

UNIVERSITY OF CENTRAL ARKANSAS
INTERIM TITLE IX SEXUAL HARASSMENT
GRIEVANCE PROCEDURES
Updated: 06/01/22

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ARTICLE I: INTRODUCTION

(a) Title IX Notice of Nondiscrimination

The University does not discriminate on the basis of sex in the education programs or activities that the University operates, supports, or exercises substantial control over. Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., and the U.S. Department of Education's implementing regulations, 34 CFR Part 106 prohibits discrimination on the basis of sex in educational institutions. The University's nondiscrimination policy extends to admission, employment, and other programs and activities. Inquiries regarding the application of Title IX and 34 C.F.R. Part 106 may be sent to the University's Title IX Coordinator, the U.S. Department of Education Assistant Secretary for Civil Rights, or both.

(b) Jurisdiction and Scope of Procedures

These Grievance Procedures are established in compliance with the United States Department of Education, Nondiscrimination on the Basis of Sex in Education Rules 106 of Title 34 of the Code of Federal Regulations, § 106.8(d). If any part or section of these Grievance Procedures are later found to be not in compliance with the Rules or any individual rule is revoked or

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outside the United States. For allegations that pertain to an educational or program or activity outside the United States, in which the University would otherwise have an obligation to apply these procedures, the allegations shall be referred to the appropriate student conduct determination process.

These procedures are administrative in nature. All complaints that allege conduct which violates the Title IX Sexual Harassment Policy, regardless of when the alleged conduct occurred, will be adjudicated pursuant to these procedures. These procedures supersede all previous procedural rules used to determine Title IX Sexual Harassment complaints filed with the University.

(c) Other Forms of Discrimination or Misconduct

These procedures apply ONLY to allegations and complaints of Title IX Sexual Harassment as defined herein. All other complaints of discrimination or misconduct that do not fall within the

harassment primary prevention, awareness, and risk reduction programs and training for the entire UCA community. Sexual harassment of employees is prohibited under Section 703 of Title VII of the Civil Rights Act of 1964 and sexual harassment of students may constitute discrimination under Title IX of the Education Amendments of 1972. This policy seeks to comply with requirements mandated by the Violence Against Women Reauthorization Act of 2013. The university considers sexual harassment a very serious issue and shall subject the offender to dismissal and/or other sanctions following the university's investigation and substantiation of the complaint and compliance with due process requirements.

(b) Prohibition of Retaliation

Retaliation against any person in the UCA community for filing, supporting, providing information, or for cooperating in a sexual misconduct investigation in good faith, in connection with a complaint of sexual misconduct is strictly prohibited. Examples of retaliation may include, but are not limited to, adverse employment actions such as termination, refusal to hire, and denial of promotion. Additionally, retaliation in the form of harassment, intimidation, threats, or coercion, or in the form of any materially adverse harm that would dissuade a reasonable student or employee from filing a harassment complaint or participating in harassment investigation is strictly prohibited. Any person who feels he/she has been subjected to retaliation should make a report to the Title IX coordinator.

(c) Prohibition on Providing False Information

Any individual who knowingly files a complaint or provides false information to the Title IX coordinator is in violation of this policy.

finding of responsibility or sanctions will not be released or documented on any transcript or releasable employment document of the responsible party.

(e) Amnesty

The University encourages reporting of incidents of Title IX Sexual Harassment and seeks to remove barriers to reporting when possible. The University will not take punitive action against individuals in the case of illegal alcohol use by victims, witnesses, or those reporting incidents and/or assisting the victims of sexual misconduct, provided they are acting in good faith in such capacity. The use of alcohol, drugs, and/or legally prescribed medication does not justify or excuse behavior that constitutes prohibited conduct under this policy.

(f) Individuals with Disabilities

The University will ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in the steps and procedures outlined here within. Requests for accommodations must be made to the Director of the Disability Resource Center (located in the Student Health Center, Suite 212 and available by phone at (501) 450613).

(g) Employees

All non-tenure track faculty and staff members of the University without term contracts are at will employees who may be terminated at any time, with or without cause. With regard to such faculty and staff, nothing in this Policy shall create an expectation of continued employment with the University or be construed to prevent or delay the University from taking any disciplinary

(i) Presumption of Not Responsible

the nature of the allegations and in consideration of the safety of any individual or the entire campus community.

