

**DISCRIMINATION, HARASSMENT, RETALIATION, AND SEXUAL MISCONDUCT,
TITLE IX**

UA Cossatot is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based upon race, color, religion, national origin, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, pregnancy, physical or mental disability or genetic information. Such an environment is necessary to a healthy learning, working and living atmosphere. Accordingly, all acts of discrimination, harassment, retaliation and sexual misconduct as defined by this Policy are prohibited.

JURISDICTION

EQUAL EMPLOYMENT

Our goal at The University of Arkansas Cossatot is to recruit, hire, and maintain a diverse workforce. Equal employment opportunity is not only good business it's the law and applies to all areas of employment, including recruitment, selection, hiring, training, transfer, promotion, termination, compensation and benefits.

As an equal employment opportunity employer, the college does not discriminate in its employment decisions on the basis of race, religion, color, national origin, gender, age, disability, or on any other basis that would be in violation of any applicable federal, state, or local law. Furthermore, the college will make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship.

All complaints or any concerns about conduct that may violate this policy should be submitted to the Human Resources Director either in person or by calling 1-800-844-4471.

Human Resources Director
Leeper Building
183 College Drive
De Queen, AR 71832

Title IX

Title IX protects the college community from sexual discrimination, harassment and misconduct in a school's education programs and activities. Title IX protects the college community in connection with all academic, educational, extracurricular, athletic and other college programs, whether those programs take place on college property, in college transportation, as a class or training program sponsored by the college, or at another location or elsewhere.

This policy shall not be construed or applied to restrict academic freedom at the college, nor shall it be construed to restrict constitutionally protected expression. Consistent with state and federal law, reasonable accommodation will be provided to persons with disabilities.

All complaints or concerns about conduct that may violate this policy should be submitted to the Title IX Coordinator, Assistant Coordinator, or to a Title IX Deputy either in person or by calling 1-800-844-4471.

Title IX Coordinator, Director of Student Services
Title IX Assistant Coordinator, Director of Human Resources
Title IX Education & Prevention Deputy, Coordinator for the Center for Student Success
Title IX Deputy on Ashdown Campus, Student Services/Admission Advisors
Title IX Deputy on De Queen Campus, Student Services/Admissions Advisors
Title IX Deputy on Nashville Campus, Student Services/Admissions Advisors

Current contact information for each individual is available at <https://www.cccua.edu/student-life/consumer-information/title-ix-information>

Filing a Report with Local Law Enforcement

In some instances, sexual misconduct may constitute both a violation of college policy and criminal activity. The college grievance process is not a substitute for instituting legal action. The college encourages individuals to report alleged sexual misconduct promptly to campus officials and to law enforcement authorities, where appropriate. Individuals may also contact any of the following for assistance in filing a report with local law enforcement:

CAMPUS POLICE OFFICERS

Monte Stringfellow – De Queen Campus
Leeper Building
183 College Drive
De Queen, AR 71832
Phone: 870-584-4471
Cell Phone: 870-582-5639

Jason Curtis – Ashdown Campus
1411 N. Constitution Avenue
Ashdown, AR 71822
Phone: 870-898-4733
Cell Phone: 870-582-5609

Hector Cortez Nashville Campus
1558 Hwy 371 West
Nashville, AR 71852
Phone: 870-845-2454
Cell Phone: 870-582-5743

LOCAL CITY POLICE DEPARTMENT

De Queen City Police Department
220 N. 2nd Street
De Queen, AR 71832
Phone: 870-642-2213
Emergency: 9-1-1

Ashdown City Police Department
745 Locust Avenue
Ashdown, AR 71822
Phone: 870-898-5640
Emergency: 9-1-1

Nashville City Police Department
426 Main Street
Nashville, AR 71852
Phone: 870-845-3434
Emergency: 9-1-1

UAC has a no-tolerance policy regarding retaliation for reporting, providing information, exercising one's rights or responsibilities, or otherwise being involved in the process of responding to, investigating, or addressing allegations of Title IX violations are strictly prohibited. Individuals taking part in retaliation, intimidation, threats, coercion, or discrimination, undertaken or attempted either directly or by someone acting on behalf of another, will be subject to immediate disciplinary action. Preserving Evidence

It is important that evidence of sexual assault be preserved, because it may be needed for prosecuting the criminal case. Victims and others should not alter the scene of the attack. The victim should not change clothes, bathe or shower, drink or eat anything, or brush her/his teeth before reporting the assault. Any items worn by the victim during the assault, but are not currently being worn, and any materials encountered during the assault (i.e., bed sheets, blankets, etc.) should preferably be placed in a paper bag and brought along with the victim to a local hospital emergency department that has kits to collect and preserve evidence of rape and sexual assault.

