



Procedure 6.10: Non-Discrimination and Title IX Policy and Procedure
Volume 6.

Managing Office: Office of Human Resources

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I. INTRODUCTION

Alabama A&M University (“AAMU” or the “University”) is committed to creating and maintaining a safe educational and work environment that is free from discrimination and harassment on the basis of sex, and in which no member of AAMU is, on the basis of sex, excluded from participation in, denied the benefits of, or subjected to discrimination in any University program or activity. Sexual harassment, including sexual violence, is a form of sex discrimination in that it denies an individual equal access to the University’s programs or activities.

II. OBJECTIVE AND PURPOSE

The objective of this Policy is to ensure that everyone is aware, informed, and prepared to address concerns regarding sex discrimination and harassment in all forms.

III. UNIVERSITY STATEMENT ON NON-DISCRIMINATION

In compliance with Title IX of Education Amendments of 1972 (“Title IX”), Title VI and VII of the Civil Rights Act of 1964 (“Title VII”), Section 504 of the Rehabilitation Act of 1973, and other federal, state, and local laws, AAMU is committed to an educational and work environment in which all individuals are treated with respect and dignity. Therefore, discrimination or harassment based on age, race, sex, color, religion, national origin, disability, genetic information, sexual orientation, covered veteran status, or any other characteristics protected under state, federal, or local law will not be tolerated. This applies to all applicants, employees, students, guests, vendors, and persons doing business with the University. The University prohibits harassment, discrimination and retaliation whether engaged in by fellow employees, by a supervisor or manager or by someone not directly connected to the University. (e.g., an outside vendor or customer).

IV. SEXUAL HARASSMENT AND TITLE IX COMPLIANCE

Title IX prohibits discrimination based on sex in educational programs and activities that receive federal financial assistance. As a part of a campus-wide comprehensive prevention program and to ensure compliance with Title IX and its regulations, and other federal and state civil rights laws, AAMU has developed policies and procedures that prohibit sex discrimination and harassment in all forms.

Sexual harassment is illegal, sex-based discrimination under Title IX. It is against the policy of AAMU for any person (faculty, administrator, staff member, or student), male or female, to engage in sexual harassment of another person (faculty, administrator, staff member, or student). Sexual harassment is defined below.

All personnel including faculty, administrators, staff members, and students will be expected to comply with the Policy and take appropriate measures to ensure that sexual harassment does not occur. Appropriate disciplinary action consistent with this Policy will be taken against anyone who violates this Policy.

The Title IX Coordinator is responsible for overseeing all Title IX complaints and procedures. The Title IX Coordinator is available to meet with students and employees as needed.

The Title IX Coordinator is Lisa Spencer and may be contacted at: (256) 372-8348. Deputy Title IX Coordinator(s) shall be appointed by the Senior Personnel Officer(s) upon recommendation from the division vice president and/or college deans.

V. APPLICABILITY OF THIS POLICY

This Policy applies to all University faculty, staff, employees, students, student organizations, visitors, contractors, university affiliates, volunteers engaged in student activities and applicants for admission to or employment with the University and others conducting business on campus.

This Policy applies to conduct that occurs on campus, in University-owned or managed housing, or in an education program or activity. Campus means any building or property owned or leased by the University that is used in direct support of the University's educational purposes. An education program or activity means locations, events, or circumstances over which the University exercises substantial control, and includes any building owned or controlled by a registered student organization. This Policy applies to off-campus conduct when the conduct substantially affects a person's education or employment with the University or poses a risk of harm to members of the University community. As required by federal law, the conduct and location of the underlying events will determine the appropriate procedure that will apply to a given complaint.

VI. GENERALLY APPLICABLE DEFINITIONS

- ***Advisor*** means a person chosen by a party or appointed by the University to accompany the party to meetings related to the Title IX process, to advise the party on that process, and to conduct questioning for the party at the hearing, if any.
- ***Appeal Decision-maker*** means the person or panel who accepts or rejects a submitted appeal request, determines whether an error occurred that substantially affected the investigation or original determination, and directs corrective action, accordingly.
- ***Complainant*** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity.