Individuals are strongly encouraged to submit reports promptly in order to preserve evidence for a potential legal or disciplinary proceeding. All complaints or reports of Title IX Sexual Harassment should be submitted to the Title IX Coordinator:

Adam Rose
Associate General Counsel and Title IX Coordinator
Wingo Hall, Suite 207
201 Donaghy Avenue
Conway, Arkansas 72035
501-450-3247
Email: arose@uca.edu

Reports may also be submitted online [at uca.edu/titleix](http://uca.edu/titleix) or via email directly to the Title IX Coordinator. While certain information may be required to initiate a formal complaint inquiry, reports may be submitted in any form, including verbally. The Title IX Coordinator will attempt to contact the Complainant directly to gather additional required information and offer the

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document the nature of the safety concern and the interests of the University on the written Formal Complaint form.

Filing: The filing of a formal, written complaint initiates the formal complaint process and is available to any person who is participating in (or attempting to participate in) a University educational program or activity. After a Formal Complaint is filed, an investigator designated by the Title IX Coordinator will investigate the allegations. Formal Complaints can be filed in several ways. The Complainant may utilize the form provided online at uca.edu/titleix or may submit the complainant's own document that contains the complainant's signature (either physical or digital) and is filed with the University's Title IX Office by U.S. mail, in person, or by email. The formal complaint should set forth the allegations and request that the Title IX Office investigate the matter.

Consolidation of Complaints: The Title IX Coordinator may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Supplemental Information or Correction Form: The process of filing a Formal Complaint is not intended to prevent or delay any person participating or attempting to participate in an educational program or activity of the University from making a complaint of a violation of the

Dismissal of a complaint under the Title IX Sexual Harassment Grievance Procedures does not preclude a Complainant from pursuing a grievance through other appropriate campus processes

ARTICLE V: FORMAL COMPLAINT PROCESS

(a) Notice of Formal Complaint

Upon receipt of the formal complaint, the Title IX Coordinator will send simultaneous notifications of the filing of the complaint to the Complainant and the Respondent (if known). If, in the course of an investigation, the Title IX Coordinator decides to investigate allegations about the Complainant or Respondent that are not included in the initial notice, the Title IX Coordinator must provide notice of the additional allegations to the parties whose identities are known. The initial notice will contain the following:

- i. The allegations of the complaint that potentially constitute Title IX Sexual Harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview (including the identities of the parties involved in the incident, if known, the conduct allegedly constituting Title IX Sexual Harassment under this policy, and the date and location of the alleged incident, if known),
- ii. A copy of the Title IX Sexual Harassment Grievance Procedures,
- iii. 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
- iv. A statement informing the parties that they have a right to have one advisor of their choice to assist them throughout the proceedings who may be (but is not required to be) an attorney. If any party does not choose an advisor, the University will provide an advisor, free of charge.
- v. A statement that the parties have the right to inspect and review all evidence collected during the complaint process
- vi. A statement that any party who knowingly makes false statements or submits false information during the grievance process will be subject to disciplinary procedures

(b) Initial Meeting with Respondent

If a formal complaint is filed, the Title IX Coordinator will promptly schedule an initial meeting with the respondent after the written notice of the formal complaint is sent as described above. Prior to the initial meeting, the Title IX Coordinator shall provide a written notice of the date, time, location, participants, and purpose of the meeting, with sufficient time for the party to prepare to participate. During the initial meeting with the respondent, the Title IX Coordinator (or designee) will, as applicable:

- i. provide a copy of this policy (if not previously provided)
- ii. explain avenues for resolution, including informal and formal
- iii. explain the steps involved in an investigation and hearing under this policy
- iv. discuss confidentiality standards and concerns
- v. discuss nonretaliation requirements

- vi. inform of any supportive measures already determined and being provided to the complainant that would directly affect the respondent
- vii. refer to law enforcement, counseling, medical, academic or other resources, as appropriate
- viii. discuss, as appropriate, possible supportive measures that can be provided to the respondent

The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the supportive measures.

ARTICLE VI : INVESTIGATION OF FORMAL COMPLAINT

(a) Investigation Process

If resolution of the allegations does not proceed through the informal process, the matter will proceed with a comprehensive investigation and resolution through the formal complaint processes. The Title IX Coordinator will be responsible for overseeing the prompt, equitable, and impartial investigation during the formal complaint process. The burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility shall rest on the University and not the parties.