STUDENT AND VISITOR RESPONSIBILITY TO REPORT

Students and visitors to the college are strongly encouraged to report allegations of discrimination, harassment, retaliation and sexual misconduct to the Title IX Coordinator or a Title IX Deputy. A report should be made as soon as possible after the incident in order to facilitate an effective response. The longer a report is delayed, the more difficult it will be for the college to investigate. Reports may be made by the person experiencing the misconduct or by a third party, such as a witness or someone who is told of the misconduct.

MANDATORY EMPLOYEE REPORTING

In order to enable the college to respond effectively and to proactively stop instances of discrimination, harassment, retaliation and sexual misconduct, all employees must, within 24 hours of receiving information regarding a potential violation of this policy, report information to the Title IX coordinator or Assistant Coordinator or to a Title IX Deputy. Only employees who are statutorily prohibited from reporting such information (e.g., licensed health-care professionals) are exempt from these reporting requirements. This policy is not intended to restrict curriculum or prohibit or abridge the use of particular textbooks or curricular materials.

OFF-CAMPUS CONDUCT

Conduct that occurs off campus can be the subject of a complaint or report and will be evaluated to determine whether it violates this policy. Allegations of off-campus sexual misconduct are of particular concern and should be brought to the college's attention.

CONFIDENTIALITY

Subject to the other provisions of this policy and the requirements of law, every possible effort will be made to ensure that all information received as part of the college's Complaint/Grievance Procedure is treated discreetly. All parties to the complaint are required to maintain the confidentiality of all information received during this process. However, it is not

possible to guarantee that all complaints will remain confidential because of the college's obligation to investigate allegations of misconduct. All requests to maintain confidentiality shall be directed to the title IX Coordinator who has the authority to make such determinations.

Except as compelled by law or in the interest of fairness, just resolution or health and safety considerations, disclosure of information contained in complaints, their substance, procedures and the results of investigations will be limited to the immediate parties, witnesses and other appropriate officials. Limited disclosure may also be necessary to conduct a full and impartial investigation.

AVAILABILITY OF COUNSELING AND ADVOCACY

Counseling and other mental health services for victims of sexual assault are available in the community. Students who are victims of sexual assault should immediately contact UA Cossatot Police. Employees of the college may seek help through the employee Assistance Program.

Community mental health agencies, counselors, and psychotherapists in private practice can provide individual and group therapy. Women's shelters or domestic violence and rape crisis programs may assist in making referrals for individual counseling and support groups and identifying non-counseling campus and community resources that may be of additional help and service as a victim advocate upon request.

EDUCATION AND AWARENESS PROGRAMS

The college's Title IX office is responsible for planning and coordinating campus education and awareness programs about all forms of sexual assault, including rape, acquaintance rape, domestic violence, dating violence, and other sex offenses. Programs are presented regularly throughout the academic year for student organizations, academic classes, employee training and professional development, and in other settings that are likely to reach people throughout the campus community. Campus-wide education and awareness activities are also conducted during Sexual Assault Prevention and Awareness Week.

POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, or supervisor and employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of policy.

The college does not wish to interfere with private choices regarding personal relationships when those relationships do not interfere with the goals and policies of the college.

However, for the personal protection of members of this community, relationships in which power differentials are inherent (faculty-student, staff-student, administrator-student or employee) are prohibited except in extraordinary circumstances.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisors. This will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or will shift the student or employee out of being supervised or evaluated by someone with whom he or she has established a consensual relationship.

Failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee, up to and including termination.

HLC Criterion: 2A.2

Policy History:

November 4, 2019
November 6, 2017
July 6, 2015
November 3, 2014
January 1, 2011
July 30, 2001

DISCRIMINATION, HARASSMENT, RETALIATION, SEXUAL MISCONDUCT, TITLE IX

These procedures are intended to apply to all grievances/complaints involving discrimination, harassment, retaliation, and sexual misconduct as described in College Policy 206, including but not limited to those brought by a student against an employee and/or fellow student. All other grievances by students, employees, or third parties shall be addressed through other grievance procedures.

COMPLAINTS

The College outlines two types of complaints: Informal and Formal. The Informal Complaint process should be followed if at all possible. Under the Informal Complaint process, a Complainant may elect to resolve his/her complaint by discussing it with the offending party. If the offending party is an employee and satisfactory resolution cannot be reached after discussion, the Complainant may also contact the individual's direct supervisor to resolve the complaint. If these efforts are unsuccessful, the Formal Complaint process may be initiated. While the Informal Complaint Process is encouraged and will be appropriate in most cases, the College does not require a Complainant to utilize the Informal Complaint Process if doing so is impractical or unsafe, or if the Complainant believes that the conduct cannot be effectively addressed through informal means. For example, the Informal Complaint Process should not be used to address allegations of sexual assault. However, in other circumstances, every reasonable effort should be made to constructively resolve issues with students, faculty, staff, and administrators before pursuing the Formal Complaint process. The Complaint, whether Formal or Informal, should be taken during the initial meeting with the Complainant.