- ***Confidential Resource*** means an employee who is not a mandated reporter of notice of harassment and/or retaliation.
- ***Decision-maker*** means the person or panel who hears evidence, determines relevance, and makes the final determination of whether this Policy has been violated and/or assigns sanctions.
- ***Directly Related Evidence*** is evidence connected to the complaint, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and cannot be relied upon by the Decision-maker(s).
- ***Education Program or Activity*** means locations, events, or circumstances where the University exercises substantial control over both the Respondent and the context in which the sexual harassment and/or retaliation occurs and also includes any building owned or controlled by a student organization that is officially recognized by the University.
- ***Final Determination*** is a conclusion by the standard of proof that the alleged conduct did or did not violate policy.
- ***Formal Complaint*** means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging a Respondent engaged in sexual harassment or retaliation for engaging in a protected activity and requesting that the University investigate the allegation(s).
- ***Formal Grievance Process*** means a method of formal resolution designated by the University to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 C.F.R. § 106.45) and the Violence Against Women Act § 304.
- ***Informal Resolution*** means a complaint resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a formal final determination being reached.
- ***Investigator*** means the person(s) authorized by the University to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report of Relevant Evidence and a file of Directly Related Evidence.
- ***Parties*** means the Complainant(s) and Respondent(s), collectively.
- ***Relevant Evidence*** is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.
- ***Respondent*** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or retaliation for engaging in a protected activity under this Policy.
- ***Sanction*** means a consequence imposed on a Respondent who is found to have violated this Policy.

VII. PROHIBITED CONDUCT DEFINITIONS AND EXAMPLES

A. Consent.

“Consent” must be informed, voluntary, and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent. A person must be in a legal position to consent (i.e. of the statutory age of consent or outside the degree of familial relation to not constitute incest).

Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

B. Sexual Assault

“Sexual assault” is actual or attempted sexual contact with another person without that person’s *consent*. Sexual assault includes, but is not limited to:

- Intentional touching of another person’s intimate parts without that person’s *consent*; or
- Other intentional sexual contact with another person without that person’s *consent*; or
- Coercing, forcing, or attempting to coerce or force a person to touch another person’s intimate parts without that person’s *consent*;
- *Rape*, which is penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person’s *consent*; or
- *Fondling*, which is the intentional touching of private body parts (including the genitalia, anus, groin, breast, inner thigh, or buttocks) of another person for the purpose of sexual gratification without the *consent* of an affected individual; or
- *Incest*, which is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law;
- *Statutory Rape*, which is sexual intercourse with a person who is younger than 17 years of age and is not a spouse of the Respondent.
- *Dating Violence*, which is violence, on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with

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

- *Domestic Violence*, which is violence, on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of applicable state law, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or applicable state family violence laws.
- *Stalking*, engaging in a course of conduct, on the basis of sex, directed at the Complainant, that would cause a reasonable person to fear for the person's safety, or the safety of others; or suffer substantial emotional distress. For the purposes of this definition—(i) course of conduct means two or more acts, including, but not limited to acts in which the Respondent 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; (ii) reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant; (iii) substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

C. Sex Discrimination

Sex discrimination is defined as behaviors and actions that deny or limit a person's ability to benefit from, and/or fully participate in, the educational programs or activities or employment opportunities because of a person's sex/gender.

Example of sex discrimination under Title IX include, but are not limited to, sexual harassment, sexual assault, failure to provide equal opportunity in education programs, activities, and co-curricular programs including athletics, discrimination based on pregnancy, and employment discrimination.

D. Sexual Exploitation

“Sexual exploitation” occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's *consent*.

Examples of behavior that could rise to the level of sexual exploitation include:

- Prostituting another person;
- Recording images (*e.g.*, video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness without that person's *consent*;
- Distributing images (*e.g.*, video, photograph) or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not *consent* to such disclosure and objects to such disclosure; and,
- Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's *consent*, and for the purpose of arousing or gratifying sexual desire.

