

FACULTY HANDBOOK
ARKANSAS TECH UNIVERSITY-
OZARK CAMPUS



Board Approved
August 20, 2009

Revised
February 2023

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ACKNOWLEDGMENT

I understand that the *Faculty Handbook*, located at <http://www.atu.edu/ozark/academics/facultyresources.php>, constitutes the general policies and procedures of Arkansas Tech University-Ozark Campus, and I will familiarize myself with the information therein. All policies, procedures, and guidelines are subject to review, revision, and modification during any academic year.

I will also familiarize myself with the Sexual Misconduct Policy (Faculty Handbook pages 9-39) and the Clery Act (<http://www.atu.edu/securityact/docs/CampusSecurityReport2018.pdf>).

(Signature)

(Print Name)

(Date)

PLEASE SIGN AND RETURN THIS FORM TO THE OFFICE OF THE CHIEF ACADEMIC OFFICER, ROO 151, TECHNOLOGY AND ACADEMIC SUPPORT BUILDING BY EMAIL: ozarkacademicaffairs@atu.edu. THIS SIGNED FORM WILL BE RETAINED AS PART OF YOUR PERMANENT RECORD.

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TABLE OF CONTENTS

GENERAL INFORMATION	1
ACADEMIC FREEDOM	3
SPEECH AND DEMONSTRATION REGULATIONS	3
POLITICAL ACTIVITIES OF FACULTY MEMBERS	4
POLICY ON NON-DISCRIMINATION	5
AFFIRMATIVE ACTION AND TITLE IX	5
<u>SEXUAL HARASSMENT</u>	<u>18</u>
ATU Consensual Relations Policy	25
8. Formal Grievance Process: Notice of Investigation and Allegations	43
<u>1. Filing a Complaint</u>	<u>67</u>
IMPORTANT CONTACT INFORMATION	93
Title IX Office	93
<u>Ozark</u>	<u>93</u>
ETHICS POLICY	97
GRIEVANCE POLICY	99
FACULTY PROMOTION	101
EMPLOYMENT AND RETIREMENT POLICIES	103
Concurrent Employment	105
Resignations	105
FACULTY BENEFITS AND PRIVILEGES	106
Parking on Campus	107
ATU Tuition Benefit Policy	107
Group Insurance	108
Retirement Benefits	109
Sick Leave	110
Maternity Leave Policy	110
FAMILY AND MEDICAL LEAVE ACT	110

Military Family Leave	110
<u>Designation of Family and Medical Leave</u>	<u>111</u>
Employment and Benefits Protection	114
<u>B. Americans With Disabilities Act (ADA)</u>	<u>118</u>
<u>Court and Jury Leave</u>	<u>119</u>
“Whistle-Blower” Act Protection	119
Drug Free Workplace Policy	122
PROFESSIONAL GROWTH AND DEVELOPMENT	123
PRIVATE GIFTS TO ARKANSAS TECH UNIVERSITY	124
DISABILITY SERVICES FOR STUDENTS	124
STUDENT SCHEDULING	125
ASSEMBLY PROGRAMS/SPECIAL DAYS	125
RELATION OF THE FACULTY MEMBER TO STUDENTS	126
ASSIGNMENT OF INSTRUCTIONAL DUTIES	126
Faculty Appointments:	126
Faculty Qualifications:	126
Teaching Load:	126
Faculty duties and responsibilities:	127
CLASS RECORDS	128
GRADING--POLICY AND REPORTING	129
CODE OF ACADEMIC INTEGRITY	130
UNDERGRADUATE STUDENT ACADEMIC GRIEVANCE PROCEDURE	135
<u>Appeal of an Academic Undergraduate Program Dismissal</u>	<u>137</u>
<u>Other Academic Grievances</u>	<u>137</u>
COURSE SYLLABI	138
UTILIZATION OF CLASS TIME	139
OFFICE HOURS AND ACADEMIC ADVISING	139
SPECIAL COURSES	139