Informal Complaint Process: During the initial meeting the Title IX Deputy should complete the Informal Complaint Form:

1. Obtain Complainant information
2. Obtain details regarding the Complaint
3. Take written statement of Complainant's recollection of events regarding the Complaint
4. List Complainant witnesses
5. Document remedies sought by the Complainant
6. Provide the Complainant a copy of College Policy 206 and corresponding procedures
7. Explain the steps of the investigative process and avenues for resolution
8. Review confidentiality standards and retaliation statement
9. Submit Informal Complaint Form to the Title IX Coordinator
10. If necessary, complete Interim Measures Request and immediately submit to Title IX Coordinator

Formal Complaint Process: During the initial meeting the Title IX Deputy should complete the Formal Complaint Form:

1. Offer assistance and meet the immediate needs of the Complainant
2. Obtain Complainant information
3. Obtain details regarding the Complaint

4. Take written statement of Complainant's recollection of events regarding the Complaint
5. List Complainant witnesses
6. Document remedies sought by the Complainant
7. Provide the Complainant a copy of, and outline College Policy 206 and corresponding procedures
8. Explain the steps of the investigative process and avenues for resolution
9. Review confidentiality standards and retaliation statement
10. Discuss interim measures that can be provided during the investigative and resolution process
11. Complete the Formal Complaint Form and provide copies to the Title IX Coordinator and UAC Police
12. Refer to law enforcement, counseling, medical, academic or other resources, as appropriate
13. If necessary, complete Interim Measures Request and immediately submit to Title IX Coordinator

INTERIM MEASURES

Upon notice of any Complaint, the Title IX Coordinator may issue a "No Contact" order in writing to all parties. The College may implement any interim measures, deemed appropriate and reasonably available, regardless of whether a Formal Complaint has been filed (with either campus administrators or law enforcement agencies) or whether an investigation has commenced (by either campus administrators or law enforcement agencies). The Title IX Deputy may initiate the request for interim measures by completing the Interim Measures Request and submitting it to the Title IX Coordinator. Title IX Coordinator will make the final determination on appropriate Interim Measures and issue notification of them in writing to both the Claimant and Respondent. Interim Measures may include but are not limited to:

1. Issuing no contact orders;
2. Providing an escort to ensure that an individual can move safely between classes, work, and/or activities;
3. Changing on campus work arrangements or location;
4. Rescheduling class work, assignments, and examinations;
5. Arranging for the Complainant to take an incomplete in a class;
6. Reassigning a class section;
7. Permitting a temporary withdrawal from the College;
8. Providing alternative course completion options;
9. Providing academic support services

INVESTIGATION

The Title IX Coordinator will be responsible for overseeing the prompt, fair, and impartial investigation and resolution of complaints filed with the College. The Title IX Coordinator or designee will investigate all complaints of discrimination, harassment, retaliation, and sexual misconduct and determine any accommodations or other remedial short-term actions necessary in light of the individual circumstances presented. Title IX Deputy may act as Investigator or may

request the Title IX Coordinator appoint an Investigator. The Investigator must conduct a thorough, reliable, and impartial investigation.

During the investigation, the Investigator will:

1. Document all activities and actions regarding the Complaint by utilizing the Documentation Log
2. Document all evidence obtained by utilizing the Evidence Log
3. Review the Complaint Form and complete the Summary of Complaint
4. Interview the Respondent and complete the Respondent Statement
 - a. Provide the Respondent a copy of College Policy 206 and corresponding procedures
 - b. Explain the steps of the investigative process and avenues for resolution
 - c. Review confidentiality standards and retaliation statement
 - d. Provide a copy of and review the Summary of Complaint with the Respondent
 - e. Document Respondent's initial response to the Complaint
 - f. Obtain written statement of Respondent recollection of events regarding the Complaint
 - g. List Respondent witnesses
 - h. Inform Respondent of any Interim Measures already determined and being provided to the Complainant that would directly affect the Respondent
 - i. If necessary, complete Interim Measures Request and immediately submit to Title IX Coordinator
 - j. Refer to law enforcement, counseling, medical, academic or other resources, as appropriate
 - k. Complete the Interview Summary for the Respondent Interview
5. Interview witnesses listed by both the Complainant and Respondent and complete Witness Statements for each
 - l. Obtain Witness information
 - m. Provide the Witness a copy of College Policy 206 and corresponding procedures
 - n. Explain the steps of the investigative process and avenues for resolution
 - o. Review confidentiality standards and retaliation statement
 - p. Provide a copy of and review the Summary of Complaint with the Witness
 - q. Obtain written statement of Witness recollection of events regarding the Complaint
 - r. Complete the Interview Summary for each Witness interviewed
6. Complete the Investigative Report
 - s. Attach the following:
 - i. Complaint Form
 - ii. Respondent Statement
 - iii. Summary of Complaint
 - iv. Witness Statements
 - v. Interview Summaries

