



# Harassment Policy

**Unit:** Title IX

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## Purpose

The University of Alabama is committed to providing an environment for employees, students, and campus visitors that is free from illegal harassment based on genetic information, race, color, religion, national origin, sex (which includes sexual orientation, gender identity, and gender expression), age, disability or veteran status in admission or access to, or treatment of employment in, its programs and services. Such illegal harassment violates federal civil rights laws and University nondiscrimination policy and may lead to personal liability for the results of such behavior.

## Policy

The University of Alabama is committed to providing and promoting an atmosphere in which employees can realize their maximum potential in the workplace and students can engage fully in the learning process. Toward this end, all members of the University community (including faculty, staff and students) must understand that harassment based upon one's protected status as identified above will not be tolerated, and that they are required to abide by the following policy. The University will take appropriate action to prevent,

correct, and where warranted, discipline behavior that violates its Harassment Policy.

The University implements its Harassment Policy through preventive education and training and through procedures for investigating and resolving claims of harassment. Employees and students are encouraged to participate in training programs, which are offered by a variety of departments and divisions, including the Department of Human Resources. Individuals who believe they are being harassed are encouraged to report the problem to appropriate administrative officials. Information about appropriate complaint channels and the procedures for resolution of claims of harassment follows and can also be obtained from the Deans' Offices, the Vice Presidents' Offices, the Department of Human Resources, or the Office of Equal Opportunity Programs.

## Retaliation is Not Tolerated

The University encourages students, faculty, and staff to express freely, responsibly, and in an orderly way opinions and feelings about any problem or complaint of harassment. Retaliation against persons who oppose or complain about harassment is strictly prohibited. Retaliation is any action that has the effect of punishing a person for engaging in a legally protected activity, such as alleging harassment, making a harassment complaint, or assisting in a harassment investigation. Examples of retaliatory adverse employment actions include suspension, demotion, or termination. In addition, this policy prohibits 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.

An employee/student is protected against retaliation for their opposition to harassment as long as the employee/student has a reasonable and "good faith" belief that the complained of conduct is illegal, even if it turns out that the complainant was mistaken as to the legality of the conduct. It is a

violation of the University's policy to retaliate against the complainant(s), respondent(s), witnesses or others involved in the review of such complaints. Any employee who retaliates against an employee or a student in violation of the law and/or the University's Harassment policy is subject to disciplinary action.

This Harassment policy shall not, however, be used to bring frivolous or malicious complaints against students, faculty or other employees. If a complaint has been made in bad faith, as demonstrated by clear and convincing evidence, disciplinary action may be taken against the person bringing the complaint.

## Factors Considered in Determining Existence of Harassment

### **Definition of Harassment That is Not of a Sexual Nature**

Harassment is abusive or hostile conduct that is directed toward or inflicted upon another person because of their race, color, religion, ethnicity, national origin, age, disability, or veteran's status and which, because of its severity and/or pervasiveness, unreasonably interferes with an individual's work or academic performance. Harassment is typically based on stereotyped prejudices and includes, but is not limited to, the following examples, where they are generally part of a pattern of conduct meeting the standard set forth above; slurs, jokes, objectionable epithets, or other verbal, graphic, or physical conduct that demeans, insults, or intimidates an individual because of their race, color, religion, ethnicity, national origin, age, disability, or veteran status. Conduct must be deemed severe and/or pervasive from both a subjective and an objective perspective.

### **Sexual Harassment Defined**

Sexual and gender-based harassment are defined and discussed in greater detail in the University's [Title IX and Sexual Misconduct Policy](#).

## **Factors Considered in Assessing Whether Harassment That is Not of a Sexual Nature Exists**

In determining whether conduct constitutes prohibited harassment, the following understandings shall apply:

1. Harassment must be distinguished from behavior which, even though unpleasant or uncomfortable, is appropriate to the carrying out of instructional or supervisory responsibilities (e.g., criticism of work, corrective discipline, performance evaluation; discussion of controversial topics germane to an academic subject);
2. The totality of the circumstances must be evaluated to determine whether a particular act or course of conduct constitutes harassment, including the frequency, severity, and context of the questioned conduct and whether the conduct was physically threatening and humiliating or a mere utterance;
3. The conduct alleged to be harassment will be evaluated from the perspective of a reasonable person in a similar situation and not simply the particular sensitivity or reaction of an individual;
4. An isolated incident of hostile behavior, although offensive, usually will not be sufficient to establish a claim of illegal harassment. For example, generally, a single sexual joke, offensive epithet, or request for a date does not constitute sexual harassment; however, being subjected to such jokes, epithets or requests repeatedly may constitute sexual harassment. However, administrators and supervisors should take corrective action when such isolated incidents occur, in order to ensure that repetition of that or similar conduct does not rise to the level of illegal harassment; and
5. Although repeated incidents of hostile conduct generally create a stronger claim of harassment, a serious incident, even if isolated, may be sufficient.