E. Sexual Harassment

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature when:

1. Submission to such conduct is made a term or condition of employment or the educational relationship;
2. Submission to or rejection of such conduct is used as a basis for employment or education decisions affecting the individual, or
3. Such conduct is so severe and pervasive so as to objectively interfere with the educational, living, or work performance or environment of a student or employee.

Sexual harassment can involve males or females being harassed by members of either sex. Although sexual harassment sometimes involves a person in a position of greater authority than the harasser, individuals in positions of lesser or equal authority can be found responsible for engaging in prohibited harassment. Sexual harassment can be physical and/or psychological in nature. A series of incidents can constitute sexual harassment even if one of the incidents considered separately would not rise to the level of harassment.

While sexual harassment includes a wide range of conduct, some examples of specifically prohibited conduct include:

1. Promising, directly or indirectly, a reward to a student or employee, if the student or employee complies with a sexually-oriented request.
2. Threatening, directly or indirectly, retaliation against a student or employee if the student or employee refuses to comply with a sexually-oriented request.
3. Denying, directly or indirectly, a student or employee an education or employment-related opportunity if the student or employee refuses to comply with a sexually-oriented request.

4. Engaging in unwelcome sexually suggestive conversation or inappropriate physical contact or touching a student or employee.
5. Engaging in indecent exposure.
6. Making repeated or persistent sexual or romantic advances toward a student or employee despite the student's or employee's rejection of the advances.
7. Engaging in unwelcome physical contact such as touching, blocking normal movement, physical restraint, or assault.
8. Retaliating against a student or employee for filing a harassment complaint or threatening to report harassment.

F. Unwelcome Conduct

Conduct is considered “unwelcome” if an individual did not request or invite it and considered the conduct to be undesirable or offensive. Unwelcome conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening.

VIII. GUIDANCE ON REPORTING, MANDATORY REPORTING, AND CONFIDENTIAL RESOURCES

AAMU encourages students who have experienced any form of sexual misconduct to report the incident promptly in accordance with this Policy, to seek all available assistance, to pursue Code of Conduct charges, and where appropriate, to pursue criminal prosecution of the offender. AAMU takes complaints very seriously and will work with complaining parties to ensure their safety and remedy the situation.

The following individuals have a duty to report any information they become aware of regarding known or suspected Title IX violations:

- All AAMU Faculty, staff, employees and volunteer advisors; and
- Student employees who have supervisory responsibility for the welfare of other students. Student employees include resident assistants, graduate assistants, tutors, etc.

The University believes it is critical to provide community members who may be experiencing conduct prohibited by this Policy with access to trained and caring personnel who can provide confidential support, as well as information about available institutional resources, to empower those individuals to make informed decisions about their rights and options. Confidential Resources include the following individuals: University employees who are licensed medical, clinical, or mental health professionals, clergy and employees providing administrative/operation services in these areas.

Confidential Resources will maintain confidentiality when acting under the scope of their licensure, professional ethics, professional credentials, or official designation, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

IX. OFFICE WHERE A COMPLAINT OR REPORT MAY BE FILED

The University encourages those who have experience sex discrimination to report these offenses to the Title IX/Deputy Title IX Coordinator. The Title IX Coordinator is Lisa Spencer and may be contacted at: (256) 372-8348. Sexual misconduct offenses may also be reported to the Department of Public Safety at 256-372-5555.

X. GUIDANCE ON TAKING IMMEDIATE ACTION

Tell a trusted person about the incident. Take any immediate action necessary to ensure your safety and physical well-being are addressed first. Depending on the nature of the offense, you may choose to take the following actions:

1. Take the immediate action necessary to ensure your safety and well-being.
2. Contact the Alabama A&M University Department of Public Safety at 256-372-5555.
3. Report the incident to the Title IX Coordinator.
4. Seek immediate medical attention at an area hospital.
5. Other helpful resources include:
 - a. Crisis Services of North Alabama at 256-716-1000
 - b. Alabama A&M University Health and Counseling Services at 256-372-5601.

