Executive Summary

It is the policy of the University to comply with Title IX of the Education Amendments of 1972 and its implementing regulations, which prohibit discrimination based on sex in the University’s educational programs and activities. Title IX and its implementing regulations also prohibit retaliation for making complaints of sexual misconduct.

1. Purpose

The University of South Alabama (the “University”) is committed to establishing and maintaining an environment where individuals, regardless of gender, gender identity, gender expression, or sexual orientation, are free from sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, stalking, and retaliation (collectively “sexual misconduct”).

The University considers sexual misconduct to be a serious offense because it undermines the atmosphere of trust and respect that is essential to a healthy University Community. As such, sexual misconduct violates the standards of our University Community and constitutes a violation of this policy.

Retaliation against any person who reports or assists in making a report of sexual misconduct or who participates in the investigation and resolution of a complaint in any way would be in violation of the University’s No Retaliation Policy. Complaints of retaliation may be subject to the same grievance procedures as complaints of sexual misconduct.

The University will promptly and thoroughly investigate and resolve all formal complaints of sexual misconduct in accordance with this policy and the Complaint Resolution Procedures. If the University determines that sexual misconduct occurred, the University will take prompt and effective remedial action to prevent the recurrence of the sexual misconduct, eliminate any hostile environment, and address the effects of misconduct on the complainant and others, if applicable.
While University employees, as described in Section 4.2.1.1 of this policy, are required to report sexual misconduct that they observe or learn about, the University takes seriously reports of sexual misconduct from any interested person.

2. Applicability

This policy applies to all University employees, including administrators, faculty, adjunct faculty, and staff; employees of USA affiliates including but not limited to University of South Alabama Health Care Authority and its subsidiaries (collectively, “USAHCA”) and USA HealthCare Management, LLC (“USAHCM”); students; applicants for employment; customers; third-party contractors; and all other persons who participate in the University’s educational programs and activities, including third-party visitors on campus (the “University Community”). This policy does not apply to students, faculty or staff participating in Study Abroad program activities that are facilitated outside of the United States.

3. Definitions

Consensual Relationships: Effective consent may not exist when there is a disparity in power between the parties. An example is when one is in a supervisory or evaluative role over the other, such as a faculty member who is teaching a student or an administrator who supervises an employee.

In addition, the appearance of a compromising conflict of interest or of coercion, favoritism, or bias is prejudicial to the interests of the University of South Alabama. Sexual and/or romantic relationships between faculty members and students with whom they also have an academic evaluative role or between supervisory employees and employees whom they supervise create such an appearance, even where the relationship is genuinely consensual.

Because of the significant power differential that exists between faculty and students, faculty members are prohibited from participating in sexual and/or romantic relationships with students enrolled in their classes or with students whom they otherwise evaluate, grade, or supervise. Similarly, faculty members have an obligation to avoid situations which may require them to evaluate, grade, or supervise students with whom they have or have had sexual and/or romantic relationships. If such a situation arises, a faculty member must report the situation immediately to his/her immediate supervisor prior to taking any such evaluative actions.

Likewise, University personnel may not participate in the evaluation or supervision of any other employee with whom such personnel currently have or
have had a sexual and/or romantic relationship. If such a situation arises, the supervisory employee must report the situation immediately to his/her immediate supervisor prior to conducting any evaluation.

**Consent:** For purposes of this policy, consent is defined as conduct that a reasonable person would understand to indicate agreement to the sexual conduct at issue. Under this policy, consent must be informed, freely given, and mutually understood. Lack of consent is a critical factor in determining whether sexual violence has occurred.

Under Alabama law, lack of consent for criminal purposes “results from: (1) forcible compulsion; or (2) incapacity to consent; or (3) [i]f the offense charged is sexual abuse, any circumstances . . . in which the complainant does not expressly or impliedly acquiesce in the actor’s conduct.” Ala. Code § 13A-6-70(b). “Forcible compulsion” means that physical force was used to overcome resistance, or the complainant was placed in fear of immediate death or serious physical injury.

Furthermore, under Alabama law, “[a] person is deemed incapable of consent if he [or she] is (1) less than 16 years old; or (2) mentally defective; or (3) mentally incapacitated; or (4) physically helpless.” Ala. Code § 13A-6-70(c). A person is “mentally defective” if the person suffers from a mental defect or disease. A person is “mentally incapacitated” if the person lacks the ability to understand the fact, nature, or extent of a sexual situation due to a narcotic or intoxicating substance administered without their consent. A person is “physically helpless” if the person is generally unconscious or unable to communicate.

In addition to Alabama law, the following are essential to understanding what constitutes effective consent under the policy:

- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is incapacitated by alcohol or drugs such that the person cannot understand the fact, nature, or extent of the sexual situation, there is no consent even if the person self-administered the alcohol or drugs.
- Consent to one form of sexual activity does not imply consent to other forms of sexual activity.
● Consent can be withdrawn by verbal or physical conduct that a reasonable person would understand to indicate a desire to stop or not engage in the sexual conduct at issue.

● While consent can be withdrawn, a withdrawal of consent operates going-forward. It does not change the consensual nature of sexual activity that has already occurred.

● Being in a romantic relationship with someone does not imply consent to any form of sexual activity.

**Dating Violence:** Dating violence means violence committed by a person who is 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 circumstances, such as the statements of the alleged complainant or alleged perpetrator, and with consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship. Alabama law does not specifically define dating violence but conduct of this nature is covered by the definitions of dating relationship, domestic violence, and complainant found at Ala. Code § 13A-6-139.1. Dating violence does not depend on the gender, gender identity, gender expression, or sexual orientation of the alleged complainant and alleged perpetrator. Thus, dating violence can occur between persons who consider themselves to be of the same gender, the opposite gender, or to otherwise have different gender identities.

Dating violence is a crime and is prohibited by this policy, no matter the motivation. Reports of domestic violence, dating violence, and stalking will be addressed pursuant to the Complaint Resolution Procedures.

**Domestic Violence:** Domestic violence includes acts of violence committed by a current or former spouse or intimate partner of a complainant, by a person with whom the complainant shares a child, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth complainant who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

Alabama law prohibits domestic violence, pursuant to Ala. Code § 13A-6-130 through 143, and as defined at Ala. Code § 13A-6-139.1. Domestic violence
does not depend on the gender, gender identity, gender expression, or sexual orientation of the alleged complainant and alleged perpetrator. Thus, domestic violence can occur between persons who consider themselves to be of the same gender, the opposite gender, or to otherwise have different gender identities.

Domestic violence is a crime and is prohibited by this policy, no matter the motivation. Reports of domestic violence, dating violence, and stalking will be addressed pursuant to the Complaint Resolution Procedures.

**Good Faith Reports:** The University encourages the good faith reporting of sexual misconduct. However, the University will not allow this policy or the Complaint Resolution Procedures to be abused for improper means. Accordingly, the University may take disciplinary action against any person who makes a bad faith report of sexual misconduct, and such disciplinary action will not constitute prohibited retaliation. A person makes a bad faith report of sexual misconduct if, at the time they make the report, they know the report is false or frivolous. Further, the University may take disciplinary action against any person who knowingly provides false information during the investigation and resolution of a formal complaint of sexual misconduct and such disciplinary action will not constitute prohibited retaliation.

**Reasonable Person:** Reasonable person for purposes of this policy means a person who exercises average care, skill, and judgment in conduct and who serves as a comparative standard for determining responsibility is a reasonable person under similar circumstances.

**Retaliation:** Retaliation consists of materially adverse action taken against a person because the person made a good faith report of sexual misconduct or participated in the investigation of a formal complaint of sexual misconduct, such as by serving as a witness or support person. Specific examples of retaliation include:

- Termination of employment, demotion, denial of promotion, reduction in pay, or being “written up” because a report of sexual misconduct was made;

- Sending threatening text messages or social media messages to someone because of a report of sexual misconduct or because of a statement as a witness;

- Causing physical damage to personal belongings because of a report of sexual misconduct or because of a statement as a witness;
● Suspension from an activity or limiting involvement because of a report of sexual misconduct;

● Publication of knowingly false information about a person because of a report of sexual misconduct.

**Sex Discrimination:** Sex discrimination occurs when persons are excluded from any activity on the basis of their sex—including employment. Sex discrimination includes materially adverse treatment or action based on a person’s biological sex, pregnancy status, gender, gender expression or sexual identity, and/or failure to conform to stereotypical notions of masculinity and femininity (so called “gender stereotyping”).

Sex discrimination also includes conduct that meets the definitions of sexual harassment and sexual violence. Specific examples of conduct that may constitute sex discrimination include:

● Giving unequal pay, promotions, or other job benefits on the basis of gender;

● Allowing a person’s gender to influence the grade conferred in a class;

● Denying people access to a given degree or major because of their gender;

● Requiring a pregnant student to verify pregnancy-related absences with a doctor’s note when such verification is not required of students with other medical conditions;

● Unless exempt under Title IX, excluding a person from a University-sponsored group because the person has a gender identity different than the gender assigned to the person at birth; or

● Excluding a person from participation in a University-sponsored activity based on stereotypical notions of how a person of a given gender or sexual identity should look, speak, or act;

**Sexual Assault:** Any sexual act directed against another person, without the consent of the complainant, including instances where the complainant is incapable of giving consent.