## **Academic Freedom and Harassment**

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

## Reporting of Harassment or Related Retaliation Allegations

### **Prompt Reporting Required**

Persons who believe they have been targets of harassment or related retaliation should report the incident(s) immediately to appropriate administrative officials as set forth below. Delay in reporting to these university officials makes it more difficult to investigate fairly and adequately the incident and may contribute to the repetition of offensive behavior.

### **Confidentiality**

The University will do everything consistent with enforcement of this policy and with the law to protect the privacy of the individuals involved and to ensure that the complainant and the accused are treated fairly. Information about individual complaints and their disposition is

considered confidential and will be shared only on a “need to know” basis.

## **Reporting Channels**

The following sections identify appropriate harassment resource persons and complaint-receiving officials that students and employees should contact regarding illegal harassment and/or retaliation for complaining or participating in a complaint or investigation.

### **1. Responsibilities of Supervisory Personnel**

All members of the university community have a general responsibility to contribute in a positive way to a university environment that is free of illegal harassment. Supervisory personnel, however, have additional responsibilities. Supervisory personnel are not only responsible for educating and sensitizing employees in their units about harassment issues, but they are also directed to take all appropriate steps to prevent and stop harassment in their areas of responsibility, which may include training. Supervisory personnel who are contacted by an individual seeking to file a complaint about harassment in their unit or area of responsibility shall assist the complainant in contacting the appropriate complaint-receiving officials identified below.

### **2. Student Complaints**

Students with complaints of harassment against faculty members, graduate assistants or other student employees, and staff members in departments, schools, or colleges should contact the designated Harassment Resource Person in their department, school or college or in the department, school or college in which the alleged offender is employed. A faculty member to whom a student has come with a complaint of harassment should recommend that the student contact the designated Harassment Resource Person. The name and location of the designated Harassment

Resource Person can be obtained online from the Office of Equal Opportunity Programs website or from the Office of Equal Opportunity Programs. Students participating in internships, field placements, student teaching, or similar academic experiences in settings off campus should report complaints of harassment arising out of those placements to the University faculty or staff member providing supervision or to the designated Harassment Resource Person in their college or school.

Students with complaints of harassment against other students should be addressed to the Student Affairs designated Harassment Resource Person(s).

Students who believe for any reason that they cannot effectively communicate their concern through any of these channels may consult the University Compliance Officer in the Office of Equal Opportunity Programs, or if conflicts exist with the University Compliance Officer, students may consult with the Office of the Provost.

Students who believe they are targets of sexual assault or sexual harassment may seek advice and referral from both the Women's Resource Center and the Counseling Center. These offices keep all information confidential and neither receive formal complaints nor conduct investigations. The Counseling Center is also available to students for assistance on a wide range of issues.

### **3. Employee Complaints**

Employees should report complaints of harassment to the designated Harassment Resource Person for the college, school, or administrative unit in which they are employed or to the Department of Human Resources. Employees who believe for any reason that they cannot effectively communicate their concerns through any of these channels may consult the University Compliance Officer in the Office of Equal Opportunity Programs, or if conflicts

exist with the University Compliance Officer, employees may consult with the Office of the Provost.

Employees who believe they are targets of sexual assault or sexual harassment may seek advice and referral from the Women's Resource Center. The Women's Resource Center keeps all information confidential and neither receives formal complaints nor conducts investigations.

### **Procedures for Handling Complaints of Harassment**

Individuals who believe they are targets of unlawful harassment in their working or academic environments are encouraged to respond to the alleged harasser directly, by objecting and by requesting that the unwelcome behavior stop. Individuals may also seek assistance or intervention, short of filing a complaint, from their supervisor or University complaint-receiving officials referenced in paragraphs C (2) and (3) above.