FAMILY EDUCATION RIGHTS AND PRIVACY ACT (FERPA)	140
TOBACCO FREE POLICY FOR ARKANSAS TECH UNIVERSITY	141
UNIVERSITY GOVERNANCE	142
POLICIES AND PROCEDURES FOR SCHEDULING COURSES	143
SELECTION OF TEXTBOOKS	143
FACULTY-PRODUCED INSTRUCTIONAL MATERIALS	146
FACULTY LIBRARY PRIVILEGES	146
COURSE OWNERSHIP POLICY	148
STUDENT LABOR	149
USE OF UNIVERSITY VEHICLES AND REIMBURSEMENT FOR TRAVEL	149
PROCUREMENT PROCEDURES	149
CONTRACT AND AGREEMENTS	149
CAMPUS SAFETY AND PREPAREDNESS	150
FACULTY EVALUATION,	151
POLICIES AND PROCEDURES	151
FACULTY EXCELLENCE AWARDS	154

GENERAL INFORMATION

***Arkansas Tech University was created as a district agricultural school by an act of the Arkansas General Assembly in 1909. In 1925, the General Assembly changed the name from the Second District Agricultural School to Arkansas Polytechnic College, with power to grant degrees. Changing and increased demands for college education in Arkansas caused the Board of Trustees in 1948 to convert from a junior college to a four-year, degree-granting institution. A graduate program leading to the master of education degree was established in 1976. In accordance with an act of the Arkansas General Assembly and by the authority of the State Board of Higher Education, the name of Arkansas Polytechnic College was changed to Arkansas Tech University, effective July 9, 1976. The University has had continuous accreditation in the Higher Learning Commission of the North Central Association of Colleges and Schools since 1930.**

Arkansas Tech University is a multi-purpose, state-supported institution of higher education whose primary objective is to provide strong undergraduate and graduate programs and activities, especially for the students and communities in the northwest quadrant of Arkansas, which will enable its graduates to make significant contributions to the economic, social, political, and cultural development of the region, state, nation, and world and to enable each student to pursue personal, professional, and occupational goals. The University is committed to providing high quality educational programs within its five broad areas of emphasis--modern business and industry, professional education, the liberal and fine arts, the physical and life sciences, and information technology and systems. A critical adjunct purpose is the University's obligations to community service and development.

MISSION OF THE UNIVERSITY

The present mission of Arkansas Tech University is: Arkansas Tech University is dedicated to student success, access, and excellence as a responsive campus community providing opportunities for progressive intellectual development and civic engagement. Embracing and expanding upon its technological traditions, Tech inspires and empowers members of the community to achieve their goals while striving for the betterment of Arkansas, the nation, and the world. In carrying out its mission, Arkansas Tech University offers programs of study leading to the associate degree, baccalaureate degree, master's degree, educational specialist degree and doctorate degree.

The present vision of Arkansas Tech University is: Arkansas Tech University: where students succeed, innovation thrives, and communities flourish.

ROLE AND SCOPE OF THE UNIVERSITY

Arkansas Tech University was granted a change in role and scope by the Arkansas Higher Education Coordinating Board on July 25, 2014 to allow the institution to offer doctoral programs. The role and scope reads as follows:

1. Audiences

Arkansas Tech University (ATU) is responsible for serving:

- Residents of the northwest quadrant of Arkansas who have completed a high school education and are seeking either a college degree or continuing professional education and residents of the state through specific degree programs and services.**

- **Employers in the region, both public and private—school districts, health care providers, local governments, and private businesses.**
- **Economic development interests and entrepreneurs in the region.**
- **The community and area by providing a broad range of academic and cultural activities and public events.**
- **Area K-12 schools seeking college general education courses for advanced students.**
- **Two-year college transfer students.**

2. Array of Programs and Services

ATU serves these audiences by offering:

- **Certificate and associate degree programs in applied technologies, nursing and allied health.**
- **Baccalaureate programs in arts and humanities, the natural sciences, and social sciences appropriate to a teaching institution with a predominantly undergraduate student body.**
- **Baccalaureate and masters programs in the professional fields of communications, information technology, engineering, education, nursing and allied health, and business.**
- **Doctoral Degrees**
- **Services specifically designed to meet the needs of regional economic development (small business development, support for entrepreneurs, problem-solving).**