**Sexual Harassment:** Sexual harassment is unwelcome conduct on the basis of sex that a reasonable person would find to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the
recipient's education program or activity. Sexual harassment consists of quid pro quo harassment, sexual assault, dating violence, domestic violence and stalking. Sexual harassment rises to the level of sex discrimination and is prohibited by this policy as sexual misconduct when:

- Submission to such conduct is made or threatened to be made, either explicitly or implicitly, a term or condition of an individual’s employment or education;
- Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for academic or employment decisions affecting that individual; or
- Such conduct has the purpose or effect of substantially interfering with an individual’s academic or professional performance or creating what a reasonable person would perceive as an intimidating, hostile, or offensive employment, education, or living environment (i.e., a “hostile environment”).

In determining whether unwelcome conduct of a sexual nature rises to the level of creating a hostile environment, the University will consider the totality of circumstances, including, but not limited to, the nature and severity of the conduct, the duration of the conduct, whether the conduct is part of a pattern, the age of the potential complainant, and whether there is a power differential between the alleged complainant and alleged perpetrator. The University will evaluate the totality of circumstances from the perspective of a reasonable person in the alleged complainant’s position. “Reasonable person” for purposes of this policy means a person who exercises average care, skill, and judgment in conduct and who serves as a comparative standard for determining responsibility as a reasonable person under similar circumstances.

A person’s adverse subjective reaction to conduct is not sufficient, in and of itself, to establish the existence of a hostile environment. Sexual harassment can take many forms, including verbal, non-verbal, and physical conduct.

**Sexual Harassment, Freedom of Speech, and Academic Freedom:** While sexual harassment can include verbal and written conduct, the First Amendment to the U.S. Constitution and University policies establishing academic freedom provide significant space for individuals to express controversial views, teach controversial subjects, and engage in controversial research. As such, the offensiveness of a particular expression, course content, subject of academic inquiry, or research topic, as perceived
by some, standing alone, is not sufficient to constitute a violation of this policy. The University will apply and construe this policy consistent with the legal rights of community members under the First Amendment and University policies governing academic freedom.

Faculty members and students should be aware that conduct occurring in the context of educational instruction may exceed the protections of free speech and academic freedom if it meets the definition of sexual misconduct and is not germane to academic subject matter, lacks a pedagogical purpose, advances the personal interest of a faculty member or student without relating to the learning process or legitimate academic objectives, causes material adverse action against a person, reveals confidential information about a person, is defamatory or libelous, threatens physical harm or imminent violence, or constitutes some other category of speech that is unprotected by the U.S. Constitution.

**Examples of Sexual Harassment:** Sexual harassment can occur between individuals of the opposite sex and individuals of the same sex. Specific examples of conduct that may constitute sexual harassment if unwelcome include:

- Unreasonable pressure for a dating, romantic, or intimate relationship or sexual activity;
- Kissing, hugging, rubbing, or massaging;
- Sexual innuendos, jokes, humor, or gestures;
- Displaying sexual graffiti, pictures, videos, or posters;
- Using sexually explicit profanity; 
  Asking or telling, about sexual fantasies, sexual preferences, or sexual activities;
- Leering or staring at someone in a sexual way, such as staring at a person’s breasts or groin;
- Calling a person derogatory epithets based on stereotypical notions of how a person; of a given sex or sexual identity should look, speak, or act;
- Sending sexually explicit emails, text messages, or social media posts;
- Commenting on a person’s appearance or dress in a sexual manner;
● Giving unwelcome personal gifts, such as lingerie, that suggest the desire for a sexual relationship;

● Disseminating sexual pictures or videos of another person without consent regardless of whether the pictures or videos were obtained with consent;

● Sexual violence (as defined);

**Sexual Misconduct:** Sexual misconduct is an umbrella term that includes sex discrimination, sexual harassment, sexual violence, domestic violence, dating violence, stalking, and retaliation. Sexual misconduct does not depend on the gender, gender identity, gender expression, or sexual orientation of the alleged complainant and alleged perpetrator. Thus, sexual misconduct can occur between persons who consider themselves to be of the same gender, the opposite gender, or to otherwise have different gender identities.

**Sexual Violence:** Sexual violence is a particularly severe form of sexual harassment that, by its very nature, is likely to create a hostile environment. Sexual violence includes physical sexual acts perpetrated without consent or where a person is incapable of giving consent because of physical, mental, or legal incapacity.

Under this policy, sexual violence also includes sexual exploitation, which consists of prostituting another person, secretly recording the sexual activities of a person without their consent or viewing the sexual activities of another person without their consent (i.e., “peeping” or engaging in voyeurism).

A number of different criminal acts fall into the category of sexual violence, including conduct commonly referred to as “rape,” “sexual assault,” “forced sodomy,” and “sexual battery.” Sexual violence can occur between persons of the opposite sex or the same sex. Specific examples of sexual violence include:

● Sexual penetration (anal, vaginal, or oral) or touching of sexual organs that is committed by force, threat, intimidation, or otherwise without consent;

● Having sexual intercourse with, or sexually touching, a person who is incapacitated because of drug or alcohol use, including a person who has been given a “date rape drug” or any other drug causing incapacitating impairment;
● Hazing that involves penetrating a person’s vagina or anus with an object;

● Knowingly exposing another person, without their consent, to a sexually transmitted disease (such as HIV, chlamydia, gonorrhea, syphilis, or herpes) through sexual activity;

● Secretly videotaping or photographing sexual activity where the other party has not consented;

● Prostituting another person;

● Exceeding the scope of sexual permission (e.g., having vaginal or anal sex with a person when they have only consented to oral sex);

**Stalking:** Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to (A) fear for his or her safety or the safety of others who may be targeted by virtue of their relationship with him/her; or (B) suffer substantial emotional distress.

For purposes of the definition of stalking in this policy:

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

● Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling;

● Alabama law prohibits stalking, as set forth at Ala. Code § 13A-6-90 to 13A-6-94, inclusive. Stalking can occur between persons of the opposite sex or the same sex;

4. **Policy Guidelines**

4.1 **Introduction**

This policy prohibits sexual misconduct regardless of gender, gender identity, gender expression, or sexual orientation of the alleged complainant and the alleged perpetrator. The University’s prohibition on sexual misconduct extends to all aspects of its educational programs and activities, including, but not
limited to, admissions, employment, academics, athletics, housing, and student services.

This policy applies to conduct that occurs (1) on University premises, (2) during or at an official University program or activity (regardless of location), or (3) off University premises when such conduct could interfere with or limit a person’s ability to participate in or benefit from the University’s educational programs and activities if (a) the University exercises substantial control over both the alleged perpetrator and the context in which the conduct occurred or (b) the conduct occurred in any building owned or controlled by a student organization that is officially recognized by the University.

The University’s jurisdiction over students begins when a student registers for classes or participates in orientation, whichever occurs sooner. The University’s jurisdiction over students covers conduct that occurs when a student is enrolled in classes and during regular academic breaks, as well as when the student is not enrolled in classes for a particular term but nonetheless maintains a continuing relationship with the University. The University’s jurisdiction remains in effect until a student’s degree has been officially conferred by the University or other separation from the University occurs.

4.2 Reporting

4.2.1 Making a Report

4.2.1.1 Employees

With the exception of those employees who are Confidential Resources identified in Section 4.2.6 below, all University employees (including administrators, faculty, staff, and designated student employees) have a duty to report sexual misconduct that they observe or otherwise learn about. Employees should make their report promptly to the Title IX Coordinator, a Deputy Title IX Coordinator, or the University Police Department. The University may take disciplinary action against an employee who fails to report sexual misconduct as required by this policy, up to and including termination.

4.2.1.2 Students and Non-Employee Members of the University Community

Students and non-employee (contractors, vendors, volunteers, camp participants, visitors, etc.) members of the University Community who wish to report sexual misconduct should file a complaint with the Title
IX Coordinator, a Deputy Title IX Coordinator, and/or the University Policy Department. Students and non-employee members of the University Community should be aware that all employees at the University, other than the Confidential Resources identified in Section 4.2.6.1 below, have an obligation to report sexual misconduct that they observe or otherwise learn about.

At the time of filing a formal complaint, the potential complainant must be participating in or attempting to participate in the University’s educational program or activity.

4.2.1.3 Right to Make a Report to the U.S. Department of Education

In addition to the reporting options under this policy, any person may make a report of sexual misconduct to the U.S. Department of Education’s Office for Civil Rights at the contact information listed in Section 3.

4.2.2 Reporting to Law Enforcement

In addition to making a report under this policy, the University encourages any person who believes he or she is the victim of a crime to make a report to law enforcement. The contact information for the University’s Police Department is:

University of South Alabama Police Department
290 Stadium Blvd.
Beta Gamma Commons
Mobile, Alabama 36688-0001
Phone: (251) 460-6312
police@southalabama.edu
Tips Line: (251) 460-6667

If requested, the University will assist an individual in notifying the appropriate law enforcement authorities. If a person believes he or she is in imminent danger, the person should dial 911. Unless there is a health or safety emergency, articulable threat to members of the University Community, or a state law requiring reporting (such as in the case of child abuse), the University will not contact outside law enforcement without an individual’s permission.
4.2.3 Special Advice for Individuals Reporting Sexual Violence, Domestic Violence, and Dating Violence

For those who believe that they are a victim of sexual violence, domestic violence, or dating violence, the University recommends the following:

- Get to a safe place as soon as possible;
- Try to preserve all physical evidence of the incident – avoid bathing, using the toilet, rinsing one’s mouth, or changing clothes. If it is necessary to change clothes, put all clothing that was worn at the time of the incident in a paper bag, not a plastic one;
- Contact University police by calling (251) 460-6312 if the incident occurred on campus or the local police by calling 911 if the incident occurred off campus;
- Get medical attention – all medical injuries are not immediately apparent. This is also necessary to collect evidence in case the individual decides to press charges. Local hospitals (identified in Section 4.2.6.2 of this policy) have evidence collection kits necessary for criminal prosecution should the individual wish to pursue charges;
- Contact a trusted person, such as a friend or family member for support;
- Call the Assault Hotline at (251) 460-7151, 24 hours a day, seven (7) days a week. A trained Advocate will contact you to offer assistance;
- Talk with a counselor who will help explain options, give information, and provide emotional support;
- Make a report to the Title IX Coordinator or a Deputy Coordinator;
- Explore this policy and avenues for resolution under the Complaint Resolution Procedures;

It is also important to take steps to preserve evidence in cases of stalking, to the extent such evidence exists. In cases of stalking, evidence is more likely to be in the form of letters, emails, text messages, etc., rather than evidence of physical contact and violence.