An initial discussion between the complainant and the complaint-receiving official will be kept confidential to the extent allowed by law, with no formal written record. The complaint-receiving official will explain the options available and will counsel the complainant. If the complainant, after an initial meeting with the complaint-receiving official, decides to proceed, the complainant will be requested to provide a written statement describing the complaint.

Complaints of harassment will receive prompt attention. Complaints may be resolved through the informal or formal procedures described below, and appropriate action will be taken. Informal means are encouraged as the beginning point, but the choice of where to begin normally rests with the complainant. However, if the complaint-receiving official believes that the matter is sufficiently grave because it seems to be part of a persistent pattern, because of the nature of the alleged offense, or because the complainant seeks to have a sanction imposed, then the complaint-



receiving official will initiate a formal procedure, or take other appropriate action.

### **1. Informal Procedures**

1. The complainant may attempt to resolve the matter directly with the alleged offender and report back to the complaint-receiving official.
2. The complaint-receiving official may notify the alleged offender of the complaint, paying appropriate attention to the need to maintain confidentiality. The complaint-receiving official may take whatever steps short of disciplinary sanctions that they deem appropriate to effect an informal resolution acceptable to both parties.
3. Where the alleged offender is a student, the complainant and accused may choose to participate in mediation. If a complaint is resolved informally, no record of the complaint will be entered in the alleged offender's personnel file or student records. However, the complaint-receiving official will, in the form of a confidential file memorandum, record the fact of the complaint and the resolution achieved. A copy of this memorandum will be forwarded to the University Compliance Officer in the Office of Equal Opportunity Programs where it will be retained in confidential files.

### **2. Formal Procedure**

In formal resolution procedures, the written and signed complaint will be directed to the following officials:

- a. If the complaint is against a faculty member, other instructional personnel, or staff employed in a college or school, it should be directed to the dean of the college/school.

- b. If the complaint is against a staff member in a unit other than a college or school, it should be directed to the Office of Equal Opportunity Programs.
- c. If the complaint is against a student, not acting in an instructional or other employment capacity, it should be directed to the Office of the Vice President for Student Affairs.
- d. If the complaint is against a person outside the University (non-employee, non-student), it should be directed to the dean of the college or school if the behavior is occurring in a college or school, to the Office of Equal Opportunity Programs if the behavior is occurring in the work environment outside an academic unit, or to the Office of the Vice President for Student Affairs if the complainant is a student.
- e. If conflicts or other problems exist with the dean or the Office of the Vice President for Student Affairs handling the complaint, the complaint may be filed with the University Compliance Officer in the Office of Equal Opportunity Programs. If conflicts exist with the University Compliance Officer, individuals may consult with the Office of the Provost.

The officials listed directly above, or their appointed designees, will conduct a prompt and appropriate investigation, conducting whatever inquiry they deem necessary, and will arrange conferences with the complainant, the alleged offender, and any other appropriate persons. The investigation, subject to the confidentiality provision above, will afford the accused an opportunity to respond to the allegations. Those directing investigations will make a record of the case, including a record of their decision and any sanctions imposed. Those records are to be retained for at least four years after the individual leaves the University

employment. The officials conducting the inquiry shall forward to the Office of Equal Opportunity Programs (i) a copy of the complaint, (ii) the decision made regarding the complaint, and (iii) any resolution achieved, including any sanctions imposed, which will be retained in that office's confidential files. The complainant and the alleged offender will be notified whether the investigation results in a finding of a policy violation; however, that information should be treated by both parties as confidential and private. (Mandating harassment training is not to be considered a "sanction").

A complainant not satisfied with the resolution achieved by the formal procedures may discuss the matter further with the University Compliance Officer in the Office of Equal Opportunity Programs.

### **Disciplinary Sanctions**

A conclusion that harassment in violation of University policy or the law has occurred shall subject the offender to appropriate disciplinary action and may result in suspension, discharge, expulsion or dismissal. University disciplinary procedures and possible sanctions are described in the Code of Student Conduct in the Student Handbook, the Staff Handbook and Policy Manual, and the Faculty Handbook. Sanctions imposed will be determined on the basis of the facts of each case and the extent of harm to the University's interests.

### **Scope**

This policy applies to all faculty, staff, residents, students, patients, visitors, and guests.

## **Office Of The Vice President Of Finance And Operations**

Approved by Cheryl Mowdy, Assistant Vice President for  
Finance and Operations, 12/07/2018