- vi. Interim Measures Requests
 - vii. Evidence Log
- t. Disclose the findings of the Investigation – Determine whether based on the findings of the Investigation, the preponderance of evidence indicates that it is more likely than not that a policy violation either *has* or *has not* occurred.
 - u. Indicate the Policy or Policies violated – List any/all College Policy or Policies found to have been violated.
 - v. List Recommended Remedial/Disciplinary Action – Determine, in consultation, as necessary, with the Complainant, Respondent, and any other College officials, any remedial and/or disciplinary action deemed appropriate under the circumstances.
 - w. List any permanent steps taken with respect to the Complainant
 - x. List any permanent steps taken with respect to the Respondent
 - y. Document action taken to prevent recurrence of additional incidents –

If the Title IX Coordinator determines and documents, based on the investigation, that reasonable grounds exist to believe that the conduct at issue constitutes a violation of this Policy, the Title IX Coordinator will determine the appropriate remedy and/or sanction in the Investigative Report. Imposition of the appropriate remedy and/or sanction will be imposed only after all appeals have been exhausted.

In determining the appropriate remedy and/or sanction, the College will act to end the discrimination, harassment, retaliation, or sexual misconduct, prevent its recurrence, and remedy its effects on the victim and/or the College Community. Sanctions will depend upon the nature and gravity of the misconduct, any record of prior discipline for a violation of this Policy, or both. Sanctions may include, without limitation, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, expulsion or suspension from the College, disciplinary probation, mandated counseling and/or educational sanctions as deemed appropriate.

The Title IX Coordinator shall distribute the Investigative Report, concurrently, to the Complainant and Respondent within thirty (30) calendar days following receipt of a Complaint. All parties to whom the Investigative Report is distributed pursuant to this Policy should maintain it in confidence. The Investigative Report may only be disclosed as contemplated by this Policy.

If the Title IX Coordinator finds no reasonable grounds to believe that the conduct at issue constitutes a violation of this Policy, then the Title IX Coordinator will determine and document the appropriate resolution of the Complaint in the Investigative Report and will promptly notify the parties of that determination.

APPEALS INVOLVING FACULTY/STAFF

All appeals where the Respondent is a College faculty or staff member shall be made to the Chancellor or designee. Both the Complainant and the Respondent may appeal any or all of the Title IX Coordinator's decision in writing to the Chancellor or designee within ten (10) days of receipt of the Investigative Report. The appealing party must also provide a copy of the appeal to

the Title IX Coordinator within the same time period. The appeal should include a brief statement describing any or all parts of the Investigative Report that is being appealed and the reason for appeal. Acceptable means of notification include email, facsimile, hand delivered notification, or postal delivery. The Title IX Coordinator will promptly inform the other party of the appeal.

Within ten (10) days of receipt of the appeal, the Chancellor or designee will make a final determination as to whether the Complaint should be closed, whether a violation of Policy has occurred, and/or whether any additional or different remedial action or sanctions are warranted. The Chancellor or designee will concurrently notify the Complainant and the Respondent of his/her decision.

APPEAL INVOLVING STUDENTS

In those instances where the Respondent is a College student, the Complainant and/or the Respondent may appeal any or all of the Title IX Coordinator's decision to a Hearing Panel by providing a written appeal to the Chancellor or designee with a copy also being provided to the Title IX Coordinator. The appeal must be submitted within ten (10) days of receipt of the Investigative Report being appealed and the reason for appeal. Acceptable means of notification include email, facsimile, hand delivered notification, or postal delivery.

Within three (3) days of receiving the appeal, the Chancellor or designee will appoint the members of the Hearing Panel, to include at least three faculty and/or staff members. The Chancellor or designee will select one member of the Hearing Panel to act as the Chair. The Title IX Coordinator will provide a copy of the Complaint and the Investigative Report to each member of the Hearing Panel and, if only a portion of the Title IX Coordinator's findings and determinations are appealed, the Title IX Coordinator will specify which part(s) of the alleged misconduct will be the subject of the hearing.