4.2.4 Limited Amnesty
The University recognizes that an individual who has been drinking alcohol or using drugs may be hesitant to report sexual misconduct arising from the same setting where the alcohol or drugs were consumed. To encourage reporting, the University will not take disciplinary action for drug or alcohol use against an individual who makes a good faith report of sexual misconduct, either as the reporter/complainant or as a witness, provided that these conduct violations did not and do not place the health or safety of any other person at risk.

The University’s commitment to amnesty in these situations does not prevent action by local police or other legal authorities against an individual who has illegally consumed alcohol or drugs.

4.2.5 Timing of Reports

The University encourages people to make complaints of sexual misconduct as soon as possible because late reporting may limit the University’s ability to investigate and respond to the conduct complained of.

4.2.6 Confidential Resources

The University has designated a limited number of employees as Confidential Resources. These Confidential Resources do not have a duty to report sexual misconduct to the Title IX Coordinator and will not disclose identifying information provided to them in their professional capacities unless a specific law requires them to do so, such as laws requiring the reporting of child abuse. However, Confidential Resources have received training about the policy and may, if they deem it appropriate, encourage patients and clients to report sexual misconduct to the University and/or law enforcement on a voluntary basis.

4.2.6.1 The University’s Confidential Resources are:

- Professional counselors at Counseling and Testing Services
  326 Alpha East Hall
  Mobile, Alabama 36688-0001
  Phone: (251) 460-7051

- Trained advocates with the Advocate Program
  Phone: (251) 460-7151 (24 hours a day)

- Medical providers at the Student Health Center
5870 Alumni Circle  
Mobile, Alabama 36688-0002  
Phone: (251) 460-7151

- Employee Assistance Counselor (for employees only)  
  Phone: (251) 461-1346

- USA Children’s and Women’s Hospital (SANE exam provider)  
  1700 Center Street  
  Mobile, Alabama 36604  
  Phone: (251) 415-1000

- University Hospital  
  2451 University Hospital Drive  
  Mobile, Alabama 36617  
  Phone: (251) 471-7000

4.2.6.2 Community Resources

In addition, there are a number of hospitals and support services in the greater Mobile region that can provide counseling and advice to complainants of sexual misconduct. These entities will not disclose information that is provided to them without the complainant’s consent unless a specific law requires them to do so. These third-party resources include:

- Lifelines Counseling Services Rape Crisis  
  705 Oak Circle Drive, N.  
  Mobile, Alabama 36609  
  Phone: (251) 473-7273 or (800) 718-7273 (24 hours a day)

- Penelope House  
  Phone: (251) 342-8994

- Springhill Medical Center  
  3719 Dauphin Street  
  Mobile, Alabama 36608  
  Phone: (251) 344-9630

- Infirmary Health
4.3 Evaluation of the Report and Engagement with the Parties

4.3.1 Initial Evaluation of the Report

After the University receives a report of sexual misconduct, the Title IX Coordinator or designee will conduct an initial evaluation of the report to determine whether the conduct alleged, if true, could constitute a violation of this policy.

If the conduct as alleged does not constitute a violation of the policy, the Title IX Coordinator or designee may refer the report to be addressed under any other applicable University policy. However, the report will not be further addressed under this policy or the Complaint Resolution Procedures.

If the Title IX Coordinator or designee determines the conduct alleged, if true, could constitute a violation of this policy, the Title IX Coordinator or designee will attempt to make contact with the potential complainant. If the reporting party is not also the potential complainant, the reporting party may have no further involvement in the process.

4.3.2 Contact with the Parties

The Title IX Coordinator or designee (often a trained support advocate) will make contact with the potential complainant of the conduct reported. The Title IX Coordinator or designee will advise the potential complainant of his or her options under the policy and otherwise, including:

- Voluntarily contacting parents or a relative;
- Seeking legal advice;
- Seeking personal counseling through the University’s counseling center;
- Contacting law enforcement with the University’s assistance;
● Requesting an investigation and making a complaint under the Complaint Resolution Procedures;

● Requesting that no further action be taken, and that the potential complainant’s identity not be disclose;

● Seeking accommodations, such as housing accommodations or academic accommodations;

The Title IX Coordinator or designee will give the potential complainant a written document that outlines these options and provides contact information for local resources and support organizations.

The Title IX Coordinator or designee will make contact with the potential respondent of the conduct reported. The Title IX Coordinator or designee will advise the potential respondent of his or her of the process and options under the policy. There is a presumption that the respondent is not responsible for the reported conduct, pending the outcome of the process.

4.3.3 Interim Measures

After receiving a report, and during any investigation under the Complaint Resolution Procedures, the Title IX Coordinator or designee will impose any interim measures necessary to protect the involved parties from further sexual misconduct, to separate the parties, to protect witnesses, and/or to support the parties pending resolution. These interim measures may include but are not limited to: provision of counseling or support services; reasonable changes in academic, living, transportation, or work arrangements; and entry of a mutual “no contact” order or similar order to ensure separation of the parties. Either the alleged complainant or the alleged perpetrator may request interim measures.

In cases where there is reasonable cause to believe the alleged perpetrator poses a continuing threat to the alleged complainant or others, the University may issue full or partial suspension, on an interim basis, until the matter is resolved through the Complaint Resolution Procedures. However, except in an emergency situation, an alleged perpetrator will have the opportunity to meet with the Title IX Coordinator, or his/her designee, and be heard prior to such interim suspension being imposed.

If an alleged complainant has obtained an ex parte order of protection (a temporary order for shelter and protection against someone who is a danger to the vulnerable person), full order of protection, or any other temporary
restraining order or no contact order against the alleged perpetrator from a criminal, civil, or tribal court, the alleged complainant should provide such information to the Title IX Coordinator or Deputy Title IX Coordinator so that the University can take all reasonable and legal action to implement the order with respect to those persons and areas the University controls.

Interim measures may be requested by any party at any time. Any person who believes interim measures are being violated should report the alleged violation in the same manner for reporting sexual misconduct as set forth in Section 4.2.

Interim measures are temporary measures taken to ensure equal and continuing access to University programs and activities and to ensure the safety of the University community. They do not constitute a finding of guilt and may be removed if a report or complaint is found not to be substantiated.

4.3.4 Decision on How to Proceed

In the event the complainant requests an investigation and wishes to make a formal complaint under the Complaint Resolution Procedures, the Title IX Coordinator or designee will appoint an Investigator and the report will be investigated and resolved in accordance with the Complaint Resolution Procedures. The University will make all reasonable and appropriate efforts to preserve a complainant’s privacy and will conduct any investigation and resolution with discretion. However, the University cannot guarantee complete confidentiality due to state and federal laws governing the reporting of certain types of misconduct as well as the necessity for information to be disclosed to the respondent and others involved in the investigation.

If the complainant wishes to pursue a formal complaint under the Complaint Resolution Procedures, the complainant must reduce the complaint to writing or describe the complaint so that the Title IX Coordinator or his/her designee can document it in writing. The written complaint shall include the following:

- The name of the complainant;
- The name of the respondent;
- The details of the alleged sexual misconduct;
● The names of any persons believed by the complainant to have relevant information; and

● Any other information the alleged complainant believes is pertinent to the alleged sexual misconduct.

The written complaint will be provided to the appropriate Investigator as specified in the Complaint Resolution Procedures.

If the complainant requests that the report not be investigated and/or is unwilling to be a complainant under the Complaint Resolution Procedures, the University will take all reasonable steps to address the report consistent with the request. However, the University’s ability to address the reported misconduct may be limited.

The University reserves the right to initiate or continue proceedings under the Complaint Resolution Procedures, despite a potential complainant’s wishes to the contrary, when, considering the totality of circumstances, the University determines that not initiating proceedings would be clearly unreasonable. This may occur when a report involves serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the University Community. In such a case, the University will act as a complainant under the Complaint Resolution Procedures. The Title IX Coordinator or his/her designee is responsible for determining whether the University will act as a complainant under the Complaint Resolution Procedures.

In the event that a complainant initiates a formal complaint under the Complaint Resolution Procedures, but then elects to withdraw the complaint, the University may also proceed with resolution of the complaint at its discretion depending upon the facts and circumstances of the incident. Additionally, the University may consolidate multiple complaints involving different persons when they arise from the same facts or circumstances.

If the University initiates a formal complaint or continues proceedings under the Complaint Resolution Procedures contrary to the wishes of the potential complainant, the University is obligated to treat the non-participating complainant as a party and provide notifications to him or her throughout the complaint resolution process. This requirement is intended to preserve the non-participating complainant’s right to choose to participate, not to pressure the non-participating complainant into participating.
The University may dismiss a formal complaint at any time if the complainant would like to withdraw the complaint; the respondent is no longer enrolled or employed by the University; or specific circumstances prevent the University from gathering evidence sufficient to reach a determination.

