

UNIVERSITY OF CENTRAL ARKANSAS
INTERIM TITLE IX SEXUAL HARASSMENT
GRIEVANCE PROCEDURES
Updated: 01/29/25

Table of Contents

ARTICLE I: INTRODUCTION	4
(a) Title IX Notice of Nondiscrimination.....	4
(b) Jurisdiction and Scope of Procedures	4
(c) Other Forms of Discrimination or Misconduct.....	5
(d) Period of Limitations	5
ARTICLE II: STATEMENTS OF POLICY	5
(a) Prohibition of Title IX Sexual Harassment.....	5
(b) Prohibition of Retaliation.....	6
(c) Prohibition on Providing False Information	6
(d) Confidentiality	6
(e) Amnesty	7
(f) Individuals with Disabilities	7
(g) Employees.....	7
(h) Retention of Records.....	7
(i) Presumption of Not Responsible	8
ARTICLE III: TITLE IX COORDINATOR ROLES AND RESPONSIBILITIES	8
(a) Title IX Coordinator	8
(b) Deputy Title IX Coordinators	8
ARTICLE IV: FILING A FORMAL COMPLAINT	8
(a) Reporting.....	8
(b) Actual Knowledge and Employees with Authority to Institute Corrective Measures.....	9
(c) Initial Report and Intake Process	10
(d) Form and Filing of Formal Complaint.....	10
ARTICLE V: FORMAL COMPLAINT PROCESS	12
(a) Notice of Formal Complaint	12
(b) Initial Meeting with Respondent.....	12
(c) Right to Advisor.....	13

(d) Emergency Removal/Administrative Leave	13
(e) Supportive Measures.....	13
ARTICLE VI: INVESTIGATION OF FORMAL COMPLAINT	14
(a) Investigation Process	14
(b) Designation of Investigator.....	14
(c) Conflicts of Interest.....	14
(d) Overview of Investigation.....	14
(e) Inspection and Access to Evidence.....	15
(f) Investigative Report	15
ARTICLE VII: DETERMINATION HEARING FOR FORMAL COMPLAINTS	16
Section I. Preliminary Process	16
(a) Determination Hearing.....	16
(b) Composition of Determination Hearing- Hearing Officer or Hearing Panel.....	16
(c) Notice to Parties of Hearing Officer/Hearing Panel Composition.....	17
(d) Submission of Witness Lists	17
(e) Notice of the Determination Hearing.....	17
(f) Failure to Appear	18
Section II. The Determination Hearing	18
(a) Option for Virtual/Live Video Presence	18
(b) Recordings	18
(c) Advisors	18
(d) Examination of Witnesses.....	19
(e) Evidentiary Matters and Procedures	19
(f) Prior Sexual Conduct	20
(g) Refusal to Submit to Cross Examination.....	20
(h) Confidentiality and Disclosure	20
(i) Decision of Hearing Officer or Panel and Standard of Evidence	21
(j) Determination of Hearing Officer or Panel	21
(k) Sanctions	21
(l) Remedies.....	22
ARTICLE VIII: APPEALS	22
(a) Grounds for Appeal.....	22

(b) Procedure for Appeals..... 22

(c) Responses..... 23

(d) Decision on Appeal..... 23

ARTICLE IX: INFORMAL RESOLUTION 23

DEFINITIONS..... 24

APPENDIX A: BOARD POLICY NO. 426, TITLE IX SEXUAL HARASSMENT 31

APPENDIX B: FORMAL COMPLAINT FORM..... 40

ARTICLE I: INTRODUCTION

(a) Title IX Notice of Nondiscrimination

The University does not discriminate on the basis of sex in the education programs or activities that the University operates, supports, or exercises substantial control over. Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., and the U.S. Department of Education's implementing regulations, 34 CFR Part 106 prohibits discrimination on the basis of sex in educational institutions. The University's nondiscrimination policy extends to admission, employment, and other programs and activities. Inquiries regarding the application of Title IX and 34 C.F.R. Part 106 may be sent to the University's Title IX Coordinator, the U.S. Department of Education Assistant Secretary for Civil Rights, or both.

(b) Jurisdiction and Scope of Procedures

These Grievance Procedures are established in compliance with United States Department of Education, Nondiscrimination on the Basis of Sex in Education Rules (Part 106 of Title 34 of the Code of Federal Regulations, § 106.8(c)). If any part or section of these Grievance Procedures are later found to be not in compliance with the Rules or any individual rule is revoked or amended, either through agency rulemaking or court ruling, the remaining Grievance Procedures will remain in effect until amended by the University. Title IX Sexual Harassment, as defined in Board Policy No. 426 (Appendix A) is a form of prohibited sex discrimination. Title IX requires the University to promptly and reasonably respond to Title IX Sexual Harassment. When a student, faculty, staff member, or other participant in the University of Central Arkansas' educational programs and activities feels they have been subjected to Title IX Sexual Harassment, that individual may use these Title IX grievance procedures to bring concerns to the attention of UCA's Title IX Coordinator for the purpose of obtaining a prompt and equitable resolution. Additionally, employees are encouraged to promptly report any instances of Title IX Sexual Harassment that they observe or learn about.

These procedures apply to any formal complaint of Title IX Sexual Harassment made by or against a student or an employee of the University or a third party, regardless of where the alleged sexual misconduct occurred, if the conduct giving rise to the complaint is related to the University's academic, educational, athletic, or extracurricular programs or activities and the University exercised substantial control over the respondent and the context in which the incident occurred. Additionally, at the time a formal complaint alleging Title IX Sexual Harassment is filed, the complainant must be participating in (or attempting to participate in) an educational program or activity of the University. Further, the University is obligated to apply these procedures in instances where the allegations occur within property owned or controlled by a recognized student organization (RSO), regardless of whether the building or property is on or off campus, and regardless of whether the University exercised substantial control over the respondent and the context of the harassment.

These procedures apply only to allegations that arise in the United States, and are therefore not applicable to study abroad programs or any educational program or activity that takes place

outside the United States. For allegations that pertain to an educational or program or activity outside the United States, in which the University would otherwise have an obligation to apply these procedures, the allegations shall be referred to the appropriate student conduct determination process.

These procedures are administrative in nature. All complaints that allege conduct which violates the Title IX Sexual Harassment Policy, regardless of when the alleged conduct occurred, will be adjudicated pursuant to these procedures. These procedures supersede all previous procedural rules used to determine Title IX Sexual Harassment complaints filed with the University.

(c) Other Forms of Discrimination or Misconduct

These procedures apply ONLY to allegations and complaints of Title IX Sexual Harassment as defined herein. All other complaints of discrimination or misconduct that do not fall within the jurisdiction of Title IX may be made through other campus procedures.

Complaints or reports provided to the Title IX Coordinator alleging inappropriate or unprofessional conduct that does not give rise to a violation of the Title IX Sexual Harassment Policy will be referred to the appropriate University official for determination and will follow the appropriate procedures established for the specific misconduct alleged. If the Respondent is a faculty member, the Title IX Coordinator will consult with the Provost. If the Respondent is a staff member, the Title IX Coordinator will consult with the Associate Vice President for Human Resources/Risk Management. If the Respondent is a student, the Title IX Coordinator will consult with the Dean of Students.

(d) Period of Limitations

While no statutory period of limitations will be applied, complaints of Title IX Sexual Harassment should be filed as soon as practical. Delays in filing a complaint may compromise the subsequent investigation, particularly if neither the Complainant nor the Respondent is employed by the University or enrolled as a student at that time. Further complications may arise that negatively impact any subsequent investigation due to a delay in reporting, including, but not limited to: evidence preservation, witness memory, witness availability, and statutes of limitation for criminal conduct.

ARTICLE II: STATEMENTS OF POLICY

(a) Prohibition of Title IX Sexual Harassment

Sexual harassment, including, but not limited to, sexual assault, dating violence, domestic violence, stalking, unauthorized distribution of sexual images or recordings, or any crime that is based upon sexual acts defined at the adoption of this policy or later enacted by the State of Arkansas, by any faculty member, staff member, student, or a third party who is a participant in a university-sponsored program, event, or activity under substantial control of the University is a violation of University policy and will not be tolerated at the University of Central Arkansas. Further, the University of Central Arkansas is committed to providing ongoing sexual

harassment primary prevention, awareness, and risk reduction programs and training for the entire UCA community. Sexual harassment of employees is prohibited under Section 703 of Title VII of the Civil Rights Act of 1964 and sexual harassment of students may constitute discrimination under Title IX of the Education Amendments of 1972. This policy seeks to comply with requirements mandated by the Violence Against Women Reauthorization Act of 2013. The university considers sexual harassment a very serious issue and shall subject the offender to dismissal and/or other sanctions following the university's investigation and substantiation of the complaint and compliance with due process requirements.

(b) Prohibition of Retaliation

Retaliation against any person in the UCA community for filing, supporting, providing information, or for cooperating in a sexual misconduct investigation in good faith, in connection with a complaint of sexual misconduct is strictly prohibited. Examples of retaliation may include, but are not limited to, adverse employment actions such as termination, refusal to hire, and denial of promotion. Additionally, retaliation in the form of harassment, intimidation, threats, or coercion, or in the form of any materially adverse harm that would dissuade a reasonable student or employee from filing a harassment complaint or participating in a harassment investigation is strictly prohibited. Any person who feels he/she has been subjected to retaliation should make a report to the Title IX coordinator.