Promptly after the appointment of the members of the Hearing Panel, the Title IX Coordinator will provide concurrent written notice to the Complainant and the Respondent, setting forth the names of the individuals selected to serve on and chair the Hearing Panel. If only a portion of the findings and determination are appealed, the Title IX Coordinator will also specify in the notice which part(s) of the alleged misconduct will be the subject of the hearing.

The parties may challenge the participation of any member of the Hearing Panel by submitting a written objection letter to the Chancellor or designee within three (3) days of receipt of the notice of the composition of the Hearing Panel. Any objection must state the specific reason(s) for the objection. The Chancellor or designee will evaluate the objection and determine whether to alter the composition of the Hearing Panel. Failure to submit a timely and proper objection will constitute a waiver of any right of objection to the composition of the Hearing Panel. Any changes in the composition of the Hearing Panel will be provided in writing to both parties prior to the date of the hearing.

SUBMISSION OF WRITTEN MATERIALS: Within five (5) days of receipt of the notice of the initial composition of the Hearing Panel, the Complainant and the Respondent may provide the Chair of the Hearing Panel with a list of witnesses, if any, that they propose that the Hearing Panel call and a brief description of each proposed witness's connection to and/or knowledge of the issues in dispute, any supporting documents or other evidence, and a written statement of position.

NOTICE OF THE HEARINGS: Not less than five (5) days but not more than ten (10) days after delivery of notice of the initial composition of the Hearing Panel to the parties, the Hearing Panel

will provide a separate notice to the Complainant, Respondent, and any witnesses or other third parties whose testimony the Hearing Panel deems relevant, requesting such individuals to appear before the Hearing Panel. The notice should set forth the date, time, and location for the individual's requested presence. The Hearing Panel shall provide the names of the witnesses or other third parties that the Hearing Panel plans to call in its notices to the Complainant and the Respondent. The hearing shall be conducted within twenty (20) days but no sooner than ten (10) days of the receipt of the appeal.

FAILURE TO APPEAR: If any party fails to appear before the Hearing Panel if requested to do so, and such party was provided proper notice of the hearing as set forth above, then absent extenuating circumstances, the Hearing Panel will proceed to determine the resolution of the Complaint.

SUPPORT PERSONS: Both the Complainant and the Respondent may be accompanied by one support person to assist them during the hearing process. This support person can be anyone, including an attorney, but the support person may not take part in the hearing. Unless the student has received a suspension of ten (10) or more days or expulsion, the support person may not address the Hearing Panel, present evidence, make objections or statements, ask questions of any party or witness or otherwise participate in the hearing, beyond privately communicating with the party that he/she is supporting. If the student has received a suspension of ten (10) or more days or expulsion, the support person may fully participate during the disciplinary appeal proceeding. The Chair must be notified five (5) business days in advance of the hearing if a party will be accompanied by a support person. The Chair may disallow the attendance of any support person if he/she is also a witness or if, in the discretion of the Chair, such person's presence would be disruptive or obstructive to the hearing or otherwise warrant removal. All support persons must agree to keep any and all information presented in the hearing confidential in order to attend. Absent accommodation for disability, the parties may not be accompanied by any other individual during the hearing process except as set forth in this Policy. College officials may seek advice from the Office of General Counsel on questions of law and procedures at any time during the process.

EVIDENTIARY MATTERS: The Complainant and the Respondent will have an equal opportunity to present evidence during their hearing. Formal rules of evidence will not be observed during the hearings.

PRIOR SEXUAL CONDUCT: Evidence of the prior sexual conduct of the Complainant and the Respondent with others will not be permitted at the hearings, with the following exceptions"

1. Evidence is permitted to show that the Complainant has in the past been formally disciplined by the College for falsely filing Complaints alleging a violation of this Policy;
2. Evidence is permitted to show that the Respondent has in the past been either convicted in a criminal proceeding or formally disciplined by the College for conduct which would violate this Policy, if deemed relevant; and
3. Evidence regarding the past sexual activity of the Respondent (regardless of whether the Respondent was formally charged with a violation of the Policy with respect to such conduct) may be permitted to show that the Respondent has engaged in a pattern of

behavior similar to the alleged violations of policy at issue before the Hearing Panel, provided that (1) the Respondent has not been found “not responsible” by the College in a proceeding related to such conduct and (2) the Chair has made written finding both that the evidence is reliable and trustworthy and that the conduct is sufficiently and substantially similar to the conduct at issue before the Hearing Panel to suggest a pattern of behavior.

HEARING PROCEDURE: The Hearing Panel will conduct a hearing during which it will interview and question the Complainant, the Respondent, and any witnesses or other third parties whose testimony the Hearing Panel deems relevant. The parties will not be allowed to personally question or cross-examine each other during the hearing, but will be allowed to question witnesses. The Chair will resolve all questions concerning procedure or the admission of evidence or testimony, including the relevancy and reliability of the evidence and testimony. All participants at the hearing are expected to provide truthful testimony. The Complainant has the option not to be in the same room with the Respondent during the hearing. Any party may choose not to testify or appear before the Hearing Panel; however, his/her exercise of that option will not preclude the Hearing Panel from making a determination regarding the Complaint filed against the Respondent.

