



Policy 01:115 – Sexual Harassment

The University unequivocally opposes sexual harassment of and by faculty, staff, and students. All members of the University community have a general responsibility to contribute in a positive way to an environment that is free of sexual harassment. Sexual harassment violates federal civil rights laws and the University's nondiscrimination policy, will not be tolerated, and is grounds for disciplinary action.

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

- Submission to the conduct is either an explicit or implicit term or condition of employment or a grade; or
- Submission to, or rejection of, the conduct is used as a basis for employment or grading decisions; or
- The conduct or statement has the purpose or effect of unreasonably interfering with work or class performance, or of creating an intimidating, hostile, and/or offensive work, classroom or campus environment.

Conduct which may constitute sexual harassment includes:

- Sexual and/or gender-related speech, including insults, joking, advances, slurs, and comments;
- Physical acts, such as sexual or other offensive touching, assault or physical interference with movement;
- Visual or written sexual or gender-related insults, comments, drawings, posters, signs, jokes, and notes;
- Unwanted sexual advances, attention, and requests for sexual favors;
- Any other conduct of a sexual or gender-related nature which meets the definition of sexual harassment.

The following describes some, but not all, situations that may occur in sexual harassment cases.

- The harasser's conduct must be unwelcome and unwanted.
- The complainant and harasser may be either male or female. The complainant does not have to be of the opposite sex.

- The harasser may be the complainant's supervisor, an agent of the employer, a co-worker, or a non-employee and may be a faculty, staff or student.
- The complainant does not have to be the person who is harassed, but may be anyone adversely affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to, or discharge of, the complainant.
- Actual intent is irrelevant; a hostile environment can exist if the complainant believes the environment to be abusive and conduct is so severe and pervasive that a reasonable person would find it hostile and abusive enough to change the terms and conditions of employment or the program or activity.

Whether the alleged conduct constitutes sexual harassment depends upon the totality of the circumstances, such as the nature of sexual advances and the context within which the alleged incident(s) occurred. Stalking and sexual assaults may be criminal acts and as such, investigation and processing by the criminal justice system, local police and campus security may supplement this policy.

In determining whether alleged sexual harassing conduct warrants corrective action, all relevant circumstances, including the context in which the conduct occurred, will be considered. Facts will be judged on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of an individual.

In cases of alleged sexual harassment, the protection of the First Amendment must be considered if issues of speech or artistic expression are involved. Free speech rights apply in the classroom and in all other education programs and activities, as well as to the speech of students and faculty. Care must be taken not to inhibit open discussion, academic debate, and expression of personal opinion, particularly in the classroom. Nonetheless, speech or conduct of a sexual or hostile nature that occurs in the context of educational instruction may exceed the protections of academic freedom and constitute prohibited sexual harassment if it meets the definition of sexual harassment and (1) is reasonably regarded as non-professorial speech (e.g., advances a personal interest of the faculty member as opposed to furthering the learning process or legitimate objectives of the course), or (2) lacks accepted pedagogical purpose or is not germane to the academic subject matter.

Procedures for Reporting & Responding to Reports of Sexual Harassment

Reporting Sexual Harassment

All members of the University community are encouraged to contact the Equal Opportunity/Title IX Officers if they observe or encounter conduct that may be subject to the University's policy on Sexual Harassment. Reports of sexual harassment may be brought to the Equal Opportunity or Title IX Officers or the Vice President for Academic Affairs / Provost. Reports may also be made electronically by visiting the University of Montevallo webpage, choosing the Campus Life tab, then clicking the QuickLink for Incident Reporting– *Maxient*. Students, managers,

supervisors, officials, including academic administrators, deans, department chairs, coaches, graduate advisors, undergraduate advisors, residence hall staff, law enforcement officers, student judicial affairs staff and health center staff, should notify the Equal Opportunity or Title IX Officers or the Vice President for Academic Affairs/Provost to review and investigate sexual harassment complaints when a report is received.

Reports of sexual harassment should be made as soon as possible after the alleged conduct occurs. Prompt reporting will enable the University to investigate the facts, determine the issues, and consider appropriate remedies. Unreasonable delay in reporting may impede the University's ability to conduct an investigation and/or effect appropriate remedial action. To the greatest extent possible, reports of sexual harassment brought anonymously or brought by third parties not directly involved in the harassment will be reviewed. However, response to such reports may be limited if information contained in the report cannot be verified by independent facts. Under no circumstances will retaliation against any individual who files a complaint or participates in an inquiry be tolerated.

An individual who is subjected to retaliation (e.g., threats, intimidation, reprisals, or adverse employment, educational or extracurricular actions) for having reported sexual harassment in good faith, who assisted someone with a report of sexual harassment, or who participated in any manner in an investigation or resolution of a report of sexual harassment, may make a report of retaliation under these procedures. The report of retaliation will be treated as a report of sexual harassment and will be subject to the same procedures.

Resolution

Individuals reporting sexual harassment will be informed about options for resolving potential violations of the UM Sexual Harassment Policy, including early informal resolution and the formal complaint process.

Early Informal Resolution

Under appropriate circumstances, informal resolution may be the most effective way to resolve concerns. Parties are encouraged to utilize early resolution options when they desire to resolve the situation cooperatively and/or when a formal investigation is not likely to lead to a satisfactory outcome. Early resolution (or any resolution) will not include requiring the parties to "work-out" the problem directly with each other. Early resolution may include an inquiry into the facts, but typically does not include a formal investigation. Means for early resolution will be flexible and encompass a full range of possible appropriate outcomes, including advising the complainant about methods to resolve the concern, arranging for educational programs for individuals, departments, schools, etc., mediating between the parties, and intervening or arranging for a third party to intervene.