(c) Prohibition on Providing False Information

Any individual who knowingly files a false complaint, who knowingly provides false information to University officials or who intentionally misleads the University officials who are involved in the investigation or resolution of a complaint may be subject to disciplinary action.

(d) Confidentiality

In the course of a complaint investigation, the University will make reasonable efforts to maintain confidentiality of the complaints. In the event of an emergency or ongoing threat to the health, safety, or security of any individual or the campus community, the University may release information to the extent necessary to appropriately address the situation presented. In all other circumstances, 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. If a report is made by a third-party, that third-party will not be notified or informed of any outcome, investigation, or formal process conducted by the University. 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 a report 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, or 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. As these Grievance Procedures are administrative in nature, any

finding of responsibility or sanctions will not be released or documented on any transcript or releasable employment document of the responsible party.

(e) Amnesty

The University encourages reporting of incidents of Title IX Sexual Harassment and seeks to remove barriers to reporting when possible. The University will not take punitive action against individuals in the case of illegal alcohol use by victims, witnesses, and/or those reporting incidents and/or assisting the victims of sexual misconduct, provided they are acting in good faith in such capacity. The use of alcohol, drugs, and/or legally prescribed medication does not justify or excuse behavior that constitutes prohibited conduct under this policy.

(f) Individuals with Disabilities

The University will ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in the steps and procedures outlined here within. Requests for accommodations must be made to the Director of the Disability Resource Center (located in the Student Health Center, Suite 212 and available by phone at (501) 450-3613).

(g) Employees

All non-tenure track faculty and staff members of the University without term contracts are at-will employees who may be terminated at any time, with or without cause. With regard to such faculty and staff, nothing in this Policy shall create an expectation of continued employment with the University or be construed to prevent or delay the University from taking any disciplinary action deemed appropriate (including suspension and immediate termination of employment) for any violation of state law, federal law or University policy.

(h) Retention of Records

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

- 1). Each sexual harassment investigation, including any determination regarding responsibility, any recordings or transcripts, disciplinary sanctions, and remedies provided to the complainant
- 2). Any appeal and the result therefrom
- 3). Any informational resolution and the result therefrom
- 4). 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 on the University's website.
- 5). Records of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, along with documentation of the University's bases for its conclusion that its response was not deliberately indifferent. Documentation pertaining to terminations, expulsions or educational sanctions may be retained indefinitely.

(i) Presumption of Not Responsible

Under these Grievance Procedures, the Respondent is presumed to not be responsible for the alleged violation until a determination of responsibility is made at the conclusion of the grievance process.

ARTICLE III: TITLE IX COORDINATOR ROLES AND RESPONSIBILITIES

(a) Title IX Coordinator

The university has designated a Title IX coordinator who will be responsible for ensuring the university has required policies and procedures in place; ensuring prompt and effective processing of complaints; administering a centralized complaint filing system; conducting evaluations of school compliance; for analyzing trends revealed by complaints; coordinating investigations and enforcement activities; assist in arranging for training for staff and students; making an initial determination of whether the issues raised in complaints meet the definition of Title IX Sexual Harassment; and for monitoring on behalf of the institution overall compliance with this policy and related federal and state legislation and regulation.

(b) Deputy Title IX Coordinators

The university may designate one or more deputy coordinators to assist the Title IX coordinator. Such deputies will be authorized to receive complaints and preform the administrative duties of the Title IX Coordinator in the event of a conflict of interest or when the Title IX Coordinator is unavailable. Deputy Title IX Coordinators will only be precluded from filling other administrative duties related to the Title IX Grievance Procedures when they have also served in the Title IX Coordinator role for the same complaint or when a conflict of interest is determined to exist. Whenever the phrase “Title IX coordinator” appears in this policy and other policies in connection with administering an individual complaint, it will be understood to include both the coordinator and any deputy coordinators who may have been assigned responsibilities to administer the matter. Deputy Title IX Coordinators will be trained and assigned roles in the hearing process as either investigators or hearing officers based upon the needs of the University and the availability of individual Deputy Title IX Coordinators.

ARTICLE IV: FILING A FORMAL COMPLAINT

(a) Reporting

Because Title IX Sexual Harassment may, in some instances, constitute both a violation of University policy and criminal statutes, and because the University grievance process is not a substitute for law enforcement investigations or criminal prosecution, the University encourages individuals to report alleged sexual crimes promptly to campus officials and the University of Central Arkansas Police Department.

Individuals may, however, choose not to report alleged Title IX Sexual Harassment to such University officials and/or the University of Central Arkansas Police Department. Nevertheless, the University may notify appropriate law enforcement authorities if required or warranted by

the nature of the allegations and in consideration of the safety of any individual or the entire campus community.

Individuals are strongly encouraged to submit reports promptly in order to preserve evidence for a potential legal or disciplinary proceeding. All complaints or reports of Title IX Sexual Harassment should be submitted to the Title IX Coordinator:

Jennifer Craun
Associate General Counsel and Title IX Coordinator
Wingo Hall, Suite 207
201 Donaghy Avenue
Conway, Arkansas 72035
501-450-3247
Email: jcraun@uca.edu

Reports may also be submitted online at uca.edu/titleix or via email directly to the Title IX Coordinator. While certain information may be required to initiate a formal complaint inquiry, reports may be submitted in any form, including verbally. The Title IX Coordinator will attempt to contact the Complainant directly to gather additional required information, and offer the Complainant the opportunity to file a Formal Complaint (as described in paragraph C of this section).

(b) Actual Knowledge and Employees with Authority to Institute Corrective Measures
In addition to the Title IX Coordinator, the following individuals have been designated by the University as employees with the authority to institute corrective measures on behalf of the University, and may receive reports, in any form:

President
Provost
College Deans
Vice President of Student Affairs
Vice President of Finance and Administration
Vice President of Advancement
Director of Athletics
Chief Information Officer
Chief of Staff

Once one of the employees with the authority to institute corrective measures receives a report or notice in any form of an alleged violation of the Title IX Sexual Harassment policy, that employee shall immediately forward the information to the Title IX Coordinator for review. Reports made to the individuals listed above constitutes actual knowledge on behalf of the University of an allegation of a violation of the Title IX Sexual Harassment Policy.

(c) Initial Report and Intake Process

Promptly upon receiving a report of conduct that could potentially be a violation of the Title IX Sexual Harassment Policy, the Title IX Coordinator will contact the Complainant to schedule an initial meeting to, as applicable:

- i. provide a copy of this policy
- ii. explain the process for filing a formal complaint and provide a copy of the Sexual Harassment Complaint Form (a copy of which is attached as Appendix B) on which the Complainant may, if he or she agrees to disclose the information, provide details regarding the allegation, including the name of the accused individual and the date, location, and general nature of the alleged violation of policy
- iii. explain avenues for resolution, including informal and formal
- iv. explain the steps involved in an investigation and hearing under this policy
- v. discuss confidentiality standards and concerns
- vi. refer the Complainant to law enforcement, counseling, medical, academic or other resources, as appropriate
- vii. discuss, as appropriate, possible supportive measures, which are available with or without the filing of a formal complaint

If the Complainant requests that no further action be taken and/or that no Formal Complaint be pursued, the Title IX Coordinator will inform the Complainant that retaliation is prohibited and that honoring the Complainant's request may limit the University's ability to fully respond to the alleged violation. In the event the Complainant requests that no further action be taken, the Title IX Coordinator will evaluate whether to file a Formal Complaint under the criteria set forth below without the approval of the Complainant.

(d) Form and Filing of Formal Complaint

Formal Complaints: Alleged violations of the Title IX Sexual Harassment Policy may be submitted in any form by any person, including third-party witnesses or individuals with knowledge of an alleged violation of the Title IX Sexual Harassment. However, a FORMAL COMPLAINT is only considered to be "filed" when:

- 1) The complaint is submitted, in writing, by a Complainant (individual harmed by a violation of the Title IX Sexual Harassment Policy) and signed as received by the Title IX Coordinator; or
- 2). The Title IX Coordinator may file a Formal Complaint without the approval of a Complainant in the following circumstances:
 - i. There is an ongoing safety concern for the individual concerned; or
 - ii. There is an ongoing safety concern for any individual; or
 - iii. There is an ongoing safety concern for the campus community; or
 - iv. The filing of a Formal Complaint is in the best interest of the University.

In the event the Title IX Coordinator files a Formal Complaint for one of the above listed reasons, the Title IX Coordinator will notify the harmed individual of that decision and

document the nature of the safety concern or the interests of the University on the written Formal Complaint form.

Filing: The filing of a formal, written complaint initiates the formal complaint process and is available to any person who is participating in (or attempting to participate in) a University educational program or activity. After a Formal Complaint is filed, an investigator designated by the Title IX Coordinator will investigate the allegations. Formal Complaints can be filed in several ways. The Complainant may utilize the form provided online at uca.edu/titleix or may submit the complainant's own document that contains the complainant's signature (either physical or digital) and is filed with the University's Title IX Office by U.S. mail, in person, or by email. The formal complaint should set forth the allegations and request that the Title IX Office investigate the matter.

Consolidation of Complaints: The Title IX Coordinator may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Supplemental Information or Correction of Form: The process of filing a Formal Complaint is not intended to prevent or delay any person participating or attempting to participate in an educational program or activity of the University from making a complaint of a violation of the Title IX Sexual Harassment Policy. In the event the complaint is missing required information or does not meet the procedural requirements, the Title IX Coordinator will notify the Complainant of the deficiency and provide the opportunity to supplement or correct the written complaint. The complaint must contain sufficient information to provide notice to a Respondent of an alleged violation.

