

## **University of Montevallo Title IX Definitions**

### **Actual Knowledge**

Notice of sexual harassment or allegations of sexual harassment to the UM Title IX Coordinator or an official of the University of Montevallo who has authority to institute corrective measures.

### **Advisor**

The person chosen by a party or appointed by the institution to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

### **Appellate Officer**

A University official who hears the appeals of Respondents and Complainants after the Title IX Hearing Panel has determined whether a violation has occurred or not.

### **Complainant**

The individual who is alleged to be the victim of conduct that could constitute sexual harassment.

### **Consent**

Consent is defined as knowing, voluntary, and clear permission by word or action to engage in sexual activity. Consent cannot be obtained from individuals who are less than 16 years of age. Consent can be withdrawn once given as long as it is reasonably and clearly communicated. Consent cannot be obtained from an individual who is disoriented, asleep, or unconscious. Silence or the absence of resistance should not be interpreted as consent. Consent for some sexual contact cannot be considered consent for all sexual activity. Previous or current relationship status does not constitute consent. There must be a clear expression in words or actions of consent to specific sexual conduct.

Proof of consent or non-consent is not a burden placed on either party involved in a Complaint. Instead, the burden remains on University of Montevallo to determine whether its Policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

### **Dating Violence**

Violence on the basis of sex, committed by a person, who is in or has been in a social relationship of a romantic or intimate nature with the Complainant. For the purposes of this definition—Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

### **Day**

A business day when the University is in normal operation.

### **Domestic Violence**

Violence on the basis of sex, committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, or by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of

Alabama 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 Alabama.

### **Formal Complaint**

A document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the University of Montevallo investigate the allegation of sexual harassment. At the time of filing a formal complaint, a Complainant must be participating in or attempting to participate in the education program or activity of the University of Montevallo with which the formal complaint is filed.

### **Grievance Process**

The process that convenes to address formal complaints of sexual harassment. All parties will be treated equitably.

### **Informal Resolution**

Under appropriate circumstances, informal resolution may be the most effective way to resolve concerns. Informal resolutions are essentially an agreement between the parties on how to resolve the incident without participating in a formal investigation. Informal resolutions may include an inquiry into the facts but typically does not include a formal investigation. All parties involved, must agree to move forward with an Informal Resolution.

### **Investigator**

The person or persons charged by the University with gathering facts about an alleged violation, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

### **Mandated Reporter**

A mandated reporter is any faculty and staff member of the university who is made aware of any incidents of sexual misconduct. Residence Hall Directors and Resident Assistants are the only students who are classified as mandated reporters.

### **No Contact Order**

A documented directive from a University official instructing a specific student to not make any contact with another student(s). No contact includes, but not limited to, via telephone, text messaging, letters, recordings, electronic/social media such as Facebook, Twitter, Instagram, Snapchat, etc.) If a student violates the No Contact Order, they may be charged with failure to comply, which is a violation of the UM Student Code of Conduct.

### **Resolution**

The result of an informal or formal grievance process.

### **Respondent**

The individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

### **Sexual Assault**

Sex Offenses, Forcible: any sexual act directed against another person, without the consent of the Complainant, including instances in which the Complainant is incapable of giving consent. Sexual

assault also includes, forcible rape, forcible sodomy, sexual assault with an object, forcible fondling; non-forcible sex offenses such as incest; statutory rape.

### **Sexual Harassment**

The umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. Unwelcome conduct determined by a reasonable person to be so severe, and pervasive, and objectively offensive that it effectively denies a person equal access to the University of Montevallo's education program or activity. Quid Pro Quo: an employee of the University of Montevallo, conditioning the provision of an aid, benefit, or service of the University of Montevallo, on an individual's participation in unwelcome sexual conduct.

### **Stalking**

Engaging in a course of conduct on the basis of sex directed at a specific person that would cause a reasonable person to fear for the person's safety, or the safety of others; or suffer substantial emotional distress. For the purposes of this definition — course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.

### **Standard of Evidence (Burden of Proof)**

The standard of evidence used during Title IX investigations is the preponderance of the evidence. Is it “more likely than not” or a 50.01% percent chance the sexual misconduct occurred.

### **Supportive Measures**

Non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve equal access to the University of Montevallo's education program or activity without unreasonably burdening the other party.

### **Title IX Coordinator**

At least one official designated by the University to ensure compliance with Title IX and the Title IX program.

### **Title IX Hearing Panel/Decision-Maker**

University officials who have decision-making and sanctioning authority within the Title IX Formal Grievance process.