3. Special Features

- **Engineering programs, including an associate degree in nuclear engineering, emergency administration and management, geology, and hospitality administration.**
- **Arkansas Tech University-Ozark campus provides education in associate and certificate programs.**

***MANAGEMENT AND CONTROL OF THE UNIVERSITY**

Management and control of Arkansas Tech University are vested by statute in the Board of Trustees as appointed by the Governor with the concurrence of the Arkansas Senate. The central administrative leadership for the University stems from the President, who is directly responsible to the Board of Trustees, one chancellor, and five vice presidents. Two campuses are located in Russellville and Ozark, respectively. Academically, the Russellville campus is organized into seven colleges consisting of twenty-three departments. Each college is administered by a dean and each department by a head. The role of faculty in governance participation is primarily expressed through the structures of the Faculty Senate, Graduate Council, and other standing committees; the will of the student body is reflected through the Student Government Association. Diagrams on pages 10- 13 reflect the University's administrative and student government organization and the committee structure for policy determination. Up-to-date organizational charts are maintained at the following link: <http://www.atu.edu/academics/docs/organizationalcharts.pdf>.

Most of the information needed by faculty members is contained in this handbook and in these publications: *Undergraduate Catalog, Graduate Catalog, Student Handbook, and Financial Policies.*

ACADEMIC FREEDOM

All members of the faculty are entitled to academic freedom as set forth in the 1940 "Statement of Principles on Academic Freedom and Tenure," formulated by the Association of American Colleges and the American Association of University Professors. Provisions of this statement include:

- 1.** Faculty members are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As learned persons and as educational officers, they should remember that the public may judge the profession and the institution by their actions and utterances. Therefore, they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinion of others, and should make every effort to indicate that they are not an institutional spokesman.
- 2.** Essential to academic freedom is scholarly inquiry. Faculties are entitled to full freedom in research and in the publication of the conclusions, subject to the adequate performance of his/her other academic duties. Research for financial return should be based upon an understanding with the authorities of the institution.
- 3.** Faculty members should convey to their students and to their communities the truth as it relates to their specific discipline. The instructor is entitled to freedom in the classroom to discuss the subject to be taught. He/she should be careful not to introduce into the teaching controversial matter which has no relation to the subject. Instructional faculty should not use the classroom to promote personal political views or theories at the expense of other established views and/or theories.
- 4.** Faculty members should ensure that academic freedom is extended to students, exposing them to quality instruction in all classes. Students are to be evaluated fairly and evaluation procedures explained completely at the beginning of each course. Personal prejudice should not interfere with the grading of student performance. It is important to provide students time for reasonable access to assist them with educational endeavors as may be needed.

SPEECH AND DEMONSTRATION REGULATIONS

Arkansas Tech University-Ozark Campus recognizes and supports the rights of students, employees of all categories, and visitors to speak in public and to demonstrate in a lawful manner in designated areas of the campus and at designated times. In order to maintain safety and security, to insure the orderly scheduling of campus facilities, to ensure that vehicular and pedestrian traffic will not be impeded, and to preclude conflicts with academic and curricular activities, Arkansas Tech University-Ozark Campus reserves the right to limit such activities by the following regulations regarding time, place and manner of such activities:

Exterior: The following area is designated for demonstrations, debates, speeches and other forms of expression: concrete pad to the east of entrance to the Alvin Vest Student Center.

The following requirements shall apply to demonstrations, debates, speeches and other forms of expression in the designated areas:

- Arkansas Tech University-Ozark Campus will remain neutral as to the content of any public demonstration, debate, speech or other form of expression.
- There must be no obstruction of entrances or exits to buildings.
- There must be no interference with educational activities inside or outside of buildings.
- There must be no impediment to normal pedestrian or vehicular traffic or other disruptions of university activities (sidewalks, roads and parking areas must remain unobstructed).
- There must be no interference with scheduled university ceremonies, events or activities.
- Damage or destruction of property owned or operated by the university, or damage to property belonging to students, faculty, staff, or guest of the university is prohibited.
- Persons or organizations responsible for a demonstration, debate, speech or other form of expression event must remove all signs and litter from the area at the end of the event.
- There must be compliance with all applicable state and federal laws and university policies, rules and regulations.