Dismissal of Complaint Prior to Resolution: A formal complaint must be dismissed by the Title IX Coordinator if the alleged conduct:

- (1) does not constitute Title IX Sexual Harassment, as defined in Board Policy No. 426, even if proved;
- (2) did not occur in the University's education program or activity; or
- (3) did not occur against a person in the United States.

In addition, a complaint may be dismissed if, at any time during the investigation or hearing, a Complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the Respondent is no longer enrolled or employed by the University; or specific circumstances prevent the gathering of evidence sufficient to reach a determination as to the formal complaint or any allegations therein.

Upon dismissal of a formal complaint, for any reason, the Title IX Coordinator will send simultaneous, written notice of and reason(s) for the dismissal to the parties. The dismissal decision may be appealed pursuant to the procedure for appeals set forth in this policy.

Dismissal of a complaint under the Title IX Sexual Harassment Grievance Procedures does not preclude a Complainant from pursuing a grievance through other appropriate campus procedures.

ARTICLE V: FORMAL COMPLAINT PROCESS

(a) Notice of Formal Complaint

Upon receipt of the formal complaint, the Title IX Coordinator will send simultaneous notifications of the filing of the complaint to the Complainant and the Respondent (if known). If, in the course of an investigation, the Title IX Coordinator decides to investigate allegations about the Complainant or Respondent that are not included in the initial notice, the Title IX Coordinator must provide notice of the additional allegations to the parties whose identities are known. The initial notice will contain the following:

- i. The allegations of the complaint that potentially constitute Title Sexual Harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview (including the identities of the parties involved in the incident, if known, the conduct allegedly constituting Title IX Sexual Harassment under this policy, and the date and location of the alleged incident, if known),
- ii. A copy of the Title IX Sexual Harassment Grievance Procedures,
- iii. A statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process
- iv. A statement informing the parties that they have a right to have one advisor of their choice to assist them throughout the proceedings who may be (but is not required to be) an attorney. If any party does not choose an advisor, the University will provide an advisor, free of charge.
- v. A statement that the parties have the right to inspect and review all evidence collected during the complaint process
- vi. A statement that any party who knowingly makes false statements or submits false information during the grievance process will be subject to disciplinary procedures

(b) Initial Meeting with Respondent

If a formal complaint is filed, the Title IX Coordinator will promptly schedule an initial meeting with the respondent after the written notice of the formal complaint is sent as described above. Prior to the initial meeting, the Title IX Coordinator shall provide a written notice of the date, time, location, participants, and purpose of the meeting, with sufficient time for the party to prepare to participate. During the initial meeting with the respondent, the Title IX Coordinator (or designee) will, as applicable:

- i. provide a copy of this policy (if not previously provided)
- ii. explain avenues for resolution, including informal and formal
- iii. explain the steps involved in an investigation and hearing under this policy
- iv. discuss confidentiality standards and concerns
- v. discuss non-retaliation requirements

- vi. inform of any supportive measures already determined and being provided to the complainant that would directly affect the respondent
- vii. refer to law enforcement, counseling, medical, academic or other resources, as appropriate
- viii. discuss, as appropriate, possible supportive measures that can be provided to the respondent

(c) Right to Advisor

Both parties will be advised that they may be accompanied by one advisor to assist them throughout the Title IX process, which may be (but is not required to be) an attorney. The advisor is not allowed to speak or otherwise actively participate during the pre-hearing interviews or meetings. It is the party's responsibility to obtain the services of an advisor, except that the University shall make an advisor available to the parties during the determination hearing upon request, at no charge to the party. Advisors provided by the University will typically be an employee of the University, but no employee of the University will be compelled or required to serve as an advisor. Requests for the University to provide an advisor for the determination hearing should be made at least 10 days prior to the hearing. The advisor's role at the hearing is further explained below

(d) Emergency Removal/Administrative Leave

Emergency Removal: If the University, through recommendation of the Title IX Coordinator, determines that the respondent poses an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Title IX Sexual Harassment, it may remove the respondent from the University's programs or activities. In such instances, the respondent will be provided with a written notice of the reasons for the removal. Within 5 days of receiving the notice, the respondent may challenge the decision by requesting a meeting with the Vice President for Student Services and Institutional Diversity.

Administrative leave: Nothing in this policy precludes the University from placing a non-student employee respondent on administrative leave during the pendency of the grievance process.

(e) Supportive Measures

Supportive measures 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
- changes in working or housing locations
- leaves of absence
- increased security and monitoring of certain areas of the campus

The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

ARTICLE VI: INVESTIGATION OF FORMAL COMPLAINT

(a) Investigation Process

If resolution of the allegations does not proceed through the informal process, the matter will proceed with a comprehensive investigation and resolution through the formal complaint processes. The Title IX Coordinator will be responsible for overseeing the prompt, equitable, and impartial investigation during the formal complaint process. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility shall rest on the University and not the parties.

(b) Designation of Investigator

The Title IX Coordinator will designate an investigator to conduct the investigation, and the Title IX Coordinator will share the investigator's name and contact information with the Complainant and the Respondent and will forward the complaint to the investigator.

(c) Conflicts of Interest

Immediately after the identity of the person who will conduct the investigation is determined and communicated to the parties, the investigator, the Complainant, or the Respondent may identify to the Title IX Coordinator in writing any real or perceived conflicts of interest or bias that the person charged with conducting the investigation (including the Title IX coordinator, where applicable) may have. The Title IX Coordinator will carefully consider such statements and will assign a different individual as investigator if it is determined that a material conflict of interest exists.

(d) Overview of Investigation

Upon receipt of the formal complaint and initial determination of jurisdiction and applicability of these procedures by the Title IX Coordinator, the Investigator will promptly begin the investigation, which shall include but is not limited to the following:

- i. conducting interviews with the complainant, the respondent, and any witnesses (including expert witnesses, where applicable) and summarizing such interviews in written form
- ii. visiting, inspecting, and taking photographs at relevant sites
- iii. where applicable, collecting and preserving relevant evidence (in cases of corresponding criminal reports, this step may be coordinated with law enforcement agencies)
- iv. obtaining any relevant medical records pertaining to treatment of the complainant, provided that the complainant has voluntarily authorized release of the records in writing to the investigator

(e) Inspection and Access to Evidence

The parties may identify to the Investigator any evidence or witnesses they wish to be included as part of the investigation. Both parties will also have equal opportunity to inspect and review any evidence obtained during the investigation. The Investigator will complete the gathering of evidence as soon as practicable, which will ordinarily occur within approximately 45 days of the filing of the formal complaint.

After the gathering of evidence has been completed, but prior to completion of the investigative report, the Investigator will provide to each party any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the University does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence (whether obtained from a party or other source), so that each party can meaningfully respond to the evidence prior to the conclusion of the investigation. The evidence will be provided in an electronic format or a hard copy. The parties will have 10 days to submit a written response to the evidence, which will be considered by the Investigator prior to completion of the investigative report. The evidence will be made available for the parties to use at the hearing to determine responsibility. The release of evidence does not create any new exception to any recognized legal privilege, and confidential communications made by the parties to attorneys, psychotherapists, and clergy will not be collected by the Investigator or released to either party even if inadvertently provided to the investigator by a party who is not the privilege holder. Determinations on whether or not a particular communication is privileged will be determined by the University General Counsel or designee. The names and personally identifying information of any student who is not either a Complainant or Respondent to the Formal Complaint will be redacted from the report and any information provided to the parties.

(f) Investigative Report

The investigative report is intended to aid the University and the parties in determining the issues, witness testimony, and evidence that may be presented at the Determination Hearing. The investigator will make no disposition recommendation or provide an opinion of the totality of the evidence or credibility of witnesses in the investigative report. The investigative report itself is not evidence to be considered independently at the Determination Hearing, but shall fairly summarize the relevant evidence and must include the following items and information that is relevant to the allegations in the formal complaint:

- i. the dates of the Title IX Coordinator's initial receipt of a report of alleged sexual harassment against the complainant, intake meeting, and the filing of the formal complaint
- ii. a statement of the allegation(s), a description of the incident(s), the date(s) and time(s) (if known), and location of the alleged incident(s)
- iii. the names of all known witnesses to the alleged incident(s) (The names and personally identifying information of any student who is not either a Complainant or Respondent to the Formal Complaint will be redacted from the report and any

information provided to the parties, in compliance with Family and Educational Rights and Privacy Act, 34 CFR Part 99).

- iv. the dates that the complainant, respondent, and other witnesses were interviewed, along with summaries of the interviews
- v. descriptions or summaries of any physical or documentary evidence that was obtained (e.g., text messages, emails, surveillance video footage, photographs)
- vi. any written statements pertaining to the allegations made by the complainant, respondent, or other witnesses
- vii. the response of University personnel and, if applicable, University-level officials, including any supportive measures taken with respect to the complainant and respondent (excluding any privileged communications to attorneys, psychotherapists, clergy, or any other relevant privileged communication)

The Investigator shall provide a draft of the investigative report to the Title IX Coordinator for review before the report becomes final. An electronic or hard-copy version of the final investigative report will be provided to each party (and each party's advisor) concurrently. The investigative report shall be provided as soon as practicable after the parties have submitted their written responses to the evidence (if any) and at least 10 calendar days prior to the determination hearing. The parties may provide a written response to the investigative report within 5 days after receiving it.