DECISION OF THE HEARING PANEL: Following the conclusion of the hearing, the Hearing Panel will confer and by majority vote determine whether the evidence (including the information provided in and by the Investigative Report, the parties’ written statements, if any, the evidence presented at the hearings, and the testimony of the parties and witnesses) establishes that it is more likely than not that the Respondent committed a violation of this Policy. In other words, the standard of proof will be on the preponderance of the evidence. If the Hearing Panel determines that more likely than not the Respondent committed a violation of this Policy, the Hearing Panel will recommend sanctions and give consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the effects of the violation. The Hearing Panel will forward its recommendations regarding sanctions to the Chancellor or designee, who will make the final determination regarding all sanctions.

Sanctions for a finding of responsibility will depend upon the nature and gravity of the misconduct, any record of prior discipline for a violation of this Policy, or both. Sanctions may include, without limitation, expulsion or suspension from the College, disciplinary probation, mandated counseling, and/or educational sanctions deemed appropriate by the Hearing Panel

Ordinarily, sanctions will not be imposed until the resolution of any timely appeal under this Policy. However, if it is deemed necessary to protect the welfare of the Complainant or the College community, the Hearing Panel may recommend and the Chancellor or designee may determine that any sanctions be imposed immediately and continue in effect until such time as the appeal process is exhausted.

At such time that the appeal process is exhausted, the Title IX Coordinator will determine the final accommodations to be provided to the Complainant, if any, and the Title IX Coordinator will communicate such decision to the Complainant and the Respondent to the extent that it affects him/her.

The Title IX Coordinator will also take steps to prevent any harassment of or retaliation against the Complainant or third parties, such as informing them about how to report

subsequent problems, following up with them to ensure that there are no subsequent problems, providing training for the campus community, and providing counseling for the Respondent. The Title IX Coordinator will also take steps to prevent the harassment of or retaliation against the Respondent.

Furthermore, the Title IX Coordinator will take prompt corrective action if the Complainant experiences retaliation or is subjected to further violation of this Policy or if the original sanctions imposed on the Respondent are ineffective to protect the safety and well-being of the Complainant or other members of the College community. The Title IX Coordinator will also take reasonable steps to eliminate any hostile environment that has been created, such as conducting trainings and disseminating informational materials. In taking the above outlined steps, the Title IX Coordinator will make every reasonable effort to minimize the burden on the Complainant.

FINAL OUTCOME LETTER: Within ten (10) calendar days following the conclusion of the hearings, the Hearing Panel will issue a written decision letter (the “Final Outcome Letter”) concurrently to the Respondent and the Complainant. The Final Outcome Letter will set forth (1) the name of the Respondent, (2) the violation(s) of this Policy for which the Respondent was found responsible, if any, (3) the recommended sanctions imposed on the Respondent, if any, and it may set forth names of other individuals, such as a victim or witness, provided that such other individuals provide their written consent to such inclusion. In order to comply with FERPA, the letter will not include information considered part of a party’s “educational record” (as that term is defined by FERPA) that is not otherwise exempt from disclosure under the Act, or other information about sanctions that do not relate to the victim.

CONFIDENTIALITY AND DISCLOSURE: In order to comply with FERPA and Title IX and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public. Accordingly, documents prepared in anticipation of the hearings (including the Complaint, the Investigative Report, the notices of hearing, and the pre-hearing submissions referenced above) and documents, testimony, or other information introduced at the hearings may not be disclosed outside of the hearing proceedings, except as may be required or authorized by law.

TIME PERIODS

The College will make every reasonable effort to ensure that the investigation and resolution of a Complaint occurs in as timely and efficient a manner as possible. The College’s investigation and resolution of a Complaint (including an appeal, if applicable) will generally be completed within sixty (60) calendar days of the receipt of the Complaint, absent extenuating circumstances. Hearings, if at all, will take place after the conclusion of the hearing.

Any party may request an extension of any deadline by providing the Title IX Coordinator or respective deputies with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request.

For purposes of calculating all time periods set forth in this Complaint and Grievance Policy, a business day is defined to mean normal operating hours, Monday through Friday, excluding recognized national and state holidays and College closings.

Timelines may be modified in cases where information is not clear, judged to be incomplete, relevant parties are not available for interview, and/or other related circumstances as may arise. The Title IX Coordinator may also modify any deadlines contained in this Policy as necessary and for good cause.