Any individual violating these regulations regarding time, place and manner will be subject to immediate eviction or removal from the campus, without further warning, by appropriate University agents or officials and may be held financially responsible and may be subject to appropriate legal action. Students or Student Organizations violating these regulations may be subject to action as described in the Student Code of Conduct.

Nothing in this policy is intended, nor should it be understood as, an endorsement or approval by Arkansas Tech University-Ozark Campus of any speech or demonstration, and invitation or license to speak or demonstrate, or the granting of any right or permission to speak or demonstrate on campus beyond the right existing under federal and state law.

POLITICAL ACTIVITIES OF FACULTY MEMBERS

Faculty members, as citizens, are free to engage in political activities. Where necessary, leaves of absence may be given for the duration of an election campaign or a term of office, on timely application, and for a reasonable period of time. The terms of such leave of absence shall be set forth in writing, and the leave will not affect unfavorably the faculty member, except that time spent on such leave will not count as probationary service unless otherwise agreed to.

Arkansas Law and University policy prohibits the use of university resources or equipment for the purpose of delivery or aiding in the political campaigning at the local, state, or the federal level. It is also a violation to pursue political activities while on duty as a university employee.

POLICY ON NON-DISCRIMINATION

Arkansas Tech University-Ozark Campus does not discriminate on the basis of color, sex, sexual orientation, gender identity, race, age, national origin, religion, veteran status, genetic information, or disability in any of its practices, policies, or procedures. This includes, but is not limited to employment, admissions, educational services, programs or activities which it operates, or financial aid.

Arkansas Tech University complies with all applicable state and federal laws including, but not limited to: Title VI and Title VII of the Civil Rights Act of 1964, as amended; Title IX of the Educational Amendments of 1972, Section 503 of the Rehabilitation Act of 1973, Section 504 of the Rehabilitation Act Amendments of 1974, Age Discrimination Act, Vietnam Era Veterans Readjustment Assistance Act, Uniformed Services Employment and Reemployment Act, the Civil Rights Restoration Act of 1987, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991. Responsibility for implementation and compliance with this Non-Discrimination Policy has been delegated to Melissa Riffle, Affirmative Action officer who can be reached by emailing mriffle@atu.edu or affirmative.action@atu.edu or calling 479-968-0396.

AFFIRMATIVE ACTION AND TITLE IX

AFFIRMATIVE ACTION

Arkansas Tech University will provide equal opportunity in employment to all persons. This applies to all phases of the personnel process, including recruitment, hiring, placement, promotion, demotion, separation, transfer, training, compensation, discipline, and all other employment terms, conditions, and benefits. Arkansas Tech University prohibits discrimination based on race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, genetic information, or veteran status.

Arkansas Tech University will provide a copy of this policy to all applicants for employment. All faculty and staff will be notified annually of the policy. Further, Arkansas Tech University will consider through a designated grievance procedure, the complaints of any person who feels that he or she has been discriminated against on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, genetic information, or veteran status.

Arkansas Tech University will have an Affirmative Action Plan that contains a set of specific and result-oriented procedures to apply every good faith effort to achieve prompt and full utilization of minorities, women, those with disabilities or veterans at all levels and all segments of its workforce where deficiencies exist. Additionally, Arkansas Tech University will continually monitor and evaluate its employment practices to ensure that they are free of bias or discrimination based upon race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, genetic information, or veteran status.

A copy of the Affirmative Action Plan, including specific responsibilities and provisions for implementation and compliance will be made available upon request.

*Responsibility for implementation and compliance with this Affirmative Action policy has been delegated to the Director of Human Resources and Affirmative Action officer, Ms. Melissa Riffle who can be reached by emailing mriffle@atu.edu or affirmative.action@atu.edu or by calling 479-968-0583 ext. 2200.

*Updated 8/1/22

** Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy and Procedures [Based on the ATIXA 2022 One Policy, Two Procedures Model. ©2022 ATIXA. Used with Permission]*

The following Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy and Procedures (herein after “Policy”) were adopted by Arkansas Tech University (herein after “ATU”) following the release of new Title IX regulations by the U.S. Department of Education. Officially published on May 19, 2020, the new Title IX regulations are effective and enforceable on August 14, 2020. This Policy was reviewed and updated in August 2022.