ARTICLE VII: DETERMINATION HEARING FOR FORMAL COMPLAINTS

Section I. Preliminary Process

(a) Determination Hearing

Following the conclusion and distribution of the investigative report, an in-person hearing with live testimony will be conducted to determine the outcome and resolution of the complaint. The parties and their advisors, if any, will be notified by the Hearing Officer, Hearing Panel chairperson, or Title IX Coordinator of the date, time and location of the hearing, as describe in the notice provisions below.

(b) Composition of Determination Hearing- Hearing Officer or Hearing Panel

Within 3 days of the release of the investigative report to the parties, the University President or his/her designee will appoint (1) a single Hearing Officer; or (2) a three-member Hearing Panel, which shall be composed of at least 2 faculty and/or staff members. No individual who participated in the intake, investigation, or any other preliminary matter related to a specific formal complaint shall serve as Hearing Officer or Panel Member for the determination hearing arising from the same formal complaint. If a Hearing Panel will be used, the University President or his/her designee will select one member of the Hearing Panel to act as the Chair. The Title IX Coordinator will provide a copy of the formal complaint and the investigative report, along with the parties' written responses to the investigative report, to the Hearing Officer or each member of the Hearing Panel. The investigative report and attendant documents will not

be considered evidence for a finding of "responsible" or "not responsible" for violation of the Title IX Sexual Harassment Policy, but will be used to provide an overview of the matter and context for the Hearing Officer/Hearing Panel. Only live, in-person testimony and documentary or physical evidence received during such testimony will be considered for determination of "responsible" or "not responsible," and all findings must be based upon that testimony.

(c) Notice to Parties of Hearing Officer/Hearing Panel Composition

Promptly after the appointment of the members of the Hearing Officer or Hearing Panel, the Title IX Coordinator will provide concurrent written notice to the Complainant and the Respondent, setting forth the names of the individuals selected to serve as the Hearing Officer or as a member of the Hearing Panel. The parties may challenge the participation of any decision-maker by submitting a written objection to the University President or his/her designee within 3 days of receipt of the notice. Any objection must state the specific reason(s) for the objection. The University President or his/her designee will evaluate the objection and determine whether to select a new Hearing Officer or alter the composition of the Hearing Panel. Failure to submit a timely and proper objection will constitute a waiver of the objection. Any changes in the Hearing Officer or Hearing Panel will be provided in writing to both parties prior to the date of the hearing.

(d) Submission of Witness Lists

Within 5 days of receipt of the notice of the Hearing Officer or Hearing Panel Composition, both parties may provide to the Hearing Officer or Chair of the Hearing Panel a list of witnesses, if any, that they propose be called to testify and a brief description of each proposed witness's connection to and/or knowledge of the issues in dispute. A party generally cannot include a witness on the pre-hearing witness list unless the witness was identified during the investigation. Additionally, the Hearing Officer/Hearing Panel may request witnesses provide testimony, even if not included in the parties' witness lists, if the witness is relevant and necessary to determining the outcome and otherwise identified in the investigation report. The parties may provide an expert witness or witnesses, at their own expense, if the Hearing Officer/Panel determines that expert witness will provide testimony relevant to any factual question presented. Expert witnesses must be included in the witness list in order to be considered by the Hearing Officer/Panel.

(e) Notice of the Determination Hearing

After delivery of the notice of the Hearing Officer's identity or initial composition of the Hearing Panel and prior to the hearing, the Title IX Coordinator, the Hearing Officer or Chair of the Hearing Panel will provide a separate notice to the Complainant, Respondent, and any other witnesses whose testimony the Hearing Officer or Hearing Panel deems relevant, requesting such individuals to appear at the hearing to determine responsibility. The notice should set forth the date, time, and location for the individual's requested presence. While witness who are not employed by the University will not be compelled to appear at the determination hearing, employees of the University have a duty to cooperate and shall appear if requested by the

Hearing Officer or Panel. The duty to cooperate does not apply to formal complaints where the Complainant or Respondent is an employee.

(f) Failure to Appear

If any party fails to appear at the hearing after receiving notice of the hearing as set forth above, then absent extenuating circumstances, the Hearing Officer or Hearing Panel will proceed to determine the resolution of the complaint. If a party fails to appear, the Hearing Officer or Hearing Panel **will not** consider the non-appearing party's version of events based on another source, such as the formal complaint or a prior statement.

Section II. The Determination Hearing

(a) Option for Virtual/Live Video Presence

Live hearings may be conducted with either all parties present in the same geographic location or, at the University's discretion, any or all parties and witnesses may 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 party. 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 or the witness answering questions. Instructions will be provided for accessibility prior to the hearing date.

(b) Recordings

An audio or audio-visual recording will be created of the live hearing and will be made available for inspection and review at any parties' request. No transcription will be provided by the University.

(c) Advisors

Both the Complainant and Respondent may be accompanied by an advisor during the hearing. The advisor's role at the hearing shall be limited to:

- (1) providing private advice to the party he/she is supporting, and
- (2) questioning the opposing party and other witnesses.

Except for witness examinations, the advisor may not take active part in the hearing. The advisor may not, for example, make arguments to the Hearing Officer or Hearing Panel, make objections or statements, or otherwise participate in the hearing beyond privately communicating with the party that he/she is supporting. Neither the Complainant nor Respondent may directly ask questions of the other party during the hearing.

The advisor may be any person a party chooses, including an attorney. A party may arrange for the party's advisor of choice to attend the hearing at the party's own expense. Alternatively, the University will select and provide an advisor for the party, without fee or charge, upon request by a party. In either scenario, the advisor may only participate in the hearing to the extent

allowed under this policy. When the University provides an advisor, the University will select an employee of the University.

(d) Examination of Witnesses

Each party's advisor is permitted to question the opposing party and the other witnesses, so long as the questions are relevant and not duplicative of the questions posed by the Hearing Officer or Hearing Panel. The questions may include challenges to credibility. No other questioning or speaking participation by an advisor will be allowed. A party may not examine the opposing party directly; rather, a party must utilize the services of an advisor for the purpose of posing questions to another party. 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. A party may ask questions of non-party witnesses directly, without the use of an advisor or written questions.

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 must be notified in advance of the hearing if a party will be accompanied by an advisor. The Hearing Officer or Panel Chair may disallow the attendance of any advisor if, in the discretion of the Hearing Officer or Panel Chair, such person's presence becomes disruptive or obstructive to the hearing or otherwise warrants removal. Advisors will be not be permitted to badger or question the opposing party or any witness in an abusive or threatening manner. Absent accommodation for a disability, the parties may not be accompanied by any other individual during the hearing process except as set forth in this policy. University officials may seek advice from the University's Office of General Counsel on questions of law, policy, and procedure at any time during the process.

(e) Evidentiary Matters and Procedures

At the determination hearing, the parties 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, as the hearing is administrative in nature. The Hearing Officer or Hearing Panel will conduct the initial questioning of witnesses prior to the questioning by an advisor. The Hearing Officer or Chair of the Hearing Panel (acting alone or in consultation with other panelists) will make all determinations regarding the order of witnesses, relevancy of questions, and the evidence to be considered or excluded during the hearing and decision-making process. The Hearing Officer or Hearing Panel may choose to call the Investigator for the purpose of providing an overview of the investigation and evidence collected. The Investigator will be subject to cross-examination by the party's advisor in such instances. All witnesses who appear in person will be subject to cross-examination. If a party or witness does not attend the hearing,

the Hearing Officer or Hearing Panel may rely on any relevant statement of that Party or witness in reaching a determination regarding responsibility.¹

(f) Prior Sexual Conduct

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent. Previous sexual relationships, alone, are not evidence of consent in a subsequent sexual encounter between the same participants. Previous sexual relationship evidence is only permitted to show a mistake of fact as to consent on behalf of a Respondent or that the specific type of sexual activity at issue was previously engaged in, consensually, to establish a mutual agreement related to the specific sexual act.

(g) Refusal to Submit to Cross Examination

If a party or witness refuses to submit to cross-examination at the live hearing, the decision-maker(s) may nevertheless rely on any statement of that party or witness in reaching a determination regarding responsibility; provided, however, that the decision-maker(s) cannot draw an inference about the determination of responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. Further, a Respondent may choose not to testify at the hearing, and a Respondent may provide a written statement in lieu of testimony if the Respondent desires. If a party or witness whose credibility is challenged by either party refuses to submit to cross-examination, then the Hearing Officer of Hearing Panel shall weigh the credibility of any statement provided by the refusing party or witness against other testimony provided to reach a determination regarding responsibility.²

(h) Confidentiality and Disclosure

To comply with FERPA and Title IX and to provide an orderly process for conducting the grievance process, the determination hearing and any investigation or process conducted under these procedures is not open to the general public. Accordingly, documents prepared in anticipation of the hearing (including the formal complaint, investigative report, evidentiary materials, notices, and prehearing submissions), recordings of the hearing, and documents, testimony, or other information used at the hearing may not be disclosed outside of the hearing proceedings, except as may be required or authorized by law.

¹ This provision is effective as to any Determination Regarding Responsibility rendered by Decision Makers on or after August 24, 2021. It replaces a provision in prior versions of these procedures that prohibited reliance on such statements. That provision was based on a regulatory requirement of the U.S. Department of Education that has since been vacated by a federal court and that is no longer enforced by the Office for Civil Rights. *See* Suzanne B. Goldberg, Acting Assistant Secretary for Civil Rights, U.S. Department of Education, "Letter to Students, Educators, and other Stakeholders re Victim Rights Law Center et al. v. Cardona," p.1 (August 24, 2021).