ACKNOWLEDGEMENT OF RESPONSIBILITY

At any time prior to the issuance of the Investigative Report or the date of the designated hearing, the respondent may elect to acknowledge actions and take responsibility for the alleged policy violation. In such situation, the Title IX Coordinator will propose sanction(s). If wither party objects to the proposed sanction(s), they may appeal the sanction pursuant to this Policy.

CONFIDENTIALITY

Information, correspondence, discussions, and investigations related to all Complaints are confidential. However, the College cannot ensure anonymity of the individuals named in Complaints. Information contained in Complaints may be disclosed to appropriate administrators, Campus Police, and witnesses interviewed for the purpose of investigating and resolving the Complaint.

RETALIATION

The College has a no-tolerance policy regarding retaliation for reporting, providing information, exercising one's rights or responsibilities, or otherwise being involved in the process of responding to, investigating, or addressing allegations of Title IX violations. Individuals taking part in retaliation, intimidation, threats, coercion, or discrimination, undertaken or attempted either directly or by someone acting on behalf of another, will be subject to immediate disciplinary action.

Retaliation against any person who files a Complaint, participates in an investigation, or opposes a discriminatory employment or educational practice or policy is prohibited. A person who believes retaliation has occurred should notify the Title IX Coordinator as soon as possible.

FALSE REPORTS

Willfully making a false report of sexual harassment is a violation of College policy and is a serious offense. Any person who willfully makes or participates in making a false or frivolous report of discrimination, harassment, retaliation, or sexual misconduct will be subject to disciplinary action. False reporting may also violate state criminal statutes and civil defamation laws.

OFFICE OF CIVIL RIGHTS COMPLAINT

Although Complainants are encouraged to resolve their grievances related to discrimination by utilizing this Complaint/Grievance procedure, they have the right to file a complaint directly with the U.S. Department of Education, Office of Civil Rights (OCR). Information regarding applicable timelines and procedures is available from OCR. You may call 1-800-421-3481 to obtain further information about filing a complaint with OCR.

EFFECTIVE DATE

The College reserves the right to make changes and amendments to this Policy as needed, with appropriate notice to the community. However, the Policy in force at the time that a Complaint is filed will be the Policy used throughout the investigation, hearing, and any appeals that are heard.

DOCUMENTATION

The College will retain documentation (including but not limited to the written Complaint, notifications, the Investigative Report, any written findings of fact, petitions for appeal, any documents or evidence submitted by the parties, hearing transcripts or recordings, (if any), and any written communication between the parties), for at least three (3) years. Documentation pertaining to terminations, expulsions, or educational sanctions may be retained indefinitely.

DEFINITION OF TERMS

Complainant: Any party who makes a Complaint against a student, employee, staff member, or campus visitor.

Consent: Consent is clear, knowing, and voluntary. Consent is active, not passive, Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable clear permission regarding willingness to engage in (and the conditions of) sexual activity.

If coercion, intimidation, threats, or physical force are used there is no consent. If a person is mentally or physically incapacitated or impaired so that such a person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious. Incapacitation is a state where someone cannot make rational, reasonable decisions because he or she lacks the capacity to give knowing consent. There is no consent when there is force, expressed or implied, or use of duress or deception upon the victim. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing future consent. Whether an individual has taken advantage of a position or influence over an alleged victim may be a factor in determining consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex. That they want to stop, or that they do not want to go past a certain point of sexual interaction, continues pressure beyond that point can be coercive.

Force: Force is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes overt threats, implied threats, intimidation and coercion that overcome resistance or produce consent.

Under Arkansas law, the age of consent varies with the degrees of assault, the age of the actor, and the relationship of the actor to the other party. For specific information, please refer to Arkansas statutes (e.g. Arkansas Code Annotated § 5-14-125, Sexual Assault in the Second Degree).

Sexual activity with someone known to be mentally or physically incapacitated, or based on the circumstances, or someone who could reasonably be known to be mentally or physically incapacitated, constitutes a violation of this Policy.

This Policy also covers persons whose incapacity results from mental disability, sleep, involuntary physical restraint, or from the taking of rape drugs. Possession, use and/or distribution of any of these substances, including Rohypnol, Ketamine, GHB, Burundanga, etc. is prohibited, and administering one of these drugs to another person is a violation of this Policy. More information on these drugs can be found at <http://www.911rape.org/>

Use of alcohol or other drugs will never function as a defense to a violation of this Policy. Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. Previous relationships or prior consent cannot imply consent to future sexual acts.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. It includes any unwelcome physical violence such as hitting, pulling, shoving, kicking, biting, or throwing things; and sexual assault, sexual exploitation, and sexual harassment.

