

V. Applicable Scope

Students, staff, administrators, and faculty are entitled to a working and educational environment free of sexual harassment and other forms of sexual misconduct. When an alleged violation of this Policy is reported, the allegations are subject to resolution under the University's grievance process as determined by the Title IX Coordinator.

When the Respondent is a member of the University community, a grievance process may be available regardless of the status of the Complainant. The community includes, but is not limited to, students, student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures accompanying this Policy may be applied to incidents, patterns, and/or to campus climate, all of which may be addressed and investigated in accordance with this Policy. Other forms of discriminatory harassment may be addressed by procedures set out in accordance with other University policies.

As explained in the University's Faculty Handbook, Prohibited Conduct under this Policy

Faculty members with property interests

As set out in the Faculty Handbook, in certain situations faculty members may have a property interest in their jobs in the form of tenure or a set amount of time remaining on a contract. Therefore, to assure the protection of individual rights and due process in actions involving the disciplinary suspension, dismissal, or other termination for cause (see Faculty Handbook 2.6.2, Termination for Cause), faculty members are entitled to procedural due process. As outlined in the Faculty Handbook, 2.8, Title IX grievances are exceptions to the Due Process procedures outlined within the Faculty Handbook and instead fall under this Policy (i.e. the Title IX grievance process will be followed rather than the procedures explained in section 2.8 of the Faculty Handbook). A Title IX violation under this Policy may result in the revocation of tenure and/or termination without any additional hearing.

VI. Prohibited Conduct Defined

For purposes of this Policy, conduct, or attempted conduct, that is deemed, by a preponderance of the evidence to be sex or gender-based and meets the definitions of any of the types⁵ of Prohibited Conduct identified below constitutes a violation of this Policy.

1. Type 1 Prohibited Conduct: Sexual Harassment and Retaliation

⁵ Pursuant to 34 CFR part 106, certain types of sexual misconduct, specifically, sexual harassment require certain procedural components. This is illustrated in this Policy's accompany procedures. Under certain circumstances, federal regulations require technical dismissals of conduct that is outside of 34 CFR part 106; however, that conduct is permitted to, and in fact would, violate other aspects of this Policy. Therefore, in order to ensure clear compliance with 34 CFR part 106, the University of North Alabama has divided this Policy into types based on whether or not it falls under Sexual Harassment as defined by 34 CFR part 106. Except to the extent required by the federal regulations, whether the Prohibited Conduct is Sexual Harassment as defined by 34 CFR part 106 or another form of sexual misconduct, there is no other distinction between Type 1 and Type 2 prohibited conduct. One level of conduct is not "better" or "worse" than another in the eyes of the Title IX Coordinator or the University.

The Department of Education's Office for Civil Rights (OCR) and the Equal Employment Opportunity Commission (EEOC) regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice. The University has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking as defined below.

- a. Quid Pro Quo sexual harassment: Under this Policy, quid pro quo sexual harassment occurs when, on the basis of sex, an employee of the University conditions the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual or sex- and/or gender-based⁶ conduct.

Examples of aid, benefit, or service include, but are not limited to: an individual's employment, academic standing, or participation in any University programs and/or activities or is used as the basis for University decisions affecting the individual. Violations of the University's Consensual Relationship Policy may also be deemed instances of "unwelcome sexual conduct" and therefore constitute Quid Pro Quo sexual harassment.

- b. Hostile Environment sexual harassment: Under this Policy, hostile environment sexual harassment occurs when unwelcome sexual or sex- and/or gender-based⁷ conduct occurs that is 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.
- c. Sexual Assault:⁸ Under this Policy, sexual harassment in the form of sexual assault occurs when the following incidents of forcible and non-forcible sex offenses occur.

Forcible sex offenses are defined as any sexual act, directed against another person, without the consent of the Complainant, including instances where the

6 Includes gender.

7 Includes gender.

8 Defined in 20 USC 1092(f)(6)(A)(v)