² *Ibid.*

(i) Decision of Hearing Officer or Panel and Standard of Evidence

Following the conclusion of the hearing, the Hearing Officer or Hearing Panel will confer and determine whether the evidence establishes that it is more likely than not that the respondent committed a violation of this policy. In other words, the standard of proof will be the preponderance of the evidence. This standard applies to complaints against both students and employees. In reaching the determination, the Hearing Officer or Hearing Panel will objectively and thoroughly evaluate all relevant evidence, both inculpatory and exculpatory, and reach an independent decision, without deference to the investigative report or consideration of any statements or evidence not presented at the hearing. If a Hearing Panel is utilized, the determination of responsibility shall be made by majority vote.

(j) Determination of Hearing Officer or Panel

As soon as practicable following the hearing (and ordinarily within 10 days thereafter), the Hearing Officer or Panel Chair shall complete a report of the findings. The Hearing Officer or Panel Chair will send simultaneous notification of the decision to both parties and their advisors, where applicable, with the following information:

- i. Identification of the allegations potentially constituting a violation of the Title IX Sexual Harassment Policy
- ii. Findings of fact that support the determination
- iii. A statement and rationale for the result as to each allegation, including a determination as to responsibility using the preponderance of the evidence standard
- iv. Any disciplinary sanctions imposed on respondent
- v. Whether any remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the Complainant (description of remedies is not included)
- vi. Procedures and permissible bases for the parties to appeal

(k) Sanctions

If the Hearing Officer or Hearing Panel determines that more likely than not the Respondent committed a violation of the Title IX Sexual Harassment Policy, then the Hearing Officer or Hearing Panel will determine sanctions and give consideration to whether a given sanction will:

- (a) bring an end to the violation in question,
- (b) reasonably prevent a recurrence of a similar violation, and
- (c) remedy the effects of the violation.

Sanctions for a finding of responsibility will depend upon the nature and gravity of the violation, any record of prior discipline for a violation of this policy, or both. The range of potential sanctions is set forth in the definitions section of this policy.

Ordinarily, sanctions will not be imposed until the resolution of any timely appeal under this policy. However, if it is deemed necessary to protect the safety and/or welfare of the Complainant or the University community, the Hearing Officer or Hearing Panel may recommend to the decision-maker on appeal that any sanctions be imposed immediately and continue in effect until such time as the appeal process is exhausted.

(I) Remedies

Where a determination is made that the respondent was responsible for violating the Title IX Sexual Harassment Policy, the Hearing Officer or Hearing Panel will determine any final remedies to be provided to the Complainant, if any, and the Title IX Coordinator will communicate such decision to the Complainant and the Respondent (to the extent that it affects him/her). Remedies must be provided in all instances in which a determination of responsibility for violating the Title IX Sexual Harassment Policy has been made against the Respondent. Remedies must be designed to restore or preserve equal access to the University's education program or activity. Such remedies may include the same individualized services described above as "supportive measures"; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the Respondent.

ARTICLE VIII: APPEALS

(a) Grounds for Appeal

An appeal from the decision of the Hearing Officer or Hearing Panel must be for one of the following reasons:

- (1) a procedural irregularity that affected the outcome of the decision;
- (2) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made and that could affect the outcome of the matter is presented; or
- (3) the Title IX Coordinator, Investigator(s), Hearing Officer, or Panel Member(s) had a conflict of interest or bias for or against complainants or respondents in general or against an individual complainant or respondent that affected the outcome.

An appeal from the decision by the Title IX Coordinator to dismiss a formal complaint can be made by the Complainant for any reason.

(b) Procedure for Appeals

Both the Complainant and the Respondent may appeal from (1) the Title IX Coordinator's dismissal of a formal complaint or any allegations contained therein, or (2) the Hearing Officer or Hearing Panel's determination regarding responsibility and sanctions. The appeal should be submitted in writing to the Title IX Coordinator within 5 days of receipt of the Hearing Officer or Hearing Panel's decision, or, in the case of an appeal to dismiss the formal complaint, 5 days of receipt of the written determination by the Title IX Coordinator. The Title IX Coordinator will forward the appeal to the President. The appeal will be decided based on the written record and without deference to the decision of the Hearing Officer or Hearing Panel in the case of an appeal from a determination hearing. The President may confer with the University General Counsel in the case of an appeal of a decision to dismiss a formal complaint. Either party may consult with an advisor of their choosing, including an attorney, at their own expense. The University will provide an advisor upon request to any party, at no expense to the party.

If the respondent is an employee, then the President will designate a University official to decide the appeal. If the respondent is a student, then the President at his/her discretion will designate an Appeal Panel comprised of at least two faculty and staff members. The President shall designate one of the panelists as the Chair of the Appeal Panel. The President's designee (in cases where the respondent is an employee) or the Chair of the Appeal Panel shall make any decisions concerning appellate jurisdiction under the permissible grounds for appeal.

The party appealing may submit any written and signed document outlining their basis for appeal. Acceptable means of notification include email, facsimile, hand-delivered notification, or postal delivery. The Title IX Coordinator will promptly inform the other party of the appeal.

(c) Responses

Within 5 days of receipt of the appeal, the other party may submit a written response to the appeal which supports or challenges the dismissal or determination. The response should be submitted to the Title IX Coordinator, who shall provide a copy to the decision-maker and the appealing party.

(d) Decision on Appeal

As soon as practicable after receiving the parties' submissions (and ordinarily within approximately 10 days), the President's designee or Appeal Panel will issue a written decision describing the result of the appeal and the rationale for the result. The decision on appeal may uphold the decision, modify it, or remand for further factual development. The decision on appeal may not impose a more severe sanction than the Hearing Officer or Panel imposed in appeals of findings of responsibility for Respondents. The President's designee or Appeal Panel will concurrently notify the Complainant and the Respondent of the decision, with a written copy provided to the Title IX Coordinator.

ARTICLE IX: INFORMAL RESOLUTION

At any time after a formal written complaint is filed but prior to reaching a determination regarding responsibility, the University may facilitate a resolution that avoids a full investigation and adjudication. Both the Complainant and Respondent, through the Title IX Coordinator, must give their voluntary, written consent to the informal resolution process. Additionally, the Title IX Coordinator, acting on behalf of the University, will make an independent determination of whether or not informal resolution is in the interest of the University prior to approval. The informal resolution process will not be utilized to resolve allegations which name an employee as a Respondent when a student is the Complainant.

Prior to commencing the informal resolution process, the Title IX Coordinator or designee must provide the parties a written notice that includes the following information:

- i. Notice of the allegations contained in the formal complaint, including dates, location(s), and identities of the parties,

- ii. Any agreed upon resolution reached at the conclusion of the informal complaint process will preclude the parties from resuming a formal complaint arising from the same allegations,
- iii. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint,
- iv. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared, and
- v. An acknowledgement that any agreed disposition made during an informal resolution process is binding on the parties and may not be appealed.

DEFINITIONS

Actual Knowledge: In accordance with Federal regulation, the University is deemed to have actual knowledge of an allegation of Title IX Sexual Harassment when the Title IX Coordinator or and Employee with the authority to institute corrective measures on behalf of the University is made aware of the allegation. For the purposes of this policy, the following individuals are considered to have authority to institute corrective measures on behalf of the University: President, Provost, College Deans, Vice President of Student Services and Institutional Diversity, Vice President of Finance and Administration, Vice President of Advancement, Director of Athletics, Chief Information Office, Chief of Staff, and Title IX Coordinator.

Clery Act: The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”) is a federal statute codified at 20 U.S.C. § 1092 (f), with implementing regulations in the U.S. Code of Federal Regulations at 34 C.F.R. 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses.

Complainant: Any individual harmed by conduct defined as Title IX Sexual Harassment and makes a formal complaint alleging such conduct. Under this process and the governing law, a complainant must have been participating or attempting to participate in an educational program or activity of the University at the time the conduct giving rise to the complaint occurred. Any person may report violations of University policy, however the term “complainant” will only apply to the person alleged to suffer harm from a violation of the Title IX Sexual Harassment Policy, BP No. 426.

Consent: Consent is a clear, knowing and ongoing communication of a voluntary mutual agreement to engage in sexual activity. Consent requires communication and this policy requires that each member of the campus community respect the body autonomy of others. Consent is voluntary-it is given without coercion, force, threats, or intimidation. Consent cannot be assumed based on silence or the absence of a verbal “no” or “stop.” Consent can be given by words or actions, as long as those words or actions consist of an affirmative,

unambiguous, conscious decision by each participant to engage in mutually agreed-upon sexual activity.

Past actions do not grant future permission. The existence of a prior or current relationship, or prior sexual activity with any person, is not consent for a future act. Each sexual encounter must have a mutual and voluntary agreement between each participant.

Even if consent is given, that consent can be withdrawn at any time, as long as that withdraw of consent is clearly communicated to the other participant.

Consent can be limited in scope-agreement to one form of sexual activity does not automatically grant consent for others types of sexual activity.