In the event that sexual assault or violence occurred, do everything possible to preserve evidence by making certain that the crime scene is not disturbed. (The decision to press charges does not have to be made at this time. However, following these procedures will help preserve this option for the future.) Complaining parties should not bathe, urinate, douche, brush teeth, or drink liquids. Clothes should not be changed; but if they are, bring all the original clothing to the hospital in a paper bag, as plastic bags may damage the evidence.

XI. COMPLAINT PROCEDURE

All incidents of sex discrimination, including sexual misconduct or retaliation, should be reported to the Title IX Coordinator or the designated Deputy Title IX Coordinator. The Title IX Coordinator ensures that adequate, reliable, and impartial investigations are conducted on all complaints.

XII. SUPPORTIVE MEASURES

The University will offer and implement appropriate and reasonable supportive measures to the Parties upon notice of alleged sexual harassment and/or retaliation. “Supportive measures” are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the 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 programs or activities without unreasonably burdening the other party.

Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. Any supportive measures provided to the Complainant or the Respondent will be maintained as confidential, to the extent that maintaining such confidentiality would not impair the ability to provide the supportive measures.

When the complaining party and the accused student participate in the same courses, reside in the same University residence or in proximity to one another, or participate in the same activities (e.g., sports teams), either party may request that a fair and immediate way to reassign and/or move one of the persons be decided upon by the Title IX Coordinator and the Vice President for Student Affairs or a designee. The Vice President for Student Affairs or designee will consult with the Office of the Provost in making decisions as to whether the complainant/respondent can be released from classes, the appropriate academic dean(s) or faculty in deciding regarding alternative classroom assignments for the accused student, and/or the complaining party who has experience a sex offense, and with Housing & Residence Life in deciding regarding alternative housing assignments.

Any party who wishes to change his/her classroom or academic situation may discuss various options with the Associate Vice President of Academic Affairs and Undergraduate Studies. Options include total University withdrawal, discrete course withdrawal, or change of section. Any party has the option of changing her/his on-campus housing assignment if alternate housing is reasonably available by contacting the Vice President for Student Affairs.

When a student employee makes an allegation of sexual misconduct and the accused individual works in the same department, alternative work assignments may be made by the appropriate administrator upon request. AAMU employees who need assistance may contact the AAMU Human Resources Director for information regarding counseling options.

XIII. FORMAL GRIEVANCE PROCESS & PROCEDURE

This procedure applies when there is a Formal Complaint filed. A reporting party may pursue the formal grievance procedure. In cases alleging sexual violence or nonconsensual sexual acts, a Formal Complaint should be filed by the complaining party with the Title IX Coordinator, which will follow the procedures below for resolving such complaints. In cases in which the accused is a University employee or third party, a complaint may be filed with the Office of Human

Resources, which will determine whether the complaint must be resolved using the Title IX Procedures outlined herein.

A. Filing a Formal Complaint

A Formal Complaint means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging a Respondent engaged in sexual harassment or retaliation for engaging in a protected activity and requesting that the University investigate the allegation(s). A Formal Complaint may be filed with the Title IX Coordinator in person, by email, by mail, or any additional method identified by the University and must contain the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the Formal Complaint. The Formal Complaint instead may be signed by the University Title IX Coordinator, but in that case, the University Title IX Coordinator is not a complainant or otherwise a party to the complaint.

At the time of filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the University. The Formal Complaint should state the name of the alleged perpetrator (if known) and describe with reasonable specificity the incident(s) of alleged harassment or retaliation, including the date and place of such incident(s). The complaint should be in the Complainant's own words, and may not be authored by others, including family members, advisors, or attorneys. Attached to the complaint should be a list of any sources of information (for example, witnesses, correspondence, records, and the like) that the Complainant believes may be relevant to the investigation.

The University encourages Formal Complaints to be filed as soon as reasonably possible following an alleged Policy violation because the University's ability to gather adequate information may be limited where a significant length of time has elapsed between an incident and the filing of a complaint. Further, the University's ability to complete any disciplinary processes may be limited with respect to Respondents who have graduated from the University. A complaint should not be delayed if such sources of information are unknown or unavailable.