(b) Designation of Investigator

The Title IX Coordinator will designate an investigator to conduct the investigation, and the Title IX Coordinator will share the investigator's name and contact information with the Complainant and the Respondent and will forward the complaint to the investigator.

(c) Conflicts of Interest

Immediately after the identity of the person who will conduct the investigation is determined and communicated to the parties, the investigator, Complainant, or the Respondent may identify to the Title IX Coordinator in writing any real or perceived conflicts of interest or bias that the person charged with conducting the investigation (including the Title IX coordinator, where applicable) may have. The Title IX Coordinator will carefully consider such statements and will assign a different individual as investigator if it is determined that a material conflict of interest exists.

(d) Overview of Investigation

Upon receipt of the formal complaint and initial determination of jurisdiction and applicability of these procedures by the Title IX Coordinator, the Investigator will promptly begin the investigation, which shall include but is not limited to the following:

- i. conducting interviews with the complainant, the respondent, and any witnesses (including expert witnesses, where applicable) and summarizing such interviews in written form
- ii. visiting, inspecting and taking photographs at relevant sites
- iii. where applicable, collecting and preserving relevant evidence (in cases of corresponding criminal reports, this step may be coordinated with law enforcement agencies)
- iv. obtaining any relevant medical records pertaining to treatment of the complainant, provided that the complainant has voluntarily authorized release of the records in writing to the investigator

information provided to the parties, in compliance with Family and Educational Rights and Privacy Act, 34 CFR Part 99).

iv. the dates that the complainant, respondent, and other witnesses were interviewed,

be considered evidence for finding of "responsible" or "not responsible" for violation of the Title IX Sexual Harassment Policy, but will be used to provide an overview of the matter and context for the Hearing Officer/Hearing Panel. Only live person testimony and documentary or

Hearing Officer or Panel. The duty to ~~com~~ply does not apply to formal complaints where the Complainant or Respondent is an employee.

(f) Failure to Appear

allowed under this policy When the University provides an advisor, the University will select an employee of the University.

(d) Examination of Witnesses

- (i) Decision of Hearing Officer or Panel and Standard of Evidence

(l) Remedies

Where a determination is made that the respondent was responsible for violating the Title IX Sexual Harassment Policy, the Hearing Officer or Hearing Panel will determine any final remedies 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). Remedies must be provided in all instances in which a determination of responsibility for violating the Title IX Sexual Harassment Policy has been made against the respondent. Remedies must be designed to restore or preserve equal access to the University's education program or activity. Such remedies may include the same individualized services described above as "supportive measures"; however, remedies need not be disciplinary or non-punitive and need not avoid burdening the respondent.

ARTICLE VII I: APPEALS

(a) Grounds for Appeal

An appeal from the decision of the Hearing Officer or Hearing Panel must be for one of the following reasons:

- (1) a procedural irregularity that affected the outcome of the decision;
- (2) new evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made and that could affect the outcome of the matter is presented;
- (3) the Title IX Coordinator, Investigator(s), Hearing Officer, or Panel Member(s) had a conflict of interest or bias for or against complainants or respondents in general or against an individual complainant or respondent that affected the outcome.

An appeal from the decision by the Title IX Coordinator to dismiss a formal complaint can be made by the Complainant for any reason.

(b) Procedure for Appeals

Both the Complainant and the Respondent may appeal from (1) the Title IX Coordinator's dismissal of a formal complaint or any allegations contained therein, or (2) the Hearing Officer or Hearing Panel's determination regarding responsibility and sanctions. The appeal should be submitted in writing to the Title IX Coordinator within 5 days of receipt of the Hearing Officer or Hearing Panel's decision or, in the case of an appeal to dismiss the formal complaint, 5 days of receipt of the written determination by the Title IX Coordinator. The Title IX Coordinator will forward the appeal to the President. The appeal will be decided based on the written record and without deference to the decision of the Hearing Officer or Hearing Panel. In the case of an appeal from a determination hearing, the President may confer with the University General Counsel in the case of an appeal of a decision to dismiss a formal complaint. Either party may consult with an advisor of their choosing, including an attorney, at their own expense. The University will provide an advisor upon request to any party at no expense to the party.