This Policy will be effective on August 14, 2020, and it replaces the existing Sexual Harassment Policy, the Sexual Misconduct Policy and Procedures, and the Non- Discrimination Policy.

Complaints received prior to August 14, 2020, will follow the appropriate ATU policy published for the 2019-2020 academic year. All complaints received on or after August 14, 2020, will follow the policy and procedures outlined in this document.

1. Glossary

A complete glossary defining key terms used throughout this Policy is located in Appendix A. To ensure accurate interpretation of this Policy, please refer to Appendix A and review the meaning of key terms.

2. Rationale for Policy

ATU is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from discrimination and harassment based on a protected characteristic, and retaliation for engaging in a protected activity. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, ATU has developed policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and for allegations of retaliation. ATU values and upholds the equal dignity of all members of its community and strives to balance the rights of the parties in the grievance process during what is often a difficult time for all involved.

The Title IX Office supports the Arkansas Tech University mission of student success, access, and excellence by cultivating a responsive campus community through education of federal laws and approaches to identify, prevent, and report discrimination, sexual misconduct, and retaliation. Title IX staff strive to conduct fair and equitable inquiries and investigations and implement stop, prevent, and remedy measures, including connecting those affected with campus and community resources. Arkansas Tech University is committed to fostering a safe and caring environment free from sexual and gender-based discrimination where students, faculty, and staff have the opportunity to succeed in their educational and professional pursuits.

*Revised Board of Trustees 8/18/22

3. Applicable Scope

The purpose of this Policy is the prohibition of all forms of discrimination. When an alleged violation of this anti-discrimination policy is reported, depending on the type of allegation, it will be investigated using ATU's "Process A" or "Process B" as detailed below.

When the Respondent is a member of the ATU community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the ATU community. This 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 below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this Policy.

4. Title IX Coordinator, ADA/504 Coordinator, and Affirmative Action/Equal Opportunity Officer

Multiple individuals work together to coordinate ATU's efforts related to intake, investigation, resolution, and implementation of supportive measures to stop, remedy, and prevent discrimination, harassment, and retaliation prohibited under this Policy.

- Amy Pennington serves as the Title IX Coordinator and oversees gender-based discrimination compliance.
- Kristy Davis serves as the ADA/504 Coordinator and oversees disability compliance for students.
- Melissa Riffle serves as the Affirmative Action/Equal Employment Opportunity Officer (AA/EEO) and oversees protected class discrimination, disability compliance for employees, and ATU's Affirmative Action and Equal Employment Opportunity plan.

5. Independence and Conflict-of-Interest

Amy Pennington, AVP/Dean of Students and Title IX Coordinator, manages the Title IX team and acts with independence and authority free from bias and conflicts of interest. As the Title IX Coordinator, Amy Pennington oversees gender-based discrimination resolutions under this Policy as well as Process A and Process B. The members of the Title IX Team are vetted and trained to ensure they are not biased for or against any party in a specific complaint, or for or against Complainants and/or Respondents, generally.

Melissa Riffle, Director of Human Resources and AA/EEO Officer/Deputy Title IX Coordinator, acts with independence and authority free from bias and conflicts of interest. As the AA/EEO Officer, Melissa Riffle oversees protected class discrimination resolutions under this Policy, specifically those in Process B.

To raise any concern involving bias, conflict of interest, misconduct, or discrimination by the Title IX Coordinator, Amy Pennington, or the AA/ EEO Officer, Melissa Riffle, should be reported to Dr. Robin Bowen, ATU President, or designee. Concerns of bias, conflict of interest, misconduct, or discrimination committed by any other Title IX Team member should be reported to Amy Pennington, Title IX Coordinator.