Consent cannot be given when a person is incapacitated, such as when a person is physically or mentally unable to make informed, rational judgments, or lacks the ability to understand the “who, what, when, where and how” related to the sexual activity, or when a person is under age (pursuant to Arkansas law). States of incapacitation include, but are not limited to, unconsciousness and sleep. When considering alcohol or other drug induced intoxication and/or impairment, incapacitation is determined by how the alcohol or other drugs have impacted a person’s decision-making capacity, awareness of consequences, and/or ability to make fully informed judgments. When the factual circumstances clearly indicate to a reasonable person that another person is incapacitated, then the other person is incapable of consenting to sexual activity.

Some signs that a person may be incapacitated and unable to consent include, but are not limited to:

The person is struggling to maintain their balance, stumbling, and/or falling down;

The person’s speech is slurred or they are not making sense when they communicate;

The person is confused about what is going on around them;

The person has urinated, defecated, or vomited on themselves or in an inappropriate place;

The person is sleeping or unconscious.

Intoxication is not a defense to an allegation violating this policy. Drunk or intoxicated members of the campus community are responsible for how they treat others when they initiate a sexual act.

Dating violence: Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between two individuals who are in a romantic or intimate social relationship. A romantic or intimate social relationship between two individuals that is determined by examining the following factors: (i) The length of the relationship; (ii) The type of the relationship; and (iii) The frequency of interaction between the two individuals involved in the relationship. “Dating” does not include a causal relationship or ordinary fraternization between two (2) individuals in a business or social context.

Day: A “day” is considered a normal business day, and does not include holidays, weekends, or any day that the University is closed for business.

Deputy Title IX Coordinator: The University Deputy Title IX Coordinators work under the oversight of the Title IX Coordinator to assist with the handling of Title IX complaints. The

Title IX Coordinator, at his or her discretion, assigns a Deputy Title IX Coordinator in connection with a given complaint. In the event a Deputy Title IX Coordinator is assigned the role of Title IX Coordinator, that Deputy will no longer be permitted to participate as the investigator or determination hearing officer in the same matter.

Domestic Violence: is a felony or misdemeanor crime of violence committed by any of the following individuals:

- a. A current or former spouse or intimate partner of the victim; or
- b. A person with whom the victim shares a child in common; or
- c. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; or
- d. A person similarly situated to a spouse of the victim under the domestic or family laws of the jurisdiction in which the crime of the violence occurred; or
- e. Any other person against an adult or youth who is protected under the domestic or family violence laws of the jurisdiction in which the crime of violence has occurred.

Educational Program or Activity: Includes locations, events, or circumstances in which the University exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by an officially recognized student organization. This does not extend applicability to any program or activity taking place outside the United States.

Exculpatory Evidence: Information, facts, or evidence that tends to show that a person is not responsible for the allegations contained in a formal complaint.

Formal Complaint: A document filed and signed by a Complainant and signed by the Title IX Coordinator (or filed by the Title IX Coordinator without approval of the Complainant in the event that an ongoing safety concern exists) alleging Title IX Sexual Harassment against a respondent and requesting that the recipient investigate the allegation of Title IX Sexual Harassment. The phrase “document filed by a Complainant” means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint. Only a Complainant or the Title IX Coordinator, when it is in the best interest of the campus community, may file a formal complaint.

FERPA: The Family and Educational Rights and Privacy Act (“FERPA”) is a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 CFR Part 99. FERPA protects the student education records. FERPA grants to parents or eligible students the right to access, inspect, and review educational records, the right to challenge the content of education records, and the right to consent to the disclosure of education records.

Incapacitation: the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where an intoxicant is involved, incapacitation is a state of intoxication where the intoxicant consumed impairs a person's decision-making capacity; awareness of consequences, and ability to make fully informed judgments.

Inculpatory Evidence: Information, facts, or evidence that tends to show that person is responsible for the allegations contained in a formal complaint.

Party: The Complainant or Respondent in a given formal complaint, hearing, or other process.

Preponderance of the Evidence: A standard of proof where the conclusion is based on facts that are more likely true than not; or whichever finding of fact carries the greater the weight of the evidence.

Report: Any notice of an alleged violation of the Title IX Sexual Harassment Policy made by any person, in any form, to the Title IX Coordinator or an employee of the University with the authority to institute corrective measures on behalf of the University.

Respondent: An individual who has been reported or alleged to be the perpetrator of conduct that could constitute Title IX sexual harassment.

Sanctions: The determination of sanctions to be imposed against a respondent who is found to have been responsible for violating this policy will depend upon the nature and gravity of the misconduct, any record of prior discipline for a violation of this Policy, or both. Sanctions against students may include, without limitation, expulsion or suspension from the University, disciplinary probation, expulsion from campus housing, mandated counseling, and/or educational sanctions deemed appropriate by the Hearing Panel. Sanctions against employees and other non-students may include, without limitation, a written reprimand, disciplinary probation, suspension, termination, demotion, reassignment, reduction in job duties, reduction in pay, exclusion from campus or particular campus activities, and/or educational sanctions deemed appropriate by the Hearing Panel.

Sexual Assault-Non-Consensual Sexual Contact: Any sexual touching, with any object, by a man or a woman upon another person without consent or making any person touch another person in a sexual manner.

Sexual Assault-Non-Consensual Sexual Intercourse: Any sexual intercourse (anal, oral or vaginal), with any object, by a man or woman upon another person without consent.

Sexual Harassment: Sexual harassment includes unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

(i) submission to such conduct is either explicitly or implicitly made a condition of an individual's employment with the University or a factor in the educational program of a student. or submission to or rejection of such conduct by an individual is used as the basis for an employment or academic decision affecting such individual. Conduct of this nature, commonly referred to as quid pro quo sexual harassment, does not require the further analysis of whether the conduct is severe, pervasive, and objectively offensive and is a per se violation of this policy; or

(ii) such conduct is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity or to work in an environment free of intimidation, hostility or threats stemming from acts or language of a sexual nature.

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

A "course of conduct" is two or more acts, including, but not limited to: acts in which the "stalker" directly, indirectly, or through third parties by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

"Substantial emotional distress" is significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling. A "reasonable person" is one under similar circumstances and with similar identities to the victim.

Supportive Measures: Actions taken by the University in support of individuals who are either Complainants or Respondents to a complaint or allegation of Title IX Sexual Harassment. These measures are 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 restore or preserve equal access to the University's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University's educational environment or deter sexual harassment.

Support measures include, but are not limited to the following:

issuing mutual "no contact" orders;

summarily suspending the respondent from campus housing on an interim basis in the case of a formal complaint that meets the definition of Title IX sexual harassment and presents a reasonable ongoing safety concern for any person;

restricting the respondent's movement on campus;

re-assigning or placing the respondent on administrative leave when the respondent is an employee;

providing reasonable temporary alternative housing options for on-campus residents; and/or

adjusting academic calendars and course attendance to support students participating in the grievance process when appropriate.

Title IX Sexual Harassment: Sexual harassment, as defined by Title IX (Part 106 of Title 34 of the Code of Federal Regulations, § 106.30) is conduct on the basis of sex that satisfies one or more of the following:

(1) An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;

(2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or

(3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Unauthorized Distribution of Sexual Images or Recordings: The distribution of sexual images or recordings of a person being eighteen (18) years of age or older with the purpose to harass, frighten, intimidate, threaten, or abuse another person. This type of Title IX Sexual Harassment is commonly referred to as "revenge pornography" or "cyber sexual exploitation."

The unauthorized distribution of images or recordings means the unauthorized sharing of images, pictures, videos, or voice or audio recording of another person to a third person by any means if the image, picture, video, or voice or audio recording:

- (1) Is of a sexual nature or depicts the other person in a state of nudity; and
- (2) The other person is a family or household member of the actor or another person with whom the actor is in a current or former dating relationship; or
- (3) The images or recordings are made without the knowledge or consent of the person depicted.

The fact that an image, picture, video, or voice or audio recording was created with the knowledge or consent of the other person or that the image, picture, video, or voice or audio recording is the property of a person not the person depicted is not a defense for this type of sexual harassment. Even if the other person originally consented to the creation of the image,

picture, or voice or audio recording, or if the other person provided the same to the actor, further distribution or sharing by the actor of any kind is deemed to be in violation of this policy.

The location of any digital file, upload, server, or other digital platform is immaterial for the purposes of this definition and policy. The policy applies to any person who is a faculty member, staff member, student, or a third party who is a participant in a University-sponsored program, event, or activity, under substantial control of the University. The location in which the image, picture, video, or voice or audio recording was created is not relevant to the determination of whether the sharing of the same was a violation of this policy. The sharing of the image, picture, video, or voice or audio recording in violation of the policy is the act which subjects the actor to enforcement actions through the Title IX Grievance Procedures.

The Violence Against Women Reauthorization Act of 2013: Section 304 or the “Campus Save Act”, is a federal statute codified at codified as amended at 42 U.S.C. § 3796gg-3 with implementing regulations currently pending. VAWA amends the Clery Act and requires schools and universities to specifically report the number of incidents of domestic violence, dating violence and stalking as part of their annual security reports (and include their respective definitions within the ASR; amends the definition of "sexual assault," and amends the definition of hate crime to include crimes where victims are targeted because of their national origin or gender identity.