If the respondent is an employee, then the President will designate a University official to decide the appeal. If the respondent is a student, then the President at his/her discretion will designate an Appeal Panel comprised of at least two faculty and staff members. The President designate one of the panelists as the Chair of the Appeal Panel. The President (in

- ii. Any agreed upon resolution reached at the conclusion of the informal complaint process will preclude the parties from resuming a formal complaint arising from the same allegations,
- iii. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint,
- iv. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared, and
- v. An

Title IX Coordinator, at his or her discretion, assigns a Deputy Title IX Coordinator in connection with a given complaint. In the event a Deputy Title IX Coordinator is assigned the role of Title IX Coordinator, that Deputy will no longer be permitted to participate as the investigator or determination hearing officer in the same matter.

Domestic Violence: is a felony or misdemeanor crime of violence committed by any of the following individuals:

- a. A current or former spouse or intimate partner of the victim; or
- b. A person with whom the victim shares a child in common; or
- c. A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; or
- d. A person similarly situated to a spouse of the victim under the domestic or family laws of the jurisdiction in which the crime of the violence occurred; or
- e. Any other person against an adult or youth who is protected under the domestic or family violence laws of the jurisdiction in which the crime of violence has occurred.

Educational Program or Activity Includes locations, events, or circumstances in which the University exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by an officially recognized student organization. This does not extend applicability to any program or activity taking place outside the United States.

Exculpatory Evidence Information, facts, or evidence that tends to show that a person is not responsible for the allegations contained in a formal complaint.

Formal Complaint: A document filed and signed by a Complainant and signed by the Title IX Coordinator (or filed by the Title IX Coordinator without approval of the Complainant in the event that an ongoing safety concern exists) alleging Title IX Sexual Harassment against a respondent and requesting that the recipient investigate the allegation of Sexual Harassment. The phrase "document filed by complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the University) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the formal complaint. Only a Complaint or

Incapacitation the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where an intoxicant is involved, incapacitation is a state of intoxication where the intoxicant consumed impairs a person's decision-making capacity; awareness of consequences, and ability to make fully informed judgments.

Inculpatory Evidence: Information, facts, or evidence that tends to show that person is responsible for the allegations contained in a formal complaint.

Party: The Complainant or Respondent in a given formal complaint, hearing, or other process.

Preponderance of the Evidence: A standard of proof where the conclusion is based on facts that are more likely true than not or whichever finding of fact carries the greater the weight of the evidence.

Report: Any notice of an alleged violation of the Title IX Sexual Harassment Policy by any person, in any form, to the Title IX Coordinator or an employee of the University with the authority to institute corrective measures on behalf of the University.

Respondent: An individual who has been reported or alleged to be the perpetrator of conduct that could constitute Title IX sexual harassment.

Sanctions: The determination of sanctions to be imposed against a respondent who is found to have been responsible for violating this policy will depend upon the nature and gravity of the misconduct, any record of prior discipline for a violation of this Policy, or both. Sanctions against students may include, without limitation, expulsion or suspension from the University, disciplinary probation, expulsion from campus housing, mandated counseling, and/or educational sanctions deemed appropriate by the Hearing Panel. Sanctions against employees and other non-students may include, without limitation, a written reprimand, disciplinary probation, suspension, termination, demotion, reassignment, reduction in job duties, reduction in pay, exclusion from campus or particular campus activities, and/or educational sanctions deemed appropriate by the Hearing Panel.

Sexual Assault/Non-Consensual Sexual Contact: Any sexual touching, with any object, by a man or a woman upon another person without consent or making any person touch another person in a sexual manner.

Sexual Assault/Non-Consensual Sexual Intercourse: Any sexual intercourse (anal, oral or vaginal), with any object, by a man or woman upon another person without consent.

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

(i) submission to su

re-assigning or placing the respondent on administrative leave when the respondent is an employee;

providing reasonable temporary alternative housing options for campus residents; and/or

adjusting academic calendars and course attendance to support students participating in the grievance process when appropriate.

Title IX Sexual Harassment Sexual harassment, as defined by Title IX (Part 106 of Title 34 of the Code of Federal Regulations, § 106.30) is conduct on the basis of sex that satisfies one or more of the following:

(1) An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;

(2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity; or

(3) "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

Unauthorized Distribution of Sexual Images or Recordings The distribution of sexual images or recordings of a person being eighteen (18) years of age or older with the purpose to harass, frighten, intimidate, threaten, or abuse another person. This type of Title IX Sexual Harassment is commonly referred to as "revenge pornography" or "cyber sexual exploitation."