6. Administrative Contact Information

Complaints or notice of alleged violations of this Policy, or inquiries about or concerns regarding this Policy, may be made to the following employees, which triggers the obligation for ATU to respond:

Amy Pennington

AVP/Dean of Students and Title IX Coordinator Student Affairs
[Focus-Gender discrimination, including sexual misconduct]
Doc Bryan Student Service Center, Suite 233
Russellville, AR 72801
479-968-0407
apennington@atu.edu

Melissa Riffle

Director of Human Resources and AA/EEO Officer/Deputy Title IX Coordinator Human Resources [Focus-All types of protected class discrimination] 715 North El Paso
Russellville, AR 72801
479-968-0396
mriffle@atu.edu

Mitzi Reano

Project/Program Specialist and Deputy Title IX Coordinator/Investigator Human Resources [Focus-All types of protected class discrimination] Technology and Academic Support Building, Room 154 Ozark, AR 72949
479-667-2117 ext. 6532
mreano@atu.edu

Stacy Galbo

Assistant Dean for Student Conduct/Deputy Title IX Coordinator for Educational Outreach and Training/Investigator
Title IX Office
[Focus-Gender discrimination, including sexual misconduct]
Doc Bryan Student Services Center, Suite 233
Russellville, AR 72801
479-964-0583 ext. 4714
sgalbo2@atu.edu

Ashlee Leavell

Assistant Dean for Student Wellness and Deputy Title IX Coordinator [Focus- Discrimination based upon pregnancy] Disability and Testing Services
Doc Bryan Student Services Center, Suite 141 Russellville, AR 72801
479-968-0302
sleavell8@atu.edu

In addition to the Title IX Team members listed above, the following Officials with Authority listed below may also accept notice or complaints on behalf of ATU:

Kristy Davis

Associate Dean for Student Wellness and ADA/504 Coordinator [Focus- Discrimination and/or harassment based upon disability] Health and Wellness Center
Doc Bryan Student Services Center, Suite 119 Russellville, AR 72801
479-968-0329
kdavis51@atu.edu

Will Cooper

Associate Dean for Student Conduct Student Conduct
Doc Bryan Student Services Center, Suite 233 Russellville, AR 72801
479-968-0334
wcooper@atu.edu

William Titsworth

Assistant Dean for Student Conduct/Lead Investigator Student Conduct and Title IX Office
Doc Bryan Student Services Center, Suite 233
Russellville, AR 72801
479-498-6083
wtitsworth@atu.edu

Josh McMillian

Associate Dean for Public Safety/Chief of Public Safety Public Safety
716 North El Paso Avenue Russellville, AR 72801
479-968-0222
jmcmillian1@atu.edu

ATU has also classified many employees as Responsible Employees. These employees are mandated to share any report or knowledge they have that a member of the ATU community is experiencing harassment, discrimination, and/or retaliation with the Title IX Coordinator. The section titled “Responsible Employees” details which employees have this responsibility and their duties.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education 400 Maryland Avenue, SW Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

For discrimination complaints by employees:

Equal Employment

Opportunity Commission (EEOC) 1-800-669-4000

<https://www.eeoc.gov/> Little Rock Area Office

820 Louisiana Street, Suite 200

Little Rock, AR 72201 Phone: 1-800-669-4000

Facsimile: 501-324-5991

TDD#: 1-800-669-6820

7. Notice/Complaints of Discrimination, Harassment, and/or Retaliation

Notice or complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

1. File a report or Formal Complaint with, or give verbal notice to, the Title IX Coordinator or any of the ATU administrators listed directly above. Such a report or Formal Complaint may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail, to the office listed for the Title IX Coordinator or any other official listed in Section 6 above.
2. Report online, using the reporting form posted at https://cm.maxient.com/reportingform.php?ArkansasTechUniv&layout_id=2.

Anonymous reports are accepted but can give rise to a need to investigate to determine if the parties can be identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted. ATU tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report that does not identify the Complainant.

Because reporting carries no obligation to initiate a formal response, and because ATU respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of confidentiality by making a report that allows the Recipient to discuss and/or provide supportive measures.

As used in this Policy, the term “Formal Complaint” means a document or electronic submission (such as by electronic mail or through an online portal provided by ATU for this purpose) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that ATU investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

8. Supportive Measures

ATU will offer and implement appropriate and reasonable supportive measures to the parties upon receiving notice of alleged harassment, discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, and as reasonably available. They are offered without fee or charge to the parties, to restore or preserve access to ATU’s education program or activity, including measures designed to protect the safety of all parties and/or ATU’s educational environment and/or to deter harassment, discrimination, or retaliation.