While the University encourages early resolution of a complaint, the University does not require that parties participate in early resolution. Some reports of sexual harassment may not be appropriate for early resolution, but may require a formal investigation at the discretion of the Equal Opportunity or Title IX Officers or other appropriate officials designated to review and

investigate sexual harassment complaints. Reports of criminal conduct (i.e., sexual assault, physical assault) should immediately be reported to a law enforcement officer and to the Equal Opportunity or Title IX Officers.

Formal Complaint and Investigation

In the event early resolution is not an appropriate option or the complainant is not satisfied with the informal resolution, an individual may submit a formal written complaint and request that a formal investigation be initiated. When such a complaint is received, the Equal Opportunity or Title IX Officers shall investigate the formal complaint and investigation process. Notwithstanding the foregoing, nothing herein shall limit the discretion of the Equal Opportunity or Title IX Officers to initiate an independent review of a report of sexual harassment even when a complainant has elected not to submit a formal complaint.

Formal investigation of reports of sexual harassment includes the following:

- The investigation generally includes interviews with the parties if available, interviews with other witnesses as needed, and a review of relevant documents as appropriate. Disclosure of facts to parties and witnesses is limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation are hereby advised that maintaining confidentiality is important to protect the integrity of the investigation.
- Upon request, the complainant and the accused may each have a representative present when he or she is interviewed. Other witnesses may have a representative present at the discretion of the investigator or as required by applicable University policy.
- At any time during the investigation, the investigator may recommend interim protections or remedies for the complainant or witnesses be provided by University officials. These protections or remedies may include separating the parties, placing limitations on contact between the parties, or making alternative working or student housing arrangements. Failure to comply with the terms of interim protections may be considered a separate violation of the University's policy on sexual harassment and/or the Title IX policy.
- The investigation shall be completed as promptly as possible given the circumstances and in most cases within sixty (60) working days of the date the request for formal investigation was filed. After the completion of the investigation, the Equal Opportunity or Title IX Officers will prepare a written report as soon as practicable, preferably within fifteen (15) working days.
- Generally, the written report will include items and information necessary to resolution of the investigation, which may include a statement of the allegations and issues, the positions of the parties, a summary of the evidence, findings of fact, and a determination by the investigator as to whether University policy has been violated. This report will be submitted to a designated University official with authority to implement the actions necessary to resolve the complaint. The report may be used as evidence in other related procedures, such as subsequent complaints, grievances and/or disciplinary actions.

- The complainant and the accused will be informed promptly in writing when the investigation is completed. The complainant will be informed if there were findings made that the policy was or was not violated and of actions taken to resolve the complaint, if any, that are directly related to the complainant, such as an order that the accused not contact the complainant. In accordance with University policies protecting individuals' privacy, the complainant may generally be notified of the outcome of the complaint.

Grievances Involving Allegations of Sexual Harassment

Any grievance filed involving allegations of sexual harassment shall be considered as a complaint under this Policy and shall be subject to the procedures, rights, and remedies contained herein. This policy shall be considered the exclusive internal administrative remedy for complaints of sexual harassment, and other grievance procedures or policies shall not be used to duplicate, circumvent, or otherwise replace this policy.

Remedies and Referral to Disciplinary Procedures

Findings of violations may be considered in determining remedies for individuals harmed by the sexual harassment and will be referred to applicable disciplinary procedures under this policy will be coordinated with applicable complaint resolution, grievance, and disciplinary procedures to avoid duplication in the fact-finding process whenever possible.

1. If the accused is a member of the faculty, the Equal Opportunity or Title IX Officer's report will be referred to the Vice President for Academic Affairs/Provost. The VPAA/Provost may consult with the President in order to evaluate an appropriate course of action. Formal corrective or disciplinary action taken against the accused will be in accordance with applicable University policy.
2. If the accused is a student, the Title IX Officer's report will be forwarded to the Dean of Students for processing by the Student Conduct Office. The matter will be processed according to the procedures set forth by student disciplinary procedures with the Title IX report informing the Student Conduct process.
3. If the accused is a staff member, the Equal Opportunity or Title IX Officer's report will be sent in confidence to the appropriate administrator for corrective action. The administrator shall consult with other individuals as necessary to determine appropriate corrective action and will inform the Equal Opportunity or Title IX Officers and President of the intended action. Formal corrective or disciplinary action will be in accordance with applicable University policy.

Violations of the policy may include engaging in sexual harassment, retaliating against a complainant reporting sexual harassment, violating interim protections, and filing intentionally false charges of sexual harassment. Investigative reports made pursuant to this policy may be used as evidence in subsequent proceedings as permitted by the applicable procedures.

Confidentiality of Reports of Sexual Harassment

The University is committed to maintaining confidentiality, to the extent practicable and appropriate, of persons who make a complaint or provide information in conjunction with an investigation under this policy. An individual's requests regarding the confidentiality of reports of sexual harassment will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of maintaining a working and learning and campus environment free from sexual harassment and the due process rights of the accused. Some level of disclosure may be necessary to ensure a complete and fair investigation and confidentiality cannot be assured or guaranteed.

Retention of Records Regarding Reports of Sexual Harassment

The Equal Opportunity/Title IX Officers are responsible for maintaining records relating to sexual harassment reports, investigations, and resolutions. Records shall be maintained in accordance with University records policies, but may be maintained longer at the discretion of the Equal Opportunity/Title IX Officer in cases where the parties have a continuing affiliation with the University.

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