The unauthorized distribution of images or recordings means the unauthorized sharing of images, pictures, videos, or voice or audio recording of another person to a third person by any means if the image, picture, video, or voice or audio recording:

- (1) Is of a sexual nature or depicts the other person in a state of nudity; and
- (2) The other person is a family or household member of the actor or another person with whom the actor is in a current or former dating relationship; or
- (3) The images or recordings are made without the knowledge or consent of the person depicted.

The fact that an image, picture, video, or voice or audio recording was created with the knowledge or consent of the other person or that the image, picture, video, or voice or audio recording is the property of a person not the person depicted is not a defense for this type of sexual harassment. Even if the other person originally consented to the creation of the image,

picture, or voice or audio recording, or if the other person provided the same to the actor, further distribution or sharing by the actor of any kind is deemed to be in violation of this policy.

The location of any digital file, upload, server, or other digital platform is immaterial for the purposes of this definition and policy. The policy applies to any person who is a faculty member, staff member, student, or a third party who is a participant in a University-sponsored program, event, or activity, under substantial control of the University. The location in which the image, picture, video, or voice or audio recording was created is not relevant to the determination of whether the sharing of the same was a violation of this policy. The sharing of the image, picture, video, or voice or audio recording in violation of the policy is the act which subjects the actor to enforcement actions through the Title IX Grievance Procedures.

APPENDIX A: BOARD POLICY NO. 426, TITLE IX SEXUAL HARASSMENT

to exist. Whenever the phrase “Title IX coordinator” appears in this policy and other policies in connection with administering an individual complaint, it will be understood to include both the coordinator and any deputy coordinators who may have been assigned responsibilities to administer the matter.

TITLE IX SEXUAL HARASSMENT

Sexual harassment, as defined by Title IX (Part 106 of Title 34 of the Code of Federal Regulations, § 106.30) is conduct on the basis of sex that satisfies one or more of the following:

- (1) An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's educational program or activity; or
- (3) “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

DEFINITION OF DATING VIOLENCE

Dating violence is defined as physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between two individuals who are in a romantic or intimate social relationship. A romantic or intimate social relationship between two individuals is determined by examining the following factors: (i) the length of the relationship; (ii) the type of the relationship; and (iii) the frequency of interaction between the two individuals involved in the relationship. “Dating” does not include a casual relationship or ordinary fraternization between two individuals in a business or social context.

DEFINITION OF DOMESTIC VIOLENCE

DEFINITION OF SEXUAL ASSAULT: NONCONSENSUAL SEXUAL CONTACT

Non-consensual sexual contact is defined as any sexual touching, with any object, by a man or a woman upon another person without consent or making any person touch another person in a sexual manner.

DEFINITION OF SEXUAL ASSAULT: NONCONSENSUAL SEXUAL INTERCOURSE

Non-consensual sexual intercourse is defined as any sexual intercourse (anal, oral or vaginal), with any object, by a man or woman upon another person without consent.

DEFINITION OF SEXUAL HARASSMENT

- repeated inappropriate social invitations or requests for sexual favors;
- repeated unwanted discussions of sexual matters;
- use of sexual jokes, stories, analogies or images which are not related to the subject of the class or work situation;
- touching, fondling or deliberate brushing against another person;
- ogling, leering or prolonged stares at another's body;
- display or use of sexual graffiti or sexually explicit pictures or objects; and
- sexually suggestive jokes, comments, emails, or other written or oral communications.

Although sexual harassment most frequently occurs when there is an authority differential between the persons involved (e.g. faculty member and student, supervisor and staff member), it may also occur between persons of the same status (e.g. faculty and faculty, student and student, staff and staff). Both men and women may be victims of sexual harassment and sexual harassment may occur between individuals of the same gender.

NOTE: Other forms of harassment based upon race, religion, national origin, sex or age may have the same impact as sexual harassment. However, pursuant to the Department of Education Regulations for Title IX, these forms of harassment are not investigated or adjudicated using the Title IX Grievance Procedures. If a complaint of harassment is received by the Title IX Coordinator which is determined not to meet the Title IX sexual harassment definition, but alleges other forms of harassment, the complaint will be forwarded as follows: in the event the respondent is a faculty member, the complaint will be forwarded to the Provost; in the event the respondent is a student, the complaint will be forwarded to the Dean of Students; in the event the respondent is staff member, the complaint will be forwarded to the Associate Vice President of Human Resources/Risk Management.

