

UNA Processes and procedures related to Sexual Misconduct Policy

The procedures described below have been developed by the Title IX Coordinator and will apply to all allegations of Sexual Harassment or other forms of sexual misconduct defined in the Sexual Misconduct Policy. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g. vandalism, physical abuse of another, etc.). All other allegations of misconduct, including other forms of sex-based discrimination or discriminatory harassment on a basis other than sex, will be addressed through other University policies.

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Promptness

The University shall make a good faith effort to complete every aspect of the Grievance Process in a reasonably prompt timeframe. In general, this should take no more than 90 business days; however, in certain circumstances, short delays may be necessary. The following factors, among others, may be the basis for brief delays or extensions:

- Absence of a party or witness for a limited amount of time;
- Coordinating with law enforcement during a concurrent or staggered investigation;
- Arranging for disability accommodations;
- Arranging for translation services;
- Unavailability of advisor for a limited amount of time;
- Vacancies in Title IX positions;
- Holidays, illnesses, closure for a natural disaster or other emergency (e.g. hurricane, tornado, earthquake, blizzard, pandemic).

Each party will receive regular updates throughout the investigation and grievance process. This will typically come via communication from the Investigator after each 30-day period. In these update emails, Investigators will share any cause for delay thus far in the process. On occasion, the Investigator may reach out prior ays keeping

Privacy

Every effort is made by the University to preserve the privacy¹ of reports. The University will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including

The right to have inadmissible prior sexual history or irrelevant character evidence excluded by the decision-maker.

The right to know the relevant and directly related evidence obtained and to respond to that evidence.

The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.

The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.

The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.

The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.

The right to regular updates on the status of the investigation and/or resolution.

The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.

The right to a Hearing Panel that is not single-sex in its composition, if a panel is used.

The right to preservation of privacy, to the extent possible and permitted by law.

The right to meetings, interviews, and/or hearings that are closed to the public.

The right to petition that any UNA representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.

The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process, subject to any limitations in the Sexual Misconduct Policy, such as an Advisor complying with UNA procedures and rules of decorum.

The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.

The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.

The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.

The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale of the decision (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.

The right to be informed in writing of when a decision by the University is considered final and any changes to the sanction(s) that occur before the decision is finalized.

The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with thsIn proce(s)] TJETO G(T)-0 g0

The right to be notified that information and materials the University obtains during its investigation into allegations of Prohibited Conduct may be disclosed to law enforcement

Violence Risk Assessment

A violence risk assessment (VRA) may be used in the following determinations:

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Restricted Access of a Respondent on the basis of threat to healthy/safety;
- Whether the Title IX Coordinator should pursue a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Whether to impose transcript notation or communicate with a transfer University about a Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning, trespass warning, or campus ban is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other CARE team members. A VRA authorized by the Title IX Coordinator should occur in collaboration with the CARE or threat assessment team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not to be used to communicate with a transfer

After determining the scope of the conduct, the Title IX Coordinator shall determine whether the alleged Prohibited C

making such a determination, the Title IX Coordinator shall consider whether the University:

- Owns the premises where the harassment occurred?
- Exercises oversight over the activity?
- Supervises the activity?
- Has disciplinary authority over the activity or those within it?
- Funds the program or activity? Sponsors, promotes, or endorses the event or circumstances?

If it determined by the Title IX Coordinator that 34 CFR part 106 does not apply⁶ the Title IX Coordinator shall dismiss⁷ any Title IX claims in the formal complaint; however, the Title IX Coordinator must then assess whether the alleged prohibited conduct still falls under the

~~jurisdiction of the Sexual Misconduct Policy (SMP) if the alleged conduct is referred to another department.~~

The Title IX Coordinator will determine whether the Office of Title IX has jurisdiction to investigate based on the Sexual Misconduct Policy, including whether the Respondent is a University student, staff-member, or faculty-member. If the Title IX Coordinator determines that the Office of Title IX does not have jurisdiction; the Title IX Coordinator may refer the alleged Prohibited Conduct to another department.

If the Title IX Coordinator determines that the University does not have jurisdiction, the Title IX Coordinator may refer the alleged Prohibited Conduct to another department. In situations

Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report.

continue with the Grievance Process outlined in the Sexual Misconduct Policy and these procedures.⁸

Grievance Process Pool Makeup

The Formal Grievance Process relies on a pool of trained professionals. The pool can be made up of internal or external trained third-party neutral professionals. Members of the pool are listed on the Title IX website and referenced annually with the distribution of this policy to all students, parents/guardians of students, employees, prospective students, and prospective employees. They are also listed in the Annual Title IX Report published by the Office of Title IX.

The list of Pool members and a description of the Pool can be found at www.una.edu/titleix

a. Pool Member Roles

Members of the Pool are trained annually, and can serve in the following roles, at the direction of the Title IX Coordinator:

- To provide appropriate intake of and initial guidance pertaining to complaints
- To act as an Advisor to the parties
- To serve in a facilitation role in informal resolution or Alternate Resolution if appropriately trained in appropriate resolution modalities (e.g., mediation, restorative practices]
- To perform or assist with initial assessment
- To investigate complaints
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Decision-maker regarding the complaint
- To serve as an Appeal Decision-maker
- To provide supportive measures or remedies

b. Pool Member Appointment

live-hearing; however, in that instance, both Advisors would remain present for the live-hearing.¹¹ No party may proceed without an Advisor.

lack of attendance or otherwise, the University Provided Advisor shall do so thoroughly, , either by

An Advisor can be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. At times, the Office of Title IX can attempt to assist a party in securing an Advisor.