B. Dismissal of a Formal Complaint

The University must dismiss a Formal Complaint or any allegations therein, at its discretion, for any of the following circumstances:

1. The conduct alleged in the Formal Complaint would not constitute a violation of this Policy, even if proved.
2. The conduct did not occur in an education program or activity controlled by the University (including buildings or property controlled by recognized student organizations), and/or the University does not have control of the Respondent.
3. The conduct did not occur against a person in the United States.
4. At the time of filing a Formal Complaint, a Complainant is not participating in or attempting to participate in the University's education program or activity, and

based on the available information, the Title IX Coordinator has determined that they do not need to sign a Formal Complaint on behalf of the University.

The University may dismiss a Formal Complaint or any allegations therein, at its discretion, for any of the following circumstances:

1. If the Complainant requests in writing to dismiss a Formal Complaint;
2. If the Respondent was an employee and is no longer employed by the University at the time the Formal Complaint is filed, or is no longer employed at anytime during the Formal Grievance Process including the investigation or hearing;
3. Any specific circumstances that prevent the University from gathering evidence sufficient to reach a determination as to the Formal Complaint or any allegations therein; or
4. The conduct alleged does not meet the definition of any conduct prohibited under this Policy.

C. Emergency Removal

Prior to adjudication of the Formal Complaint, emergency removal of an individual may be necessary. A Respondent may be removed from the University's education program, activity, or work environment on an emergency basis if, after an individualized safety and risk analysis, it is determined that such a removal is justified because the Respondent poses an immediate threat to the physical health or safety of an individual or campus community arising from the allegations of conduct prohibited by this Policy. Under these circumstances, the Respondent will be notified in writing of the emergency removal from the University's education program, activity, or work environment and the Respondent will have an opportunity to immediately challenge the decision following the emergency removal.

D. Standard of Evidence

In all procedures involving allegations of violations of policy, the standard of proof shall be "preponderance of the evidence." A preponderance of the evidence means that the information shows that it is "more likely than not" that the accused violated the policy. No language in any otherwise applicable conduct or honor code will supersede this standard of proof requirement.

By law, the burden does not shift to the Respondent when the Respondent asserts an affirmative defense; it is presumed that the Respondent is not responsible for the alleged conduct unless that determination regarding responsibility is made at the conclusion of the Formal Grievance Process.

In all formal procedures involving allegations of violations of this Policy, the adjudicative body shall be comprised of persons who have received appropriate training and who have been judged to be impartial in this case or capable of impartial evaluation of the allegations.

E. Advisors

The Parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the Formal Grievance Process, if they so choose. The Parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-maker(s).

Under the Title IX Regulations, a form of indirect questioning is required during the hearing but must be conducted by the Parties' Advisors. The Parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, the University will appoint a trained Advisor for the limited purpose of conducting any questioning of the Parties and witnesses.

F. Written Notice of Formal Complaint

After receiving a Formal Complaint, the Title IX Office will provide a written notice to the Parties of the Formal Complaint and available University resources and assistance. The written Notice of the Formal Complaint will include the following:

- A notice of the Formal Grievance Process steps, as outlined in this Policy;
- A notice of the allegations that potentially constitute Prohibited Conduct under this Policy, including sufficient details about the alleged conduct, including the identity of the Parties, if known, and the date(s), time(s), and location(s) of alleged conduct known by the University at the time of the Formal Complaint;
- A statement of the potential policy violations being investigated;
- A statement that the Respondent is presumed not responsible for the alleged conduct and that the determination regarding responsibility will be made at the conclusion of the Formal Grievance Process;
- A statement of the range of possible disciplinary sanctions and remedies the University may implement upon a determination of responsibility;
- A statement that credibility determinations will not be based on a person's status as a complainant, respondent, or witness;
- Both Parties may have an Advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review all evidence;
- A statement that the Parties may review evidence gathered as part of any investigation;
- A statement that knowingly making false statements or knowingly submitting false information during the Formal Grievance Process is prohibited and subject to disciplinary action; and
- Any other information relevant to the written notice.