DEFINITION OF STALKING

Stalking is defined as engaging in a course of conduct 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.

A "course of conduct" is 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 means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

"Substantial emotional distress" is significant mental suffering or anguish that may, but does not necessarily require, medical or other professional treatment or counseling. A "reasonable person" is one under similar circumstances and with similar identities to the victim.

DEFINITION OF UNAUTHORIZED DISTRIBUTION OF SEXUAL IMAGES OR RECORDINGS

Unauthorized distribution of sexual images or recordings, commonly referred to as "revenge pornography" or "cyber sexual exploitation," is defined as distributing sexual images or recordings of a person being eighteen (18) years of age or older with the purpose to harass, frighten, intimidate, threaten, or abuse another person.

The unauthorized distribution of images or recordings means the unauthorized sharing of images, pictures, videos, or voice or audio recording of another person to a third person by any means if the image, picture, video, or voice or audio recording:

- (1) Is of a sexual nature or depicts the other person in a state of nudity; and
- (2) The other person is a family or household member of the actor or another person with whom the actor is in a current or former dating relationship; or
- (3) The images or recordings are made without the knowledge or consent of the person depicted.

The fact that an image, picture, video, or voice or audio recording was created with the knowledge or consent of the other person or that the image, picture, video, or voice or audio recording is the property of a person not the person depicted is not a defense for this type of sexual harassment. Even if the other person originally consented to the creation of the image, picture, or voice or audio recording, or if the other person provided the same to the actor, further distribution or sharing by the actor of any kind is deemed to be in violation of this policy.

The location of any digital file, upload, server, or other digital platform is immaterial for the purposes of this definition and policy. The policy applies to any person who is a faculty member, staff member, student, or a third party who is

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Consent cannot be given when a person is incapacitated, such as when a person is physically or mentally unable to make informed, rational judgments, or lacks the ability to understand the “who, what, when, where and how” related to the sexual activity, or when a person is under age (pursuant to Arkansas law). States of incapacitation include, but are not limited to,

health, safety, or security of any individual or the campus community, the University will release information to the extent necessary to appropriately address the situation presented. All parties to the complaint will be asked to assist in treating the complaint confidentially. However, there can be no guarantee of confidentiality and anonymity based upon the course and scope of the complaint investigation and the institution may share information where necessary to provide accommodations or protective measures. If the complaint raises issues required by law to be disclosed, the University will release information to the extent required by law.

SUPPORTIVE MEASURES

PROHIBITION ON RETALIATION

Retaliation against any person in the UCA community for filing, supporting, providing information, or for cooperating in a sexual misconduct investigation in good faith, in connection with a complaint of sexual misconduct is strictly prohibited. Examples of retaliation may include, but are not limited to, adverse employment actions such as termination, refusal to hire, and denial of promotion. Additionally, retaliation in the form of harassment, intimidation, threats, or coercion, or in the form of any materially adverse harm that would dissuade a reasonable student or employee from filing a harassment complaint or participating in a harassment investigation is strictly prohibited. Any person who feels he/she has been subjected to harassment is strictly prohibited. Any person who feels he/she has been subjected to harassment is strictly prohibited.

INFORMAL RESOLUTION

Informal resolution of a formal complaint may be used as a final resolution only when:

- (1) Both parties agree to be bound by the outcome of an informal process;
- (2) The complaint does not involve a University employee as a party;
- (3) The University, through the Title IX Coordinator, agrees to informal resolution.

APPENDIX B: FORMAL COMPLAINT FORM

Complaint:

Please describe your experience below, to include the date of the incident and the location of the incident. You may attach additional pages if necessary.

Name of the person or persons you allege violated the Title IX Sexual Harassment Policy and how you have contact with that person (for example eo-worker, faculty member, classmate, mutual friend, dating relationship).

Please provide the name and telephone number or other contact information for any witnesses you believe may be able to provide information about your complaint.

Name	Relationship to Complainant (if any)	Contact Information
1.		
2.		
3.		

Additional witnesses may be provided on an additional page, if necessary.

I certify that the foregoing is true and correct to the best of my knowledge and belief

Signature Date

Printed Name

For Title IX Coordinator/Designee
Formal complaint received by:

Signature Printed Name Date/Time