4.4 Investigation and Resolution

4.4.1 Complaint Resolution Procedures

All formal complaints of sexual misconduct will be investigated and resolved pursuant to the Complaint Resolution Procedures, which, along with this policy, are the exclusive means of resolving formal complaints of sexual misconduct. To the extent this policy and/or the Complaint Resolution Procedures conflict with any other University policy, this policy and/or the Complaint Resolution Procedures, as the case may be, will control the investigation. Under the Complaint Resolution Procedures, the party making a formal complaint is referred to as the “complainant” and the person accused of misconduct is referred to as the “respondent.”

4.4.2 Support Persons and Advisors

At each stage of the Complaint Resolution Procedures (interviews, meetings, hearings, etc.), the complainant and respondent may be accompanied by a support person of their choice. The support person’s role is to provide support and private counsel to the party. The support person is expected to be discreet with the information he or she receives during the process, and he or she will not be permitted to attend, present information, argue, or actively participate in the proceedings unless the support person has also been designated as a party’s advisor. The University reserves the right to dismiss a support person who fails to follow this policy and applicable provisions of the Complaint Resolution Procedures, in which case the party will be allowed to select a different support person.

The University’s Advocate Program offers trained Support Advocates who are available to serve as support persons for complainants. The Advocates have received in-depth training regarding this policy and the Conflict Resolution Procedure and can provide support and assistance in understanding and navigating the process. Any complainant wishing to utilize a Support Advocate should make a request to the Title IX Coordinator or designee.
Similarly, the University has a pool of trained support persons, referred to as Respondent Resources, who are available to serve as support persons for respondents. These Respondent Resources have received in-depth training regarding this policy and the Complaint Resolution Procedures and can assist a respondent in understanding and navigating this policy and the Complaint Resolution Procedures. A respondent wishing to utilize a Respondent Resource should make a request to the Title IX Coordinator or designee.

Each party is also entitled to an advisor of his or her choice for the purpose of conducting cross-examination for the party during the hearing. An advisor does not have to be, but may be, an attorney. A support person may also serve as an advisor, either by choice of the party or by designation of the University. If a party does not have an advisor, the University will provide one free of charge.

4.4.3 General Principles Applicable to the Investigation and Resolution Process

In conducting its investigation and resolution under the Complaint Resolution Procedures, the University will:

- Make reasonable and appropriate efforts to preserve the privacy of the parties involved while recognizing that absolute confidentiality is not possible;
- Provide equal information to both parties about the investigation and resolution process;
- Conduct a thorough, fair, and impartial investigation that provides the parties an equal opportunity to present information and equivalent procedural safeguards;
- Allow the parties to be accompanied to the hearing by a single advisor of their choice;
- Keep the parties apprised of the progress of the investigation and anticipated time to resolution;
- Provide the parties an equal opportunity to meet with the Investigator and to be present and testify (if applicable) at any hearing required by the Complaint Resolution Procedures, though not during the deliberative process;
● Provide the parties an equal opportunity to comment on the information developed during the investigation;

● There must be reasonably prompt time frames for completion of various phases of the process, and in the event of any delays, which may only be for good cause, written notice must be provided to the parties;

● Avoid conflicts of interest that could call into question the integrity of the process;

● Provide simultaneous written notice to the parties of the outcome of a formal complaint and the outcome of any appeal;

● If a formal complaint of sexual misconduct is substantiated, take appropriate corrective, disciplinary, and remedial action to prevent the recurrence of the conduct and correct its discriminatory effects;

At any point during the investigation, if the University determines that the conduct alleged in the formal complaint, if assumed true:

● Does not constitute sexual harassment;
● Did not occur in the University's education program or activity; or
● Did not occur against a person in the United States;

then the University must dismiss the complaint for purposes of this policy.

The University has discretion to address such conduct under another policy, such as a student code of conduct.

4.4.4 Sharing of Information

As a general rule, the University will share information about a report or formal complaint, and information received during any investigation, only with those persons who have a need to know and those whose participation is necessary to ensure a full and fair investigation and resolution under this policy and the Complaint Resolution Procedures. However, once a report is made to anyone other than a Confidential Resource, absolute confidentiality cannot be guaranteed. Further, while the outcome of a particular complaint and any related discipline and remedial steps will generally be shared only with the parties, the University reserves the right to share the outcome of a particular complaint more broadly, to the extent such disclosure is permitted by applicable laws, including the Family Educational Rights and Privacy Act
(FERPA) and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, as amended by the Campus SaVe Act.

4.5 Education

Because the University recognizes that the prevention of sexual misconduct is important, it offers a variety of educational programming, including primary prevention and awareness training for new students and new employees and ongoing awareness programs for all members of the University Community. Information on specific education programs and training is available from the Title IX Coordinator and is published on the Title IX website. Education materials and information regarding upcoming workshops and training can be requested via email at titleix@southalabama.edu.

4.6 Policy Review

This policy is maintained by the University’s Title IX Coordinator. The Title IX Coordinator will review this policy at least biannually, with the assistance of the University’s Title IX Committee. The review will capture evolving legal requirements, evaluate the supports and resources available to the parties, and assess the effectiveness of the Complaint Resolution Procedures. The review will incorporate an aggregate view of reports, resolution, and climate.

4.7 Distribution

This policy will be disseminated widely to the University Community through email communication, the University’s website, inclusion in orientation programs for new employees and new students, and through other appropriate channels of communication.

5. Procedures

5.1 General Principles:

5.1.1 Applicability

These Complaint Resolution Procedures apply to the resolution of all formal complaints under the Sexual Misconduct Policy. They apply to the resolution of formal complaints against all members of the University Community, and they are the exclusive means of resolving formal complaints of sexual misconduct.

For employees: Consequences for employees found in violation of University policy, based on the clear and convincing, can range from a
written warning to suspension and up to including termination of employment.

5.1.2 Administration

For purposes of these Complaint Resolution Procedures, “Investigator” means the individual(s) designated by the Title IX Coordinator to investigate a particular formal complaint and administer relevant provisions of these Complaint Resolution Procedures. The Investigator may consult with other University administrators and counsel as needed. The Investigator may be a third-party investigator or attorney retained for that purpose by the University. The Investigator will also be trained on issues of relevance to create an investigative report that fairly summarizes relevant evidence. The training is free of sex stereotypes and promotes impartial investigations.

5.1.3 Promptness, Fairness, and Impartiality

These procedures provide for prompt, fair, and impartial investigations and resolutions. All University employees involved in the investigation and resolution process shall discharge their obligations under these Complaint Resolution Procedures fairly and impartially. If an involved University employee determines that he or she cannot apply these procedures fairly and impartially because of the identity of a complainant, respondent, or witness, or due to any other conflict of interest, another suitable individual will be designated by the Title IX Coordinator to fill the role.

5.1.4 Training

These procedures will be implemented by University employees who receive training on the issues related to sexual misconduct. The Title IX Coordinator, Deputy Title IX Coordinators, Investigators and decision-makers have all been trained on the various relevant aspects of the University’s Sexual Misconduct Policy and Complaint Resolution Procedures.

The training includes how to conduct investigations, hearings, appeals and informal resolutions as well as how to serve impartially, including avoiding prejudgment of the facts at issue, and conflicts of interest and bias. The training is free of sex stereotypes and promotes impartial investigations.

Additionally, the decision-makers receive training on relevant technology that is used at any live hearing, relevance and the permissible use of sexual history.
5.1.5 Participation on Investigations

All members of the University Community are encouraged and expected to fully cooperate with any investigation and resolution under these Complaint Resolution Procedures. University employees who fail to cooperate and/or participate will face discipline, up to and including termination. In the event a potential complainant refuses to participate under these Complaint Resolution Procedures, the University may proceed as a complainant under the circumstances specified in Section 4.3.3 of this policy. In the event a respondent refuses to participate, the Complaint Resolution Procedures will be completed despite the Respondent’s lack of participation and may result in a finding of misconduct in absentia.

5.1.6 Virtual Process

To the extent that the parties are conducting meetings, the University can accommodate virtual processes. Hearings must also be done via virtual platforms with all parties' consent.

5.2 Timing, Notification, and Initiation of Process

5.2.1 Timing of Investigation and Resolution

The University will endeavor to conclude its investigation and resolution of the formal complaint in a timely manner. The complainant (including a potential complainant who elected not to proceed with filing a formal complaint and a complainant who filed a formal complaint and subsequently withdrew) and the respondent will be given periodic updates regarding the status of the investigation. If either the complainant or respondent needs additional time to prepare or to gather their witnesses or information, they shall notify the Investigator in writing explaining how much additional time is needed and why it is needed. The Investigator shall respond to any such request in a timely manner.

Some instances of sexual misconduct may also constitute criminal conduct. In the case where alleged criminal conduct has also been reported to law enforcement, the University may temporarily delay its investigation of the complaint where necessary to avoid interfering with law enforcement. However, the pendency of a criminal investigation does not serve as a substitute for these procedures, and the investigation and resolution process will commence promptly once interference is no longer a concern. In addition, because the University’s process is separate and distinct from any
criminal prosecution, the University’s determination will not be held in abeyance due to the pendency of a criminal trial.

5.2.2 Complaints Involving Multiple Parties

In most cases, a formal complaint will involve a single complainant and a single respondent. To the extent there are multiple complainants making formal complaints against a single respondent, or a single complainant making formal complaints against multiple respondents, each formal complaint will be addressed separately under these Complaint Resolution Procedures unless the formal complaints arise from the same transaction of facts.