G. Investigation

Once the decision to commence a formal investigation is made, the Title IX Coordinator will appoint an investigator to conduct the investigation.

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take many weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, law enforcement involvement, etc.

The University will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the Parties to update them on the progress and timing of the investigation. The University may undertake a short delay in its investigation (several days to a few weeks) if circumstances require.

The investigation will typically include meeting with and interviewing the Complainant, the Respondent, and any witnesses. It will also include gathering relevant evidence and conducting any follow-up interviews necessary. The Parties in the investigation may present any information and evidence that may be relevant to the Formal Complaint, and may have an Advisor of their choice attend any related interview, meeting, or proceeding in the Formal Grievance Process. Advisors are not permitted to actively participate in interviews.

Upon completion of interviews and gathering of relevant evidence, the investigator will prepare a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included. The report will not make any conclusions, engage in any policy analysis, or render recommendations.

Prior to the conclusion of the investigation, the Complainant and the Respondent will be provided a copy of the draft investigation report with an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University does not intend to rely in reaching a determination, for a ten (10) business-day review and comment period so that each party may meaningfully respond to the evidence. The Parties may elect to waive the full ten (10) days.

The investigator will, in their discretion, incorporate any relevant elements of the Parties' review of the final investigation report, including any additional relevant evidence and necessary revisions, and finalize the report.

The final investigation report will be shared with the Parties at least ten (10) business days prior to the hearing, unless the Parties and Decision-maker agree to an expedited timeline.

H. Live Hearing and Determination of Responsibility

Upon conclusion of the investigation, the Title IX Coordinator will select an appropriate Decision-maker and provide him/her a copy of the investigation report and the file of directly related evidence. The Title IX Coordinator or Decision-maker will send notice of the hearing to the Parties once scheduled, which will include including the date, time, location, and names of all participants of the hearing. The Decision-maker may hold a pre-hearing conference with the Parties.

A live hearing shall be held before the Decision-maker. The Decision-maker has absolute discretion to determine the format for the hearing and to determine which witnesses are relevant to the outcome determination.

The Decision-maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions. A Decision-maker may decline to hear from a witness if the Decision-maker concludes that the information is not necessary for their final determination.

Cross-examination shall be permitted under the following circumstances:

- The Decision-maker must permit each party's Advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging credibility (except as explained below).
- Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's Advisor of choice and never by a party personally.
- *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.*
- *No Title IX Team member, including the Decision-maker, may require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.*

At the request of either party, the University will conduct the live hearing with the Parties located in separate rooms with technology enabling the Decision-maker and Parties to simultaneously see and hear the party or the witness answering questions.

Hearings (but not deliberations) are recorded by the University for purposes of review in the event of an appeal. The Parties may not record the proceedings and no other unauthorized recordings are permitted. The Decision-maker, the Parties, their Advisors, and appropriate administrators of the University will be permitted to review the recording or review a transcript of the recording, upon request to the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

The outcome of the hearing, the reasons for the findings, and any sanction(s) imposed shall be conveyed to the Complainant and the Respondent simultaneously and in writing by email. The Complainant and the Respondent have the right to appeal determinations regarding responsibility pursuant to the Appeals section below.

I. Ensuring Impartiality

Any individual materially involved in the administration of the Resolution Process, including the Title IX Coordinator, Investigator(s), and Decision-maker(s), may neither have nor

demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) and Decision-maker(s) for impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. At any time during the Resolution Process, the Parties may raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another individual will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with the University's General Counsel who can be reached at (256) 372-8889.

J. Sanctions

If a person is found responsible for violating this Policy, the University may impose one or more sanctions and initiate additional remedial actions in accordance with the guidelines set forth below.