Discrimination (general definition): Conduct that is based upon an individual's race, color, religion, national origin service in the uniformed services (as defined in state and federal law), veteran status, sex, age, pregnancy, physical or mental disability, or genetic information that excludes an individual from participation, denies the individual benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment, or participation in a College program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

Discriminatory Harassment: Detrimental action based on an individual's race, color, religion, national origin, services in the uniformed services (as defined in state and federal law), veteran status, sex, age, pregnancy, physical or mental disability, or genetic information. Harassing conduct may take various forms, including, name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target, or involve repeated incidents. Gender-based harassment includes sexual harassment.

Domestic Violence: Physical harm, bodily injury, assault, or the infliction of fear or imminent physical harm, bodily injury, or assault between family or household members; or any sexual conduct between family or household members, whether minors or adults, that constitutes a crime under the laws of this state. Family or household members means spouses, former spouses, parents and children, persons related by blood within the fourth degree of consanguinity, any children residing in the household, persons who presently or in the past have resided or cohabited together, persons who have or have had a child in common, and

persons who are presently or in the past have been in a dating relationship together. See also, Arkansas Code Annotated § 9-15-103 – “Domestic Abuse”).

Hostile Environment: A hostile environment exists when there is harassing conduct based on race, color, religion, national origin, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, pregnancy, physical or mental disability, or genetic information that is sufficiently serious (i.e., severe, pervasive, or persistent) and objectivity offensive to deny or limit a person’s ability to participate in or benefit from the College’s programs, services, opportunities, or activities; or when such conduct has the purpose of effect of unreasonably interfering with an individual’s employment. Harassment that creates a hostile environment (“hostile environment harassment”) violates this Policy.

Non-Consensual Sexual Contact: Non-consensual contact is any intentional sexual touching, however slight, with any object by a male or female upon a male or female upon a male or a female that is without consent and/or by force. Sexual Contact includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth, or other orifice.

Non-Consensual Sexual Intercourse: Non-consensual sexual intercourse is any sexual intercourse however slight, by a male or female that is without consent and/or by force. Intercourse includes vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

Respondent: The person(s) against whom a Complaint has been made.

Retaliation: Action taken by an accused individual or by a third party against any person because that person has opposed any practices forbidden under this Policy or because that person has filed a Complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this Policy. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual’s Complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this Policy.

An actual or attempted sexual contact with another person without that person’s consent. Sexual assault includes, but is not limited to involvement in any sexual contact when the victim is unable to consent; intentional and unwelcome touching of, or coercing, forcing, or attempting to coerce or force another to touch a person’s intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast); and sexual intercourse without consent, including acts commonly referred to as “rape.”

Sexual Exploitation: Occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of behavior that could rise to the level of sexual exploitation include, but are not limited to:

1. Invading sexual privacy;
 2. Prostituting another person;
 3. Non-consensual video or audio-taping of sexual activity;
 4. Going beyond the boundaries of consent (e.g., allowing others to watch consensual sex without that party's knowledge or consent);
 5. Engaging in voyeurism;
 6. Non-consensual distribution of photos, other images, or information of an individual's sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information;
 7. Knowingly transmitting an STI, such as HIV, to another without disclosing your STI status;
 8. Exposing one's genitals in non-consensual circumstances or inducing another to expose his or her genitals; or
 9. Possessing, distributing, viewing, or forcing others to view illegal pornography.
- Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

Sexual Harassment: Sexual harassment is unwelcome, gender-based spoken, written or symbolic action, or physical conduct that is sufficiently severe, persistent, or pervasive that it has the effect of unreasonably interfering with, limiting or denying someone the ability to participate in or benefit from the College's educational programs. The unwelcome behavior may be based on power differentials, the creation of a hostile environment of retaliation.

For the purpose of this Policy, sexual harassment includes stalking or repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death. Sexual harassment also includes quid pro quo sexual harassment which exists when there are unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature and submission to or rejection of such conduct results in adverse educational or employment action.

Not all workplace or educational conduct that may be described as "harassment" affects the terms, conditions, or privileges of employment or education. For example, a mere utterance of an ethnic, gender-based or racial epithet which creates offensive feelings in an employee or student would not normally affect the terms and conditions of their employment or limits a student's ability to participate in or benefit from the College's educational programs or activities.

Sexual Misconduct: Includes sexual assault, inducing incapacitation for sexual purposes, sexual exploitation and dating and domestic violence.

Status: A full-time employee of the College will be considered an “employee” for the purposes of this Policy, regardless of whether he/she is also enrolled as a student. Any student who is part-time employee will be considered a “student” for the purposes of this Policy unless the incident under consideration occurred in connection with his/her employment.

Procedure History:

April 13, 2016