To the extent multiple formal complaints arise from the same transaction of facts, the Investigator, in consultation with the Title IX Coordinator, may merge the formal complaints into a single investigation and resolution process.

Similarly, where the respondent makes a reciprocal allegation of sexual misconduct or where the complainant later makes additional allegations that relate to the original formal complaint, the Investigator, in consultation with the Title IX Coordinator, may combine all related and relevant allegations of sexual misconduct into one investigation and resolution process.

5.2.3 Notification of the Respondent and Selection of Process

Once a formal complaint is received by the Investigator, the Investigator will promptly notify the respondent and provide the respondent with the opportunity to review a copy of the written formal complaint. Additionally, the Investigator will provide written notice to both parties that contains:

- Notice of the University’s grievance process, including the informal resolution process;
- Notice of the specific allegations of sexual misconduct, including sufficient details known at the time to allow the parties to prepare a response before any initial interview by the Investigator, which include, but are not limited to, the identity of the parties involved, the conduct allegedly constituting sexual misconduct, and the date and location of the alleged incident, if known;
- 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.
● Notice that each party may have an advisor of his or her choice who may be, but is not required to be, an attorney;

● Notice that each party may inspect and review evidence; and

● Notice of any provisions in the University’s code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

The Investigator will then communicate with each party separately to discuss the pertinent avenues for resolution as set forth below. With the written consent of both parties, the Investigator, in consultation with the Title IX Coordinator, will then determine whether the formal complaint will be resolved through an informal or formal process. The Investigator will then notify the parties of the process to be used. If any students are parties, the Title IX Deputy Coordinator (TIXDC), or his/her designee, shall also be notified.

If the scope of the investigation expands, the University will issue a supplemental written notice providing additional details to both parties.

5.3 Informal Resolution

5.3.1 Nature of Informal Resolution

Informal resolution is a process by which the Investigator, working alone or in concert with other appropriate University administrators (such as a supervisor if the parties are employees), attempts to resolve a formal complaint to the mutual satisfaction of both the complainant and respondent. Informal resolution may include, but is not limited to, mediation, agreed separation of the parties, referral of the parties to their respective counseling programs, agreed upon educational or training programs for one or more of the parties, the agreement of a party to apologize for their conduct, and other agreed remedial measures, which may include agreed upon forms of discipline. Although informal resolution may involve some investigation by the Investigator in order to understand the background of the complaint, informal resolution is not intended to reach a formal determination as to whether or not sexual misconduct occurred, unless the respondent admits to the conduct at issue.

5.3.2 When Informal Resolution May Be Used

Informal resolution is intended to resolve complaints quickly and collaboratively. However, the Investigator may determine that informal
resolution is not appropriate in certain circumstances, such as where informal resolution has failed between two parties in the past, the resolution sought by one party is of a type that cannot be achieved through informal resolution, where the conduct is particularly serious, or where the respondent is accused of a pattern of misconduct.

Both parties must agree in writing to use informal resolution. If either party does not wish to use informal resolution, formal resolution will be used. Both parties have the right to end informal resolution at any time prior to agreement on resolution and insist upon formal resolution. Similarly, if the Investigator determines that efforts at informal resolution have been unsuccessful and have no prospect for success, the Investigator may convert the matter to formal resolution, irrespective of the parties’ wishes. Informal resolution will not be utilized in any case in which an employee is accused of sexually harassing a student.

5.3.3 Documentation of Informal Resolution

If the parties reach agreement on an informal resolution, the Investigator will consult with the Title IX Coordinator and other appropriate University administrators (including the TIXDC or his/her designee if any student is a party). This group will review the resolution and may reject it, approve it, or require modifications prior to approval. In the event the resolution is approved, the Investigator will prepare a written memorandum setting forth the terms of the resolution. The Investigator will present the written memorandum to the parties for their review and signature. The Investigator will then provide the parties with simultaneous written notification that the case has been resolved pursuant to informal resolution. If any students are parties, the SCA shall also be notified. The Investigator may transmit a copy of the written memorandum to other University administrators or employees whose involvement is necessary to effectuate the resolution and/or for inclusion in appropriate personnel files.

5.3.4 Monitoring of Implementation

Because it is collaborative and must be agreed to by both parties, there is no right to appeal the terms of an informal resolution. In the event the terms of an informal resolution require future action or inaction, the Investigator may monitor the implementation of the informal resolution and maintain jurisdiction over a particular complaint until the terms of the informal resolution are satisfied. In the event the terms of the informal resolution are not satisfied, the Investigator, after consulting with the Title IX Coordinator,
may reactivate the formal complaint and immediately commence its resolution under the formal process.

5.4 Formal Resolution

5.4.1 Nature of Formal Resolution

Formal resolution is a process by which a formal determination is made as to whether sexual misconduct occurred. If a finding is made that sexual misconduct occurred, formal resolution will also result in a decision regarding disciplinary action to be taken against the perpetrator, as well as remedial measures that may be necessary to remedy the effect of the sexual misconduct on the complainant. Unlike informal resolution, formal resolution involves an in-depth investigation and determination of facts under a clear and convincing evidence standard. The formal resolution process varies depending on whether the alleged perpetrator is a student, faculty member, or non-faculty employee/other member of the University Community.

5.4.2 Rules of Evidence

Formal rules of evidence do not apply in any of the formal resolution processes specified below. Nonetheless, information presented that is irrelevant or whose prejudicial effect substantially outweighs its probative value may be excluded from consideration. A complainant’s irrelevant sexual history will be excluded from consideration.

5.4.3 Time Frames

The University will endeavor to conduct the formal resolution process within a reasonable time frame. However, the time that it takes to complete the process will be affected by circumstances such as the unavailability of parties or witnesses, scheduling conflicts, intervening breaks, prior attempts at informal resolution, the complexity of a case, and the need to avoid interference with a pending law enforcement investigation. The parties will receive written notification if extenuating circumstances are anticipated to result in lengthy delays.

The University will send the evidence to the respondent and the Respondent's advisor in electronic form and give them at least (10) business days to submit a written response, which the investigator must consider before finalizing the investigation.
The Investigation must result in an investigation report that fairly summarizes the investigation that must be completed at least ten (10) business days prior to the hearing and sent to each party and his or her advisor.

5.5 Resolution Processes

5.5.1 Formal Resolution Process for Complaints Against Students

5.5.1.1 Application of Code of Student Conduct

Where the respondent is a student, complaints of sexual misconduct shall be investigated and resolved pursuant to the Disciplinary Procedures in the Code of Student Conduct (available in the Lowdown), as modified by the provisions of this policy and in these Complaint Resolution Procedures.

5.5.1.2 Complainant

Only the complainant or the University may act as a complainant. In the event the University acts as a complainant, it will designate a specific individual (typically an administrator or conduct officer) to participate on its behalf.

5.5.1.3 Investigation

Once the case is identified for formal resolution, the Investigator will conduct an investigation to gather information and statements from witnesses and other sources for eventual review and consideration at a hearing.

The investigation will involve interviews with the complainant, respondent, and witnesses and the collection of non-testimonial information and/or materials, such as emails, text messages, security camera footage, and the like. Witnesses and information and/or materials may be identified and/or submitted by the parties or independently gathered by the Investigator. Both parties will have equal opportunity to present witnesses, including both fact and expert witnesses, together with other inculpatory and exculpatory evidence. The Investigator may decline to interview witnesses or collect information that the Investigator deems irrelevant. The scope of the investigation shall be at the discretion of the Investigator.
Prior to completion of the investigative report, the Title IX Investigator will send to each party and the party’s advisor the evidence collected for review in an electronic format or a hard copy, and the parties shall have ten (10) days to submit a written response to the Title IX Investigator, which the Investigator will consider prior to completion of the investigative report. Throughout the investigation, the parties will have those rights specified in Section 4.4 of this policy.

5.5.1.4 Waiver of Right to Hearing

At the conclusion of the investigation, the respondent may accept responsibility for the sexual misconduct and waive the right to a hearing. If the respondent accepts responsibility and waives the right to a hearing, the assigned Student Conduct Administrator, in consultation with University administrators as appropriate, shall determine the appropriate discipline and provide simultaneous written notification of the same to the parties. Either party who disagrees with the discipline imposed has the right to appeal pursuant to Section 5.5.1.6 of the Complaint Resolution Procedures.

5.5.1.5 Hearing

In the event the respondent does not accept responsibility at the conclusion of the investigation, the case shall proceed to a hearing before the University Disciplinary Committee (UDC). The hearing shall be conducted before a hearing officer who is not a member of the UDC. The procedures for hearing as specified in the Code of Student Conduct shall be modified/supplemented as follows:

- In cases involving a complaint of sexual violence, the UDC will include at least two and no more than four faculty or staff/administrators;
- Both the complainant and respondent may request a pre-hearing meeting with the Student Conduct Administrator (SCA), during which the SCA will explain the hearing process, answer questions about the process, discuss options for participation in the hearing, and coordinate possible hearing dates;
- The parties will receive written notice of the scheduled UDC hearing at least ten (10) business days in advance, unless otherwise agreed in writing by the parties.
• Prior to the UDC hearing, the Investigator shall transmit the investigation report and any appended information to the Student Conduct Administrator for review. The complainant and respondent are expected to provide all relevant information and/or materials to the Investigator during the investigation and are expected to immediately deliver any relevant information discovered after the investigation to the Investigator for delivery to the receiving parties.