This Policy prohibits a broad range of conduct. In keeping with the University's commitment to foster an environment that is safe, inclusive, and free from discrimination and harassment, the appropriate disciplinary authority has some discretion in the imposition of sanctions tailored to the facts and circumstances of each report, to the impact of the conduct, and to achieving accountability. The imposition of sanctions is designed to eliminate conduct described in this Policy, prevent its recurrence, and remedy its effects, while supporting the University's educational mission. Sanctions may include educational, restorative, rehabilitative, and punitive components. Some conduct, however, is so egregious in nature, harmful to the individuals involved, or so adverse to the educational process that it requires severe sanctions, including suspension, expulsion, or termination.

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by external authorities.

Student Sanctions

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

- *Warning*
- *Required Counseling*
- *Probation*
- *Suspension*
- *Expulsion*
- *Withholding Diploma*
- *Revocation of Degree*

In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

Employee Sanctions

The following are sanctions that may be imposed upon employees singly or in combination:

- *Verbal or Written Warning*
- *Performance Improvement Plan/Management Process*
- *Enhanced Supervision, Observation, or Review*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Denial of Pay Increase/Pay Grade*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Transfer*
- *Reassignment*
- *Delay of (or referral for delay of) Tenure Track Progress*
- *Assignment to New Supervisor*
- *Restriction of Stipends, Research, and/or Professional Development Resources*
- *Suspension/Administrative Leave with Pay*
- *Suspension/Administrative Leave without Pay*
- *Termination*

In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

XIV. APPEALS

Any party may submit a written request for appeal to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome. A single Appeal Decision-maker will be assigned. The Appeal Decision-maker will not have previously been involved in the Resolution Process for the Formal Complaint.

Appeals are limited to the following grounds:

- 1) A procedural irregularity affected the outcome of the matter.
- 2) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter.
- 3) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter.

If any of the grounds in the request for appeal do not meet the grounds in this Policy, that request will be denied and the Parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the request for appeal meet the grounds in this Policy, then the Appeal Decision-maker will notify all Parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-maker(s). The non-appealing party will be given five (5) business days to submit a response to the appeal.

The Appeal Decision-maker will collect any additional information needed and all documentation regarding the approved grounds for appeal, and the subsequent responses and will render a decision, applying the preponderance of the evidence standard.

The decision on appeal will be sent to all Parties simultaneously.

Any sanctions imposed as a result of the hearing are stayed (i.e, not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

XV. INFORMAL RESOLUTION

To initiate Informal Resolution, a Complainant must submit a Formal Complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator. The Parties may agree, as a condition of engaging in Informal Resolution, that statements made, or evidence shared, during the Informal Resolution process will not be considered in the Formal Grievance Process unless all Parties consent.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Information resolution may include:

- 1) **Supportive Resolution.** When the Title IX Coordinator can resolve the matter informally by providing supportive measures (only) to remedy the situation
- 2) **Alternative Resolution.** When the Parties agree to resolve the matter through an alternative resolution mechanism (including mediation, restorative practices, facilitated dialogue, etc.), as described below, often before a formal investigation takes place
- 3) **Accepted Responsibility.** When the Respondent accepts responsibility for violating policy, and desires to accept the recommended sanction(s) and end the Resolution Process

Prior to implementing Informal Resolution, the University will provide the Parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.

The University will obtain voluntary, written confirmation that all Parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the Parties to participate in Informal Resolution.

XVI. COOPERATION WITH LAW ENFORCEMENT

The University will comply with law enforcement requests for cooperation, and such cooperation may require the University to temporarily suspend the fact-finding aspect of a preliminary Title IX investigation while the law enforcement agency is in the process of gathering evidence. The University will promptly resume its preliminary Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence-gathering process.

The University will implement appropriate interim steps during the law enforcement agency's investigation period to provide for the safety of the complaining party(s) and the campus community and avoid retaliation.

XVII. SUPPORT RESOURCES

These are various supportive measures available for those who have experienced sex discrimination. These support sources include:

Title IX Coordinator: The Title IX Coordinator serves as the central reference person for information about reporting and the investigative procedure. Additional support services include:

Alabama A&M University Health and Counseling Services: Students who have experienced any form of sex discrimination, including sexual misconduct, may receive confidential counseling at Alabama A&M University Health and Counseling Services by calling 256-372-5601.

