coordinator, Assistant Vice President for Human Resources, and/or Deputy Coordinators may recommend conflict resolution or make a determination of the complaint, as described below.

### **a. Conflict Resolution**

Conflict resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal process to resolve conflicts. The Title IX Coordinator, 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, an ERP member 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 Coordinator, Assistant Vice President for Human Resources and/or Deputy Coordinators 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 complaints 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 Coordinator/Assistant Vice President for Human Resources believe that it could be beneficial. It is not necessary to pursue conflict resolution first in order to make a formal ERP complaint, and anyone participating in conflict resolution can stop that process at any time and request a formal process.

**b. Administrative Resolution**

Administrative Resolution can be pursued for any behavior that falls within the policy on Equal Opportunity, Harassment and Nondiscrimination, at any time during the complaint process. Administrative Resolution is to be used for those violations for which the accused admits responsibility. The Title IX Coordinator, Assistant Vice President for Human Resources, and/or Deputy Coordinators will provide written notification of a complaint to any member of the UNA community who is accused of an offense of harassment, discrimination, or retaliation. Once informed, the responding party may choose to admit responsibility for all or part of the alleged policy violations at any point in the process. If the accused admits responsibility, the Title IX Coordinator, Assistant Vice President for Human Resources, and/or Deputy Coordinators will render a finding that the individual is in violation of UNA policy for the admitted conduct. The Title IX Coordinator, Assistant Vice President for Human Resources, and/or Deputy Coordinators will implement the sanctions/responsive actions, and act promptly and effectively to remedy the effects of the admitted conduct upon the victim and the community. Employees and students may appeal the sanction of the admitted conduct as described in the Appeals section.

**c. Determination**

For any complaints that are not appropriate for conflict resolution and which are not resolved through the Administrative Resolution process, the Title IX Coordinator, Assistant Vice President for Human Resources, and/or Deputy Coordinators will make a finding on the basis of the investigation and implement appropriate sanctions/responsive actions, as necessary. Employees and students may appeal the finding and/or sanction as described in the Appeals section.

**d. Sanctions**

Sanctions or responsive actions will be determined by the Title IX Coordinator, Assistant Vice President for Human Resources, and/or Deputy Coordinators. Factors considered when determining a sanction/responsive action may include:

- The nature, severity of, and circumstances surrounding the violation

- An individual's disciplinary history
- Previous complaints or allegations involving similar conduct
- Any other information deemed relevant by the ERP
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment and/or retaliation
- The need for sanctions/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 victim and the community

### **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/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. This sanction will be noted as a Conduct Suspension on the student's official transcript.
- *Expulsion:* Permanent termination of student status, revocation of rights to be on campus for any reason or attend UNA-sponsored events. This sanction will be noted as a Conduct Expulsion on the student's official transcript.
- *Withholding Diploma.* UNA may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an Equity Resolution case pending, or 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, 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, the UNA may assign any other sanctions as deemed appropriate.

### **Employee Sanctions**

Responsive actions for an employee who has engaged in harassment, discrimination and/or retaliation include warning, required counseling, demotion, suspension with pay, suspension without pay and termination.

### **e. Notification of Outcomes**

The outcome of a Title IX investigation involving employees is a part of the personnel record of the employees but is not subject to disclosure or release. 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/vandalism of property and kidnapping/abduction. UNA will release this information to the reporting party in any of these offenses regardless of the outcome.

### **f. Withdrawal or Resignation While Charges Pending**

Students: UNA does not permit a student to withdraw if that student has a complaint pending for violation of the policy on Equal Opportunity, Harassment and Nondiscrimination, or for charges under the Code of Student Conduct. Should a student decide to leave and 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.

Employees: Should an employee resign while charges are pending, the records of the Title

IX Coordinator/Assistant Vice President for Human Resources will reflect that status, as will UNA responses to any future inquiries regarding employment references for that individual. The Title IX Coordinator/Assistant Vice President for Human Resources will act to promptly and effectively remedy the effects of the conduct upon the victim and the community.

#### **g. Appeals**

All requests for appeal considerations must be submitted in writing to the Title IX Coordinator/Assistant Vice President for Human Resources within three business days of the delivery of the written finding of the ERP.

A three-member panel of the ERP designated by the Title IX Coordinator/Assistant Vice President for Human Resources who was not involved in the complaint 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/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a 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 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 Coordinator/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 Coordinator/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 Coordinator/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/responsive actions, if any. This report should not exceed two pages in length and must be submitted to the Title IX Coordinator/Assistant Vice President for Human Resources within two (2) days of the end of deliberations.
- The Title IX Coordinator/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 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.

#### **g. Failure to Complete Sanctions/Comply with Responsive Actions**

All responding parties are expected to comply with conduct sanctions/responsive/corrective actions within the time frame specified by the Title IX Coordinator/Assistant Vice President for Human Resources/or designee. Failure to follow through on conduct sanctions/responsive/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from UNA and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator/Assistant Vice President for Human Resources.

#### **h. Records**

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>.

**i. Statement of the Rights of a Party Bringing a Complaint**

- To be treated with respect by UNA officials.
- To take advantage of campus support resources (such as Student Counseling Services, University Health Services, Women’s Center, and campus ministries for students; for employees University Health Services and Alabama Psychiatric Services)
- To experience a safe living, educational and work environment.
- To have an advisor during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To receive amnesty for minor student misconduct (such as alcohol or drug violations) that is ancillary to the incident.
- To be free from retaliation.
- To have complaints heard in substantial accordance with these procedures.
- To full participation of the injured party in any ERP process whether the injured party is serving as the party bringing a complaint or UNA is serving as party bringing a complaint.
- To be informed in writing of the outcome/resolution of the complaint, sanctions where permissible and the rationale for the outcome where permissible.
- Refer to law enforcement and have assistance.
- Housing and living accommodations.
- No contacts.

**j. Statement of the Rights of the Responding Party**

- To be treated with respect by UNA officials.
- To take advantage of campus support resources (such as Student Counseling Services, University Health Services, Women’s Center, and campus ministries for students; for employees University Health Services and a BCBS mental health provider)
- To have an advisor during this process.
- To refuse to have an allegation resolved through conflict resolution procedures.
- To have complaints heard in substantial accordance with these procedures.
- To be informed of the outcome/resolution of the complaint and the rationale for the outcome, in writing.

## **9. Revision**

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator and the Assistant Vice President for Human Resources. The Title IX Coordinator may make minor modifications to procedure that do not materially jeopardize the fairness owed to any party. However, the Title IX Coordinator and the Assistant Vice President for Human Resources may also vary procedures materially with notice (on the institutional web site, 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 its implementation will apply. Policy in effect at the time of the offense will apply even if the policy is changed subsequently, unless the parties consent to be bound by the current policy. Any changes required by law may be approved by University Counsel 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 policy and procedure was implemented in Fall 2015. It was revised in March 2017 to include the updated Consensual Relationship Policy.