• At least ten (10) business days prior to the UDC hearing, the Title IX Investigator or his/her designee, shall send to each party and the party’s advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

• During the UDC hearing, to the extent either party so requests, the parties will be separated by a divider, curtain, separate rooms with the use of technology, or other similar arrangement, provided that arrangements will be made so that the parties can simultaneously see and hear the party or the witness answering questions;

• The Title IX Coordinator may attend the hearing but will have no formal role;

• Each party’s advisor may ask the other party or witnesses all relevant and follow-up questions, including those bearing on credibility, provided any such questioning or cross-examination is conducted directly, orally, and in real time.

• No one other than a party’s advisor or a member of the UDC may direct questions to parties or witnesses.

• All parties and witnesses are expected to cooperate and provide truthful information;

• If a party or witness refuses to submit to cross-examination, then the University is required to ignore that person's statement and reach a decision based on the remaining body of relevant evidence;

• At the close of the hearing, the UDC will retire for deliberation. During deliberation, the UDC shall apply a clear and convincing standard to determine what conduct occurred and whether such conduct constitutes sexual misconduct;
● The SCA must make an audio or video recording of the hearing, or a transcript, and make it available to the parties for inspection and review;

● The UDC will issue a written decision of finding(s) determined by majority, under a clear and convincing standard. The written decision will include identification of the allegations at issue, description of the procedural steps taken throughout the case, findings of fact supporting the determination, conclusions regarding application of the Title IX policy, a statement and rationale as to the determination for each allegation, a statement of any disciplinary sanctions and whether any remedies will be provided to the complainant, and a description of the procedures and permissible grounds for appeal; The SCA will, within five (5) business days of receiving the UDC’s written decision, provide simultaneous written notification to the parties of the UDC’s written decision;

● The Title IX Coordinator, or his/her designee, shall separately notify the complainant, in writing, of any non-disciplinary remedial measures that will be offered for the complainant’s benefit.

5.5.1.6 Sanctions

If the UDC finds the respondent responsible for violating this policy, then the UDC may impose disciplinary sanctions ranging from remedial education and training to removal from the University community, or any combination of the same.

5.5.1.7 Appeals

Both the complainant and respondent have the right to appeal the written determination on the grounds set forth below (consistent with the Appeals section in the Code of Student Conduct, available in the Lowdown). The appeal procedures shall be modified/supplemented as follows:

In order to appeal, the aggrieved party must submit a written statement of appeal to the Dean of Students or his/her designee within five (5) business days of being notified of the outcome of the hearing. The
written statement must include the grounds for appeal and describe the basis for it in detail.

The grounds for appeal are limited to the following:

- Material and prejudicial violation of procedural rights that affected the outcome;
- New information, not reasonably available at the time of the hearing, that could have resulted in a different outcome;
- The discipline imposed is too severe or not severe enough;
- Conflict of interest or bias by the decision-makers that affected the outcome.

In the event the written statement of appeal fails to state a permissible ground for appeal and/or does not describe the basis for the appeal, the appeal may be summarily dismissed.

Upon receiving a valid appeal, the Dean of Students or his/her designee will provide a copy of the written statement of appeal to the other party. Thereafter, the party so notified will have five (5) business days to submit a written response to the appeal.

The Dean of Students or his/her designee shall deliver simultaneous written notification of the outcome of the appeal and the rationale for the result to the complainant and respondent within ten (10) business days after the deadline for submission of any written response to the appeal. The written determination becomes final upon the earlier of when: (i) the parties are notified of the determination on appeal; or (ii) the time to file an appeal has passed with neither party appealing.

The decision of the Dean of Students is final.

5.5.1.7 Records

All official records created during the formal resolution of a complaint against a student shall be maintained by the Student Conduct Administrator, with copies made available to the Title IX Coordinator as needed. All records will be maintained for a period of seven years including informal resolution records.

5.5.2 Formal Resolution for Complaints Against Faculty
5.5.2.1 Faculty

For purposes of these Complaint Resolution Procedures, the term “faculty” includes full-time and part-time (those without a full-time staff appointment) University employees who teach or carry out research, including adjunct and clinical faculty, graduate teaching assistants, graduate research assistants, and administrators with faculty status.

5.5.2.2 Compliance Officer

The Compliance Officer is the Deputy Title IX Coordinator for Academic Affairs or his/her designee, or, if the respondent is employed by the College of Medicine or USA Health, the designee of the Vice President for Medical Affairs and Dean of the College of Medicine. The Compliance Officer is responsible for coordinating the implementation of these procedures and working with the Title IX Coordinator to designate an Investigator.

5.5.2.3 Investigator to be Selected by Compliance Officer

In cases where the respondent is a faculty member, the Investigator shall be selected by the Compliance Officer, in consultation with the Title IX Coordinator. The Deputy Title IX Coordinator for Academic Affairs may be designated as an Investigator only after approval by the Title IX Coordinator. In the event the Deputy Title IX Coordinator for Academic Affairs is designated as the Investigator, the Deputy Title IX Coordinator for Academic Affairs shall not also serve as the Compliance Officer; in such circumstances, the Compliance Officer shall be designated by the Provost and Senior Vice-President for Academic Affairs.

5.5.2.4 Complainant

Only the complainant or the University may act as a complainant.

5.5.2.5 Investigation

The Investigator will conduct an investigation to gather information and statements from witnesses and other sources for eventual review and consideration at a hearing.

The investigation will involve interviews with the complainant, respondent, and witnesses and the collection of non-testimonial information and/or materials, such as emails, text messages, security camera footage, etc. Witnesses and non-testimonial information may be identified and/or submitted by the parties or independently gathered by the Investigator. Both
parties will have equal opportunity to present witnesses, including both fact and expert witnesses, together with other inculpatory and exculpatory evidence. The Investigator may decline to interview witnesses or collect information that the Investigator deems irrelevant. The scope of the investigation shall be determined by the Investigator.

Prior to completion of the investigative report, the TIX Investigator or his/her designee will send to each party and the party’s advisor the evidence collected for review in an electronic format or a hard copy, and the parties shall have ten (10) days to submit a written response to the TIX Investigator or his/her designee, which the Investigator will consider prior to completion of the investigative report.

The Investigator will prepare a written investigation report pursuant to Section 5.4.3 of this policy. Prior to the hearing, which will be before the Sexual Harassment and Sexual Violence Resolution Committee, the Investigator will submit the investigation report and any appended information to the Compliance Officer or his/her designee for review. At least ten (10) business days prior to the hearing, the Compliance Officer or his/her designee shall send to each party and the party’s advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response. Throughout the investigation, the parties will have those rights set forth in Section 4.4 of this policy.

5.5.2.6 Composition of the Sexual Harassment and Sexual Violence Resolution Committee

The Sexual Harassment and Sexual Violence Resolution Committee will be appointed by the President of the University and will be composed of three members from departments other than those of the respondent: (1) a department chair; (2) a tenured member of the faculty or of the rank of professor or associate professor; and (3) the Vice President for Student Affairs or Dean of Students, or designee of the same, if the complainant is a student; if the complainant is not a student, another faculty member meeting the above description will be appointed to the Committee. A chair will be selected by the Committee. All members of the Committee will receive periodic training as set forth in Section 5.1.4 of this policy.

5.5.2.7 Waiver of Right to Hearing

At the conclusion of the investigation, the respondent may accept responsibility for the sexual misconduct and waive the right to a hearing. If
the respondent accepts responsibility and waives the right to a hearing, the assigned Compliance Officer, in consultation with University administrators as appropriate, shall determine the appropriate discipline and provide simultaneous written notification of the same to the parties. Either party who disagrees with the discipline imposed has the right to appeal pursuant to Section 5.5.2.13 of the Complaint Resolution Procedures.

5.5.2.8 Hearing

In the event the respondent does not accept responsibility at the conclusion of the investigation and the complainant wishes to proceed, the case shall proceed to a hearing before the Sexual Harassment and Sexual Violence Resolution Committee (SHSVRC). The hearing shall be conducted before a hearing officer that is not a member of the SHSVRC. The procedures for the hearing are as follows:

- Both the complainant and respondent may request a pre-hearing meeting with the Compliance Officer or his/her designee, during which the TIXDC, or his/her designee, will explain the hearing process, answer questions about the process, discuss options for participation in the hearing, and coordinate possible hearing dates;
- The parties will receive written notice of the scheduled SHSVRC hearing at least ten (10) business days in advance, unless otherwise agreed in writing by the parties;
- Prior to the SHSVRC hearing, the Investigator shall transmit the investigation report and any appended information to the Compliance Officer, or his/her designee, for review. The complainant and respondent are expected to provide all relevant information and/or materials to the Investigator during the investigation and are expected to immediately deliver any relevant information discovered after the investigation to the Investigator for delivery to the receiving parties.
- To the extent either party so requests, the parties will be separated by a divider, curtain, separate rooms with the use of technology, or other similar arrangement, provided that arrangements will be made so that the parties can simultaneously see and hear the party or the witness answering questions;
- The Title IX Coordinator may attend the hearing, but will have no formal role;
- Each party’s advisor may ask the other party or witnesses all relevant and follow-up questions, including those bearing on credibility,
provided any such questioning or cross-examination is conducted directly, orally, and in real time.