APPENDIX A: BOARD POLICY NO. 426, TITLE IX SEXUAL HARASSMENT

UNIVERSITY OF CENTRAL ARKANSAS BOARD POLICY

Policy Number: 426

Subject: Title IX Sexual Harassment

Date Adopted: 07/20 Revised: _____

POLICY STATEMENT

Sexual harassment, including, but not limited to, sexual assault, dating violence, domestic violence, stalking, unauthorized distribution of sexual images or recordings, or any crime that is based upon sexual acts defined at the adoption of this policy or later enacted by the State of Arkansas, by any faculty member, staff member, student, or a third party who is *a participant in a university-sponsored program, event, or activity under substantial control of the University* is a violation of University policy and will not be tolerated at the University of Central Arkansas. Further, the University of Central Arkansas is committed to providing ongoing sexual harassment primary prevention, awareness, and risk reduction programs and training for the entire UCA community. Sexual harassment of employees is prohibited under Section 703 of Title VII of the Civil Rights Act of 1964 and sexual harassment of students may constitute discrimination under Title IX of the Education Amendments of 1972. This policy seeks to comply with requirements mandated by the Violence Against Women Reauthorization Act of 2013. The university considers sexual harassment a very serious issue and shall subject the offender to dismissal and/or other sanctions following the university's investigation and substantiation of the complaint and compliance with due process requirements.

TITLE IX COORDINATOR

The university has designated a Title IX coordinator who will be responsible for ensuring the university has required policies and procedures in place; ensuring prompt and effective processing of complaints; administering a centralized complaint filing system; conducting evaluations of school compliance; for analyzing trends revealed by complaints; coordinating investigations and enforcement activities; assist in arranging for training for staff and students; making an initial determination of whether the issues raised in complaints meet the definition of Title IX Sexual Harassment; and for monitoring on behalf of the institution overall compliance with this policy and related federal and state legislation and regulation.

The university may designate one or more deputy coordinators to assist the Title IX coordinator. Such deputies will be authorized to receive complaints and perform the administrative duties of the Title IX Coordinator in the event of a conflict of interest or when the Title IX Coordinator is unavailable. Deputy Title IX Coordinators will only be precluded from filling other administrative duties related to the Title IX Grievance Procedures when they have also served in the Title IX Coordinator role for the same complaint or when a conflict of interest is determined

to exist. Whenever the phrase “Title IX coordinator” appears in this policy and other policies in connection with administering an individual complaint, it will be understood to include both the coordinator and any deputy coordinators who may have been assigned responsibilities to administer the matter.

TITLE IX SEXUAL HARASSMENT

Sexual harassment, as defined by Title IX (Part 106 of Title 34 of the Code of Federal Regulations, § 106.30) is conduct on the basis of sex that satisfies one or more of the following:

(1) An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;

(2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or

(3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

DEFINITION OF DATING VIOLENCE

Dating violence is defined as physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between two individuals who are in a romantic or intimate social relationship. A romantic or intimate social relationship between two individuals is determined by examining the following factors: (i) the length of the relationship; (ii) the type of the relationship; and (iii) the frequency of interaction between the two individuals involved in the relationship. “Dating” does not include a casual relationship or ordinary fraternization between two individuals in a business or social context.

DEFINITION OF DOMESTIC VIOLENCE

Domestic violence is a felony or misdemeanor crime of violence committed by any of the following individuals:

(i) a current or former spouse or intimate partner of the victim; *or*

(ii) a person with whom the victim shares a child in common; *or*

(iii) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; *or*

(iv) a person similarly situated to a spouse of the victim under the domestic or family laws of the jurisdiction in which the crime of the violence occurred; *or*

(v) any other person against an adult or youth who is protected under the domestic or family violence laws of the jurisdiction in which the crime of violence has occurred.

DEFINITION OF SEXUAL ASSAULT: NON-CONSENSUAL SEXUAL CONTACT

Non-consensual sexual contact is defined as any sexual touching, with any object, by a man or a woman upon another person without consent or making any person touch another person in a sexual manner.

DEFINITION OF SEXUAL ASSAULT: NON-CONSENSUAL SEXUAL INTERCOURSE

Non-consensual sexual intercourse is defined as any sexual intercourse (anal, oral or vaginal), with any object, by a man or woman upon another person without consent.

DEFINITION OF SEXUAL HARASSMENT

Sexual harassment includes unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

- (i) submission to such conduct is either explicitly or implicitly made a condition of an individual's employment with the University or a factor in the educational program of a student. or submission to or rejection of such conduct by an individual is used as the basis for an employment or academic decision affecting such individual. Conduct of this nature, commonly referred to as quid pro quo sexual harassment, does not require the further analysis of whether the conduct is severe, pervasive, and objectively offensive and is a per se violation of this policy; or
- (ii) such conduct is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity or to work in an environment free of intimidation, hostility or threats stemming from acts or language of a sexual nature

EXAMPLES OF SEXUAL HARASSMENT

Sexual harassment may create a hostile, abusive, demeaning, offensive or intimidating environment. Unwelcome conduct of this nature that is determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity is a violation of this policy and Federal Law. The reasonable person standard considers the perspective reasonable person in the position of the Complainant. Unwelcome sexual conduct may be manifested by verbal and/or physical actions, including gestures and other symbolic conduct. Sexual harassment is not always obvious and overt; it can also be subtle and covert. A person who consents to sexual advances may nevertheless be a victim of sexual harassment if those sexual advances were unwelcome. Previously welcomed advances may become unwelcome. Examples of sexual harassment may include, but are not limited to, the following:

non-sexual slurs about one's gender;

contrived work or study assignments and assigning more onerous or unpleasant tasks predominately to employees or students of one gender;

repeated unwanted touching, patting or pinching;

repeated inappropriate social invitations or requests for sexual favors;

repeated unwanted discussions of sexual matters;

use of sexual jokes, stories, analogies or images which are not related to the subject of the class or work situation;

touching, fondling or deliberate brushing against another person;

ogling, leering or prolonged stares at another's body;

display or use of sexual graffiti or sexually-explicit pictures or objects; and

sexually-suggestive jokes, comments, e-mails, or other written or oral communications.

Although sexual harassment most frequently occurs when there is an authority differential between the persons involved (e.g. faculty member and student, supervisor and staff member), it may also occur between persons of the same status (e.g. faculty and faculty, student and student, staff and staff). Both men and women may be victims of sexual harassment and sexual harassment may occur between individuals of the same gender.

NOTE: Other forms of harassment based upon race, religion, national origin, sex or age may have the same impact as sexual harassment. However, pursuant to the Department of Education Regulations for Title IX, these forms of harassment are not investigated or adjudicated using the Title IX Grievance Procedures. If a complaint of harassment is received by the Title IX Coordinator which is determined not to meet the Title IX sexual harassment definition, but alleges other forms of harassment, the complaint will be forwarded as follows: in the event the respondent is a faculty member, the complaint will be forwarded to the Provost; in the event the respondent is a student, the complaint will be forwarded to the Dean of Students; in the event the respondent is staff member, the complaint will be forwarded to the Associate Vice President of Human Resources/Risk Management.

DEFINITION OF STALKING

Stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or suffer substantial emotional distress.

A "course of conduct" is two or more acts, including, but not limited to: acts in which the "stalker" directly, indirectly, or through third parties by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

"Substantial emotional distress" is significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling. A "reasonable person" is one under similar circumstances and with similar identities to the victim.

DEFINITION OF UNAUTHORIZED DISTRIBUTION OF SEXUAL IMAGES OR RECORDINGS

Unauthorized distribution of sexual images or recordings, commonly referred to as "revenge pornography" or "cyber sexual exploitation," is defined as distributing sexual images or recordings of a person being eighteen (18) years of age or older with the purpose to harass, frighten, intimidate, threaten, or abuse another person.

The unauthorized distribution of images or recordings means the unauthorized sharing of images, pictures, videos, or voice or audio recording of another person to a third person by any means if the image, picture, video, or voice or audio recording:

- (1) Is of a sexual nature or depicts the other person in a state of nudity; and
- (2) The other person is a family or household member of the actor or another person with whom the actor is in a current or former dating relationship; or
- (3) The images or recordings are made without the knowledge or consent of the person depicted.

The fact that an image, picture, video, or voice or audio recording was created with the knowledge or consent of the other person or that the image, picture, video, or voice or audio recording is the property of a person not the person depicted is not a defense for this type of sexual harassment. Even if the other person originally consented to the creation of the image, picture, or voice or audio recording, or if the other person provided the same to the actor, further distribution or sharing by the actor of any kind is deemed to be in violation of this policy.

The location of any digital file, upload, server, or other digital platform is immaterial for the purposes of this definition and policy. The policy applies to any person who is a faculty member, staff member, student, or a third party who is *a participant in a University-sponsored program, event, or activity, under substantial control of the University*. The location in which the image, picture, video, or voice or audio recording was created is not relevant to the determination of whether the sharing of the same was a violation of this policy. The sharing of the image, picture, video, or voice or audio recording in violation of the policy is the act which subjects the actor to enforcement actions through the Title IX Grievance Procedures`.