The Title IX Coordinator or the AA/EEO Officer promptly makes supportive measures available to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, ATU will inform the Complainant, in writing, that they may file a Formal Complaint with ATU either at that time or in the future, if they have not done so already. The Title IX Coordinator or the AA/EEO Officer will work with the Complainant to ensure that their wishes are considered with respect to any planned and implemented supportive measures.

ATU will maintain the confidentiality of the supportive measures, provided that confidentiality does not impair ATU's ability to provide these supportive measures.

ATU will strive for as minimal an academic/occupational impact on the parties as possible. ATU will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact directives) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Campus ban letters
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator or the AA/EEO Officer

Violations of no contact directives or other restrictions may be referred to appropriate student or employee conduct processes for enforcement.

9. Emergency Removal

ATU can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies removal. This risk analysis is performed by the Title IX Coordinator and/or the AA/EEO Officer in conjunction with the CARE Team, the campus behavioral intervention team, using its standard objective violence risk assessment procedures.

When an emergency removal is imposed, the student, employee, or two (2) representatives from a student organization will be given notice of the action and the option to request to meet with Amy Pennington, AVP/Dean of Students and Title IX Coordinator, or Melissa Riffle, Director of Human Resources and AA/EEO Officer/Deputy Title IX Coordinator, prior to such action/removal being imposed, or as soon as reasonably possible thereafter, to show cause why the action/removal should not be implemented or should be modified.

This meeting is not a hearing on the merits of the allegation(s), but rather is an administrative process intended to determine solely whether the emergency removal is appropriate. When this meeting is not requested within 24-hours of the issuance of the notice, objections to the emergency removal will be deemed waived. A Complainant and their Advisor may be permitted to participate in this meeting if the Title IX Coordinator or the AA/EEO Officer determines it is equitable to do so. This section also applies to any restrictions that a coach or athletic administrator may place on a student-athlete arising from allegations related to Title IX. There is no appeal process for emergency removal decisions.

A Respondent may be accompanied by an Advisor of their choice when meeting with the Title IX Coordinator or the AA/EEO Officer for the show cause meeting. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

The Title IX Coordinator or the AA/EEO Officer has sole discretion under this Policy to implement or modify an emergency removal and to determine the conditions and duration. Violation of an emergency removal under this Policy will be grounds for discipline within the student or employee conduct process, which may include expulsion or termination.

ATU will implement the least restrictive emergency actions possible in light of the circumstances and safety concerns. As determined by the Title IX Coordinator or the AA/EEO Officer these actions could include, but are not limited to:

- removing a student from a residence hall,
- temporarily reassigning an employee,
- restricting a student's or employee's access to or use of facilities or equipment,
- allowing a student to withdraw or take grades of incomplete without financial penalty,
- authorizing an administrative leave, or;
- suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.

At the discretion of the Title IX Coordinator or the AA/EEO Officer, alternative coursework options may be pursued to ensure as minimal an academic impact as possible on the parties.

When the Respondent is an employee, or a student employee, accused of misconduct in the course of their employment, existing provisions for interim action are applicable instead of the above emergency removal process.

10. Promptness

All allegations are acted upon promptly by ATU once it has received notice or a Formal Complaint. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but ATU will avoid undue delays within its control.

Any time the general timeframes for resolution outlined in ATU procedures will be delayed, ATU will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

11. Confidentiality/Privacy

Every effort is made by ATU to preserve the confidentiality of reports **(1)**. Unless required by law or this Policy, ATU will not share the identity of any individual who has made a report or Formal Complaint of harassment,

discrimination, or retaliation; any Complainant; any individual who has been reported to be the perpetrator of harassment, discrimination, or retaliation; any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g and FERPA regulations, 34 C.F.R. § 99; or as required by law; or to carry out the purposes of 34 C.F.R. Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

ATU reserves the right to determine which ATU officials have a legitimate educational interest in being informed about incidents that fall under this Policy, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