- No one other than a party’s advisor or a member of the UDC may direct questions to parties or witnesses.
- All parties and witnesses are expected to cooperate and provide truthful information;
- If a party or witness refuses to submit to cross-examination, then the University is required to ignore that person's statement and reach a decision based on the remaining body of relevant evidence;
- At the close of the hearing, the SHSVRC will retire for deliberation. During deliberation, the SHSVRC shall apply a clear and convincing of the evidence standard to determine what conduct occurred and whether such conduct constitutes sexual misconduct;
- The University must make an audio or video recording of the hearing, or a transcript, and make it available to the parties for inspection and review;
- The SHSVRC will issue a written decision of finding(s) determined by majority, under a clear and convincing of the evidence standard. The written decision will include identification of the allegations at issue, description of the procedural steps taken throughout the case, findings of fact supporting the determination, conclusions regarding application of the Title IX policy, a statement and rationale as to the determination for each allegation, a statement of any disciplinary sanctions and whether any remedies will be provided to the complainant, and a description of the procedures and permissible grounds for appeal;
- The Compliance Officer will, within five (5) business days of receiving the SHSVRC’s written decision, provide simultaneous written notification to the parties of the SHSVRC’s written decision.
- The Title IX Coordinator, or his/her designee, shall separately notify the complainant, in writing, of any non-disciplinary remedial measures that will be offered for the complainant’s benefit.

5.5.2.9 Sanctions

If the SHSVRC finds the respondent responsible for violating this policy, then the SHSVRC may impose disciplinary sanctions ranging from remedial education and training to termination of employment, or any combination of the same. In the event that the SHSVRC recommends termination of a faculty member, the recommendation will be referred to the Office of
5.5.2.10 Violations of Other University Policies

The SHSVRC may determine that a violation of this policy did not occur (or was not proven to the required evidentiary standard) but that the behavior that occurred was unacceptable in the employment context. If the SHSVRC makes such a finding, the respondent shall be referred to the Compliance Officer for proceedings or additional action as warranted by this or any other University policy, which may result in remediation or disciplinary action up to and including termination.

5.5.2.11 Review by the Compliance Officer

If the SHSVRC finds that a violation of this policy did not occur (or was not proven to the required evidentiary standard) but that the behavior that occurred was unacceptable in the employment context and refers the respondent to the Compliance Officer, the Compliance Officer will refer the relevant information to the Office of Academic Affairs for a determination regarding discipline of the respondent. The Compliance Officer will provide written notification to the parties of the outcome of any matter referred to the Compliance Officer, but the complainant will only be notified of sanctions that directly relate to the complainant. The Compliance Officer shall separately notify the complainant, in writing, of any non-disciplinary remedial measures that will be offered for the complainant’s benefit. Unless specifically required by law, neither the complainant, respondent, nor any witness will be allowed to review or appeal the Compliance Officer’s written determination.

5.5.2.12 Appeal of SHSVRC’s Written Determination

Both the complainant and respondent have the right to appeal the written determination of the SHSVRC on the grounds set forth below.

In order to appeal, the aggrieved party must submit a detailed written statement of appeal to the Provost or Vice President for Medical Affairs, Dean of the College of Medicine, as appropriate, within five (5) business days of notification of the outcome of the complaint. The written statement must include the grounds for appeal and describe the basis for it in detail.

The grounds for appeal are limited to the following:
● The discipline imposed is too severe or too lenient;
● New information, previously unavailable, would have resulted in different discipline;
● Material and prejudicial violation of procedural rights occurred that affected the determination of the discipline;
● Conflict of interest or bias by the institutional participants that affected the outcome.

In the event the written statement of appeal fails to state a permissible ground for appeal and/or does not describe the basis for the appeal, the appeal may be summarily dismissed.

Upon receiving a valid appeal, Provost or Vice President for Medical Affairs, Dean of the College of Medicine, as applicable, or his/her designee, will, within three (3) business days, provide a copy of the written statement of appeal to the non-appealing party. Thereafter, the non-appealing party so notified will have five (5) business days to submit a written response to the appeal to the Provost or Vice President for Medical Affairs, Dean of the College of Medicine.

The Provost or Vice President for Medical Affairs, Dean of the College of Medicine, as applicable, or his/her designee, will evaluate the written appeal and any written response. Within ten (10) business days of receiving the written response (or the time for a written response expiring with no response submitted), the Provost/Senior Vice President for Academic Affairs or Vice President for Medical Affairs, Dean of the College of Medicine, as applicable, or his/her designee, will provide simultaneous written notification to the parties of the outcome of the appeal and the rationale for the result. The written determination becomes final upon the earlier of when: (i) the parties are notified of the determination on appeal; or (ii) the time to file an appeal has passed with neither party appealing. The Provost/Senior Vice President for Academic Affairs’ or Vice President for Medical Affairs, Dean of the College of Medicine’s determination, or that of his/her designee, is final.

5.5.2.13 Records

All official records created during the formal resolution of a complaint against a faculty member shall be maintained by the Compliance Officer, with copies made available to the Title IX Coordinator as needed. Where a
faculty member is found to have engaged in sexual misconduct, a letter will be placed in the faculty member’s personnel file indicating that the Compliance Officer maintains records of the sexual misconduct complaint. All records will be maintained for a period of seven years including informal resolution records.

5.5.3 Formal Resolution Process for Complaints Against Administrators, Non-Faculty Employees, Contractors, and Third Parties

5.5.3.1 Definition of Non-Faculty Employees

For purposes of these Complaint Resolution Procedures, the term “Non-Faculty Employees” includes full and part-time staff employees, coaches, resident physicians, and postdoctoral fellows.

5.5.3.2 Investigation Parties

Complaints under this process will be investigated by the Title IX Investigator, or designee, unless the Investigator is the Respondent, in which case the investigator will be appointed by the Title IX Coordinator.

5.5.3.3 Complainant

Only the potential complainant or the University, acting pursuant to Section 4.3.4 of this policy, may act as a complainant.

5.5.3.4 Investigation

Once the case is identified for formal resolution, the Investigator will conduct an investigation to gather statements and other information for eventual review and consideration at a hearing.

The investigation will involve interviews with the complainant, respondent and witnesses and the collection of non-testimonial information and/or materials, such as emails, text messages, security camera footage, and the like. Witnesses and non-testimonial information and/or materials may be identified and/or submitted by the parties or independently gathered by the Investigator. Both parties will have equal opportunity to present witnesses, including both fact and expert witnesses, together with other inculpatory and exculpatory evidence. The Investigator may decline to interview witnesses or collect information that the Investigator deems irrelevant. The scope of the investigation shall be at the discretion of the Investigator.
Prior to completion of the investigative report, the TIX Investigator or his/her designee will send to each party and the party’s advisor the evidence collected for review in an electronic format or a hard copy, and the parties shall have ten (10) days to submit a written response to the TIX Investigator or his/her designee, which the Investigator will consider prior to completion of the investigative report. Throughout the investigation, the parties will have those rights set forth in Section 4.4 of this policy.

The Investigator will prepare a written investigation report pursuant to Section 5.4.3 of this policy. Prior to the hearing, which will be before the Human Resources Hearing Committee, the Investigator will submit the investigation report and any appended information to the Title IX Deputy Coordinator or his/her designee and the Title IX Coordinator for review. At least ten (10) business days prior to the hearing, the Title IX Deputy Coordinator or his/her designee shall send to each party and the party’s advisor, if any, as well as the Human Resources Hearing Committee (HRHC) the investigative report in an electronic format or a hard copy, for their review and written response.

5.5.3.5 Composition of the Human Resources Hearing Committee

The Human Resources Hearing Committee will consist of the Human Resources Director of Employment and Employee Relations, the Human Resources Executive Director, and the respondent’s department head. If either party is employed in the USA Health system (including, but not limited to, University of South Alabama Health Care Authority and USA Healthcare Management, LLC), a USA Health administrator will serve on the HRHC in lieu of the Human Resources Executive Director. A chair will be selected by the HRHC. All members of the HRHC will receive periodic training as set forth in Section 5.1.4 of this policy.

5.5.3.6 Waiver of Right to Hearing

At the conclusion of the investigation, the respondent may accept responsibility for the sexual misconduct and waive the right to a hearing. If the respondent accepts responsibility and waives the right to a hearing, the HRHC, in consultation with University administrators as appropriate, shall determine the appropriate discipline and provide simultaneous written notification of the same to the parties. Either party who disagrees with the discipline imposed has the right to appeal pursuant to Section 5.5.2.13 of the Complaint Resolution Procedures.
5.5.3.6 Hearing

In the event the respondent does not accept responsibility at the conclusion of the investigation, the case shall proceed to a hearing before the HRHC. The hearing shall be conducted before a hearing officer who is not a member of the HRHC. The procedures for the hearing are as follows:

- Both the complainant and respondent may request a pre-hearing meeting with the employee Title IX Deputy Coordinator (HR Manager, Benefits/EEO), or his/her designee, during which the Title IX Deputy Coordinator, or his/her designee, will explain the hearing process, answer questions about the process, discuss options for participation in the hearing, and coordinate possible hearing dates;

- The parties will receive a written notice of the scheduled hearing at least ten (10) business days in advance, unless otherwise agreed in writing by the parties;

- Prior to the hearing, the Title IX Investigator shall transmit the investigation report and any appended information to the Title IX Coordinator and Title IX Deputy Coordinator (TIXDC), or his/her designee, for review. The complainant and respondent are expected to provide all relevant information and/or materials to the Investigator during the investigation and are expected to immediately deliver any relevant information discovered after the investigation to the Investigator for delivery to the receiving parties;

- At least ten (10) business days prior to the hearing, the Title IX Investigator or his/her designee, shall send to each party and the party’s advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response;

- During the hearing to the extent either party so requests, the parties will be separated by a divider, curtain, separate rooms with the use of technology, or other similar arrangement, provided that arrangements will be made so that the parties can simultaneously see and hear the party or the witness answering questions;

- The Title IX Coordinator may attend the hearing, but will have no formal role;
• Each party’s advisor may ask the other party or witnesses all relevant and follow-up questions, including those bearing on credibility, provided any such questioning or cross-examination is conducted directly, orally, and in real time.