DEFINITION OF CONSENT

Consent is a clear, knowing and ongoing communication of a voluntary mutual agreement to engage in sexual activity. Consent requires communication and this policy requires that each member of the campus community respect the body autonomy of others. A few characteristics of consent are: (1) Consent is active, not passive. It is mutual, not individual; (2) Consent can be withdrawn at any time, as long as the withdrawal is clearly communicated; (3) Consent to any one form of sexual activity does not automatically imply consent to all other forms of sexual activity. Consent to any past sexual activity, does not automatically imply consent for any future sexual contact; (4) Consent can be given by words and actions, as long as those words or actions consist of affirmative, unambiguous, conscious decisions by each participant to engage in mutually agreed-upon sexual activity

Consent cannot be given when a person is incapacitated, such as when a person is physically or mentally unable to make informed, rational judgments, or lacks the ability to understand the “who, what, when, where and how” related to the sexual activity, or when a person is under age (pursuant to Arkansas law). States of incapacitation include, but are not limited to, unconsciousness and sleep. When considering alcohol or other drug induced intoxication and/or impairment, incapacitation is determined by how the alcohol or other drugs have impacted a person’s decision-making capacity, awareness of consequences, and/or ability to make fully informed judgments. When the factual circumstances clearly indicate to a reasonable person that another person is incapacitated, then the other person is incapable of consenting to sexual activity.

CONSENSUAL RELATIONSHIPS

Because of the unique situations that exist among students, faculty, supervisors, and staff, relationships in the workplace and on campus should at all times remain professional. In particular, due to the professional power differential between faculty and students, faculty members are encouraged to remain professional in all relationships with students. Refer to Board Policy No. 515 for further information on consensual relationships.

EMPLOYEE REPORTING UNDER TITLE IX

All employees, both faculty and professional staff, are encouraged to report any violations of this policy that they are made aware of by any person. When an employee becomes aware of an alleged act of Title IX Sexual Harassment, the employee should promptly contact the Title IX coordinator, a deputy Title IX coordinator, general counsel or assistant vice president for human resources. The Title IX coordinator and any deputy Title IX coordinator are available to provide guidance on how to handle a situation to faculty and professional staff at any time. Only the Title IX Coordinator or a Complainant (person individually harmed by violation of this policy) may file a formal complaint.

All employees are required to receive training related to Title IX, and should understand how to provide information related to accessing basic University resources when the employee is notified of a potential instance of Title IX Sexual Harassment.

ACTUAL KNOWLEDGE

In accordance with Federal regulation, the University is deemed to have actual knowledge of an allegation of Title IX Sexual Harassment when the Title IX Coordinator or an Employee with the authority to institute corrective measures on behalf of the University is made aware of the allegation. For the purposes of this policy, the following individuals are considered to have authority to institute corrective measures on behalf of the University: President, Provost, College Deans, Vice President of Student Services and Institutional Diversity, Vice President of Finance and Administration, Vice President of Advancement, Director of Athletics, Chief Information Office, Chief of Staff, and Title IX Coordinator.

CONFIDENTIALITY

In the course of a complaint investigation, the University will make reasonable efforts to maintain confidentiality of the complaints. In the event of an emergency or ongoing threat to the

health, safety, or security of any individual or the campus community, the University may release information to the extent necessary to appropriately address the situation presented. All parties to the complaint will be asked to assist in treating the complaint confidentially. However, there can be no guarantee of confidentiality and anonymity based upon the course and scope of the complaint investigation and the institution may share information where necessary to provide accommodations or protective measures. If the complaint raises issues required by law to be disclosed, the University will release information to the extent required by law.

SUPPORTIVE MEASURES

There are a range of supportive measures the University may offer following an allegation of sexual harassment including, but not limited to:

issuing mutual “no contact” orders;

summarily suspending the respondent from campus housing on an interim basis in the case of a formal complaint that meets the definition of Title IX sexual harassment and presents a reasonable ongoing safety concern for any person;

restricting the respondent’s movement on campus;

re-assigning or placing the respondent on administrative leave when the respondent is an employee;

providing reasonable temporary alternative housing options for on-campus residents; and/or

adjusting academic calendars and course attendance to support students participating in the grievance process when appropriate.

ACADEMIC ACCOMMODATION AS A SUPPORTIVE MEASURE

Student requests for academic accommodation as a supportive measure under this policy will be made on behalf of students by the Title IX Coordinator. The approval authority for academic accommodation will be, collectively, the individual faculty member concerned and the respective academic department chair.

FILING OF FALSE REPORTS

A grievant whose complaint is found to be both false and to have been made with malicious intent will be subject to disciplinary action which may include, but is not limited to, demotion, transfer, suspension, expulsion or termination of employment.

DUTY TO COOPERATE

All students and employees whose assistance is needed in the investigation of a complaint or in the course of disciplinary action will be required to cooperate with the Title IX coordinator, any designated deputy Title IX coordinator, and other parties who are duly authorized to investigate or to discipline. Persons who are accused of having engaged in sexual misconduct will be entitled to such cooperation when necessary to obtain witnesses in any formal disciplinary proceedings that may be initiated. Where necessary, adjustments will be made to work schedules, classroom schedules, and other academic or employment obligations.

PROHIBITION ON RETALIATION

Retaliation against any person in the UCA community for filing, supporting, providing information, or for cooperating in a sexual misconduct investigation in good faith, in connection with a complaint of sexual misconduct is strictly prohibited. Examples of retaliation may include, but are not limited to, adverse employment actions such as termination, refusal to hire, and denial of promotion. Additionally, retaliation in the form of harassment, intimidation, threats, or coercion, or in the form of any materially adverse harm that would dissuade a reasonable student or employee from filing a harassment complaint or participating in a harassment investigation is strictly prohibited. Any person who feels he/she has been subjected to retaliation should make a report to the Title IX coordinator.

GRIEVANCE PROCEDURES FOR TITLE IX SEXUAL HARASSMENT CLAIMS

Employees or students of the university who believe they have been subjected to sexual harassment are encouraged to report instances of sexual harassment to the Title IX Coordinator.

Formal Complaints will be resolved using the UCA Title IX Sexual Harassment Grievance Procedures, which may be found on the university's website.

The university will make every effort to adhere to the prescribed time frames of the formal resolution processes. However, in the event that individuals involved are unavailable or of other unanticipated occurrences, the Title IX Coordinator, with the concurrence of the President, may adjust the time frames. Any changes will be immediately communicated to the complainant and respondent by the Title IX Coordinator, and where possible, their needs will be accommodated. Time frames may also be extended upon the mutual agreement of the parties. Time frames will be extended if necessary to accommodate holidays and vacation periods that form part of the academic calendar or days on which an institution is closed for weather or other emergency purposes. Working days are those on which the offices of the university are open for business. Extensions will not exceed the bounds allowed by applicable law and regulations.

FORMAL INVESTIGATION AND RESOLUTION

Formal Complaints must be provided to the Title IX Coordinator, and the Title IX Coordinator must sign and date the complaint before it will be considered received by the University. The Title IX coordinator will utilize the University Title IX Sexual Harassment Grievance Procedures in coordinating the formal investigation and hearing process, which may be routinely modified to remain in compliance with the current status of the law. Hearings will be conducted by officials who receive training on various aspects of Title IX Sexual Harassment including, but not limited to, sexual harassment, sexual assault, dating violence, domestic violence, stalking, and unauthorized distribution of sexual images or recordings.

STANDARD OF EVIDENCE

The University will use the Preponderance of the Evidence standard for all hearings related to this policy.

INFORMAL RESOLUTION

Informal resolution of a formal complaint may be used as a final resolution only when:

- (1) Both parties agree to be bound by the outcome of an informal process;
- (2) The complaint does not involve a University employee as a party;
- (3) The University, through the Title IX Coordinator, agrees to informal resolution.

APPENDIX B: FORMAL COMPLAINT FORM

UNIVERSITY OF CENTRAL ARKANSAS TITLE IX SEXUAL HARASSMENT FORMAL COMPLAINT FORM

Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681) is a federal law that prohibits discrimination based on the gender of students and employees of educational institutions which receive federal financial assistance. UCA Board Policy No. 426, Title IX Sexual Harassment, prohibits sexual discrimination in the form of sexual harassment, sexual assault, stalking, domestic violence, dating violence, and unauthorized distribution of sexual images or recordings. This form complies with US Department of Education requirements, but it is not the only way in which an individual may submit a formal complaint. The formal complaint must be in writing, and signed by the Complainant, but can be in any form. If there is a procedural deficiency with any formal complaint form, the Title IX Coordinator will notify the Complainant of the deficiency and allow the correction of the formal complaint prior to filing.

When this form has been completed and signed by you, and then signed by the Title IX Coordinator, your complaint has been properly received and noted by the University. The Title IX Coordinator will provide you with a copy of this form as well as complete information about the Title IX complaint process.

My current status at the University of Central Arkansas is:
(check appropriate box)

Student Faculty Member Staff Other

Name

Work Phone

Personal Phone

Current Mailing Address (preferably local UCA mailing address if student)

Email address

Type of Title IX Sexual Harassment Experienced:

Sexual Harassment Sexual Assault Dating Violence Domestic Violence
 Stalking Unauthorized Distribution of Sexual Images or Recordings Unknown

Complaint:

Please describe your experience below, to include the date of the incident and the location of the incident. You may attach additional pages if necessary.

Name of the person or persons you allege violated the Title IX Sexual Harassment Policy and how you have contact with that person (for example- co-worker, faculty member, classmate, mutual friend, dating relationship).

Please provide the name and telephone number or other contact information for any witnesses you believe may be able to provide information about your complaint.

Name	Relationship to Complainant (if any)	Contact Information
1.	_____	_____
2.	_____	_____
3.	_____	_____

Additional witnesses may be provided on an additional page, if necessary.

I certify that the foregoing is true and correct to the best of my knowledge and belief

Signature Date

Printed Name

For Title IX Coordinator/Designee
Formal complaint received by:

Signature Printed Name Date/Time