XVIII. RETALIATION

AAMU strictly prohibits retaliation against any person for using this reporting procedure, or for filing, testifying, assisting, or participating in any investigation or proceeding involving allegations of sex discrimination. Any person who violates this Policy will be subject to discipline, up to and including termination, if they are an employee, or dismissal if they are a student.

Retaliation includes intimidation, threats, harassment and any other adverse action threatened or taken against any Complainant or third party because of the complaint or participation in the investigation and/or hearing process.

XIX. CONFIDENTIALITY

Those who have experienced sex discrimination should know that all University employees, excluding licensed professionals from Student Counseling Services, must report known felonies to the police, either directly or through the University Public Safety Department.

If you would like to report an incident or speak to someone about something that happened and you desire that details of the incident be kept confidential, you should speak with the staff members in the AAMU Health and Counseling Center or a member of an off-campus crisis resource, such as Crisis Services of North Alabama. Campus counselors are available to help students and can be seen on an emergency basis. All inquiries, complaints, and investigations are treated with discretion. Information is disclosed as law and policy permit or require. However, the identity of the complainant is usually disclosed to the person (s) accused of such conduct and to relevant witnesses.

The Title IX Coordinator and the Department of Human Resources shall maintain all information pertaining to a complaint or investigation in secure files.

XX. FALSE INFORMATION AND FALSE COMPLAINTS

Any person, who in bad faith, knowingly files a false complaint or report under this Policy or provides materially false information is subject to separation from the University, as required by State law. A determination that a Respondent is not responsible for allegations of violation of this Policy does not imply a report, Formal Complaint, or information provided was false. Similarly, a determination that a Respondent is responsible for a violation under this Policy does not imply that a Respondent's statements disclaiming responsibility were false.

XXI. FEDERAL STATISTICAL REPORTING OBLIGATIONS

Certain campus officials (those deemed Campus Security Authorities) have a duty to report violations of this Policy for federal statistical reporting purposes. All personally identifiable information is kept private, but statistical information must be passed along to campus law enforcement officials regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given), for publication in the annual Campus Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety.

XXII. SPECIAL PROVISIONS

A. Attempted Violations – In most circumstances, the University will treat attempts to commit any of the violations listed in this Policy as if those attempts had been completed.

B. Immunity for Complaining Parties – The University community encourages the reporting of sex discrimination violations. Sometimes, complaining parties are hesitant to report to University officials because they fear that they themselves may be charged with policy violations, such as underage drinking at the time of the incident. It is in the best interest of this community that as many complaining parties as possible choose to report to University officials. To encourage reporting, the University pursues a policy of offering complaining parties of sex

discrimination limited immunity from being charged with policy violations related to the particular incident. While violations to policy cannot be completely overlooked, the University will provide educational options rather than sanctions in such cases.

C. Good Samaritan – The welfare of students in the University community is of paramount importance. At times, students on and off campus may need assistance. The University encourages students to offer help and assistance to others in need.

D. Parental Notification – The University reserves the right to notify parents/guardians of students regarding any health or safety emergency, change in student status, or conduct situation. The University also reserves the right to designate which University officials have a need to know about individual complaints pursuant to the Family Educational Rights and Privacy Act (FERPA).

E. Notification of Outcomes – The outcome of a Title IX investigation involving students is part of the education record of the student parties involved, and is protected from release under a federal law, FERPA. However, the University observes the legal exceptions that allow for notification of the Parties involved and others whom the University determines to inform based on the law and this Policy. The University may release publicly the name, nature of the violation and the sanction for any student who is found in violation of a University policy that is a “crime of violence,” including: sex offenses, arson, burglary, robbery, criminal homicide, assault, destruction/damage/vandalism of property and kidnapping/abduction. The University will release this information to the complainant in any of these offenses regardless of the outcome.

Updates **The updated Non-Discrimination and Title IX Policy replaces Human Resources Policy 6.10 Non-Discrimination and Anti-Harassment Policy and 6.11 Sexual Harassment Complaint Procedures**