• No one other than a party’s advisor or a member of the HRHC may direct questions to parties or witnesses.

• If a party or witness refuses to submit to cross-examination, then the HRHC is required to ignore that person's statement and reach a decision based on the remaining body of relevant evidence;

• All parties and witnesses are expected to cooperate and provide truthful information;

• At the close of the hearing, the HRHC will retire for deliberation. During deliberation, the hearing committee shall apply a clear and convincing standard to determine what conduct occurred and whether such conduct constitutes sexual misconduct;

• The University must make an audio or video recording of the hearing, or a transcript, and make it available to the parties for inspection and review;

• The HRHC will issue a written decision of finding(s) determined by majority, under a clear and convincing standard. The written decision will include identification of the allegations at issue, description of the procedural steps taken throughout the case, findings of fact supporting the determination, conclusions regarding application of the Title IX policy, a statement and rationale as to the determination for each allegation, a statement of any disciplinary sanctions and whether any remedies will be provided to the complainant, and a description of the procedures and permissible grounds for appeal;

• The University will, within five (5) business days of receiving the HRHC’s written decision, provide simultaneous written notification to the parties of the HRHC’s written decision;

• The Title IX Coordinator, or his/her designee, shall separately notify the complainant, in writing, of any non-disciplinary remedial measures that will be offered for the complainant’s benefit.
5.5.3.7 Sanctions

If the HRHC finds the respondent responsible for violating this policy, then the HRHC may impose disciplinary sanctions ranging from written warning, to remedial education and training to termination of employment, or any combination of the same.

5.5.3.8 Violations of Other University Policies

The HRHC may determine that a violation of this policy did not occur (or was not proven to the required evidentiary standard) but that the behavior that occurred was unacceptable in the employment context. If the HRHC makes such a finding, the respondent shall be referred to the Compliance Officer for proceedings or additional action as warranted by this or any other University policy, which may result in remediation or disciplinary action up to and including termination.

5.5.3.9 Review by the Compliance Officer

If the HRHC finds that a violation of this policy did not occur (or was not proven to the required evidentiary standard) but that the behavior that occurred was unacceptable in the employment context and refers the respondent to the Assistant Vice President for Finance and Administration/Human Resources (AVPFAHR), and he/she will make a determination regarding discipline of the respondent and any necessary remedial steps to be taken for the complainant. The (AVPFAHR) will provide written notification to the parties of the outcome of any matter referred to the (AVPFAHR), but the complainant will only be notified of sanctions that directly relate to the complainant. The (AVPFAHR) shall separately notify the complainant, in writing, of any non-disciplinary remedial measures that will be offered for the complainant’s benefit.

5.5.3.10 No Right to Review the (AVPFAHR)’s Determination

Unless specifically required by law, neither the complainant, respondent, nor any witness will be allowed to review or appeal the (AVPFAHR)’s written determination.

5.5.3.11 Appeal of the HRHC’s Written Determination

Both the complainant and respondent have the right to appeal the written determination of the HRHC on the grounds set forth below. In order to appeal, the aggrieved party must submit a detailed written statement of
appeal to the Vice President for Finance and Administration within five (5) business days of receiving notification of the outcome of the complaint. The written statement must include the grounds for appeal and describe the basis for it in detail.

The grounds for appeal are limited to the following:

- The discipline imposed is too severe or too lenient;
- New information, previously unavailable, would have resulted in different discipline;
- Material and prejudicial violation of procedural rights occurred that affected the determination of the discipline;
- Conflict of interest or bias by the institutional participants that affected the outcome.

In the event the written statement of appeal fails to state a permissible ground for appeal and/or does not describe the basis for the appeal, the appeal may be summarily dismissed.

Upon receiving a valid written statement of appeal, the Vice President for Finance and Administration, or his/her designee, shall notify the President, who will constitute the Sexual Misconduct Appeals Committee within three (3) business days of being notified. The Sexual Misconduct Appeals Committee shall be a three-member panel designated by the President for the specific case appealed. No member of the Sexual Misconduct Appeals Committee shall be from the same division as the complainant or respondent or will have previously been involved with the case for he/she is appointed. The Vice President of Finance and Administration will provide the written statement of appeal to the Sexual Misconduct Appeals Committee within five (5) business days of its formation. The Vice President for Finance and Administration will also send a copy of the written statement of appeal to the non-appealing party, who will have five (5) business days to submit a written response to the appeal to the Vice President for Finance and Administration, who will promptly provide the written response to the Sexual Misconduct Appeals Committee.

After receipt of the written response by the non-appealing party or the passing of the deadline for receipt of such response, the Sexual Misconduct Appeals Committee shall convene to review the written statement of appeal, any response, the investigation report (including its appendices), and the written determination of the HRHC. Within ten (10) business days of receiving the written response from the non-appealing party (or from the
time for filing a written response expires if no response is submitted), the Sexual Misconduct Appeals Committee will provide simultaneous written notification to the parties of the outcome of the appeal and the rationale for the result. The written determination becomes final upon the earlier of when: (i) the parties are notified of the determination on appeal; or (ii) the time to file an appeal has passed with neither party appealing. The decision of the Sexual Misconduct Appeals Committee is final.

5.5.3.9 Records

All official records created during the formal resolution of a complaint against an administrator, non-faculty employee, contractor, or third party shall be maintained by the EEO Manager with copies made available to the Title IX Coordinator as needed. Where sexual misconduct is found to have occurred, a letter will be placed in an employee’s personnel file or other relevant business file indicating that the EEO Manager maintains records of the sexual misconduct complaint. All records will be maintained for a period of seven years including informal resolution records.

5.6 Special Procedures for Complaints Against the University President

If a complaint involves alleged sexual misconduct on the part of the University’s President, the Title IX Investigator will conduct the investigation to gather testimony and other information for eventual review and consideration by the University Board of Trustees (Board) Board Vice Chair or his/her designee.

Any investigation, hearing, or appeal of alleged sexual misconduct involving the University President shall proceed in the manner set forth above in Section 5.5.3 for University Employees, except that the Board Vice Chair or his/her designee shall serve in the role of the HRHC, the Board Secretary or his/her designee shall serve in the role of the Compliance Officer, and the Chair pro tempore or his/her designee shall serve in the role of the Appeals Committee.

5.7 Special Procedures for Complaints Against the Title IX Coordinator

Any complaint involving allegations of sexual misconduct on the part of the University’s Title IX Coordinator will be handled in accordance with Section 5.5.3 of this policy, except that any duties ordinarily performed by the Title IX Coordinator will instead be performed by a Deputy Title IX Coordinator appointed by the University President.

5.8 Special Procedures for Complaints Against the Title IX Investigator
The University has an Investigator who will normally conduct all required investigations in accordance with this policy, regardless of the classification of the respondent. However, if a complaint involves allegations of sexual misconduct on the part of the University’s Title IX Investigator, the Title IX Coordinator shall appoint an Investigator, otherwise such complaints will follow the process for employees under Section 5.5.3.

6. Enforcement

Individuals found to be in violation of this policy will be subject to disciplinary actions by the University. The discipline imposed will depend on all the facts and circumstances and may include but not be limited to one or more of the following: a requirement not to repeat the conduct at issue, requiring training, written or verbal warning/reprimand, demotion, transfer or reassignment, denial of pay increases, probation, suspension (with or without pay and for varying lengths of time), limitation on participation in particular programs and activities, limitation on access to campus, expulsion, dismissal, or termination. Under certain circumstances, acts of sexual misconduct may also result in criminal and/or civil penalties.

7. Related Documents

7.1 Ala. Code § 13A-6-70(b) - Lack of Consent

Unless otherwise stated, an element of every offense defined in this article is that the sexual act was committed without the consent of the complainant. Lack of consent results from either of the following:

- Forcible compulsion;
- Being incapable of consent;

A person is deemed incapable of consent if he or she is either:

- Less than 16 years old;
- Incapacitated;

Consent to engage in sexual intercourse, sodomy, sexual acts, or sexual contact may be communicated by words or actions. The existence of a current or previous marital, dating, social, or sexual relationship with the defendant is not sufficient to constitute consent. Evidence that the complainant suggested, requested, or otherwise communicated to the defendant that the defendant use a
condom or other birth control device or sexually transmitted disease protection, without additional evidence of consent, is not sufficient to constitute consent.

7.2 Campus SaVE Act

The Campus Sexual Violence Elimination Act, or Campus SaVE Act, is a federal law that promises prompt and effective responses by higher education institutions to incidents of sexual violence. At its core, the Campus SaVE Act increases transparency about incidents of sexual violence, guarantees complainants’ rights, sets standards for campus disciplinary proceedings, and requires campus-wide prevention education programs.

To understand the Campus SaVE Act, it’s important to first know a little about laws and the judicial process. Every state in the United States has laws against sexual assault, domestic violence, dating violence, and stalking. To find out what the sexual violence laws are in the state where you attend college, check out womenslaw.org.

Additionally, all colleges and universities have a judicial process for sexual misconduct that functions independently from state laws. While laws and judicial processes vary by state, by school, and by crime, the Campus SaVE Act, enforced as of March 2014, represents improvements to the handling of sexual misconduct on every U.S. college and university campus.

More information can be found at:


7.3 The Lowdown: A Student Handbook

The University is committed to informing its student population as well as faculty and staff with the University’s expectations and resources. This item can be found in the following link:

https://www.southalabama.edu/departments/studentaffairs/resources/lowdown18.pdf