The Office of Title IX keeps a list of trained University employees who are at times willing to serve as an Advisor. The list is available at www.una.edu/titleix.

Additionally, there are community resources that may be of assistance to those seeking an Advisor.

Local Attorneys

The Alabama State Bar Association provides a Lawyer Referral Service. Additional information is also available at www.alabar.org.

The Lauderdale County Bar Association maintains contact information for area lawyers in different practice areas and other local bar associations are likely to do the same. Information about local bar presidents is available at <https://www.alabar.org/about/local-bar-presidents/>.

The University will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator, these actions could include, but are not limited to:

- removing a student from a residence hall,
- temporarily re-assigning an employee,

- geographical restrictions on-campus, up to a full campus ban,
- allowing a student to withdraw or take grades of incomplete without financial penalty,
- authorizing an administrative leave, and/or

- student organizational leadership, or intercollegiate/intramural athletics, and
-campus education activities and programs,
- including classes.

At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

Notice of Investigation and Allegations

The Title IX Coordinator or assigned investigator will send out the Notice of Investigation and the interview and to identify and choose an Advisor to accompany them.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the University presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- n,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- making
- false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A link to the University
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

The NOIA will include all known possible alleged Prohibited Conduct at the time of the offense, including collateral conduct. Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official Universit

Informal Resolutions

During the formal grievance process it is possible that at some point, one or both parties may request to explore possible options for an Informal Resolution. Informal Resolution can include three different approaches:

- When the parties agree to resolve the matter through an alternate resolution mechanism;
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process; or
- When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. If a Respondent wishes to initiate Informal Resolution, they should contact the Title IX Coordinator to so indicate.

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 prior to the Informal Resolution being concluded.

Prior to implementing Informal Resolution, the Title IX Coordinator will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by

Complaint complexity;
Emotional investment/intelligence of the parties;
Rationality of the parties;
Goals of the parties;
Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of University policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused. Any statements made in good-faith in an attempt to resolve the case will not be considered part of the Investigative Report or relied upon in the hearing.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

Negotiated Resolution

The Title IX Coordinator

The Office of Title IX 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. Each party will receive regular updates throughout the investigation and grievance process. This will typically come via communication from the Investigator after each 30 day period. In these update emails, Investigators will share any cause for delay thus far in the process. On occasion, the Investigator may reach out prior to or in-between 30 day update intervals to alert the parties to potential or actual delays. At any time, parties may reach out to the assigned investigator or directly to the Title IX Coordinator for information on the status of their case.

The Office of Title IX may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, accommodations for disabilities or health conditions, and/or natural disasters or other emergency situations. The Office of Title IX will promptly resume its investigation and resolution process as soon as feasible. During such a delay, supportive measures may be implemented and will continue as deemed appropriate. University action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced. However, any party is welcome to provide documentation of such.

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

The Office of Title IX will record all interviews and investigative meetings. Likewise, any live-hearing will be recorded. The Office of Title IX will hold the official recording and any unauthorized audio or video record

Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of the University are expected investigation and resolution process.

After post-hearing deliberation, the Decision-maker renders a determination based on the preponderance of the evidence; whether it is more likely than not that the Respondent violated the Policy as alleged.

Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice of hearing will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.

- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.

- Any technology that will be used to facilitate the hearing.

- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker(s) and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.

- A list of all those who will attend the hearing, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least two (2) business days prior to the hearing.

Alternative Hearing Participation Options

If a party or parties prefer not to, or cannot, attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

Pre-Hearing Preparation

Any witness scheduled to participate in the hearing must have been first interviewed by the

hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the Decision-makers at least five (5) business days in advance of the hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that an actual or perceived bias or conflict of interest would preclude an impartial hearing of the allegations.

The Title IX Coordinator will give the Decision-makers a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the

decorum for the hearing, the University may require the party to use a different Advisor. If a University-provided Advisor refuses to comply with the rules of decorum, the University may provide that party with a different Advisor to conduct questioning on behalf of that party.

The Chair may explore arguments regarding relevance vB.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Chair will notify the other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s).

The other party(ies) and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigators and/or the original Decision-maker(s) will be mailed, emailed, and/or provided a hard copy of the request with the approved grounds and then be given 5 business days to submit a response to the portion of the appeal that was approved and involves them. All responses will be forwarded by the Chair to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds in this Policy by the Appeal Chair and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker(s), as necessary, who will submit their responses in 5 business days, which will be circulated for review and comment by all parties.

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and the Appeal Decision-maker will render a decision in no more than 7 business days, barring exigent circumstances. All decisions will apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official institutional

The University may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

c. Appeal Considerations

Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.

Appeals are not intended to provide vindication.

Disability Accommodations in the Grievance Process

UNA is committed to providing qualified students, employees or others with disabilities with reasonable accommodations and support needed to ensure equal access to the formal grievance process through the Office of Title IX. Anyone needing such accommodations or support should contact Jeremy Martin, ADA/504 Coordinator and Director of Disability Services or the Office of Human Resources, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation.

a. Students with Disabilities

The Director of Disability Services reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate for the

b. Employees with Disabilities

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

An employee with a disability is responsible for submitting a request for an accommodation to the ADA/504 Coordinator and providing necessary documentation. The ADA/504

accommodations could enable the employee to perform those duties.

Revision

These procedures will be reviewed and updated annually by the Title IX Coordinator. UNA reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect.

Procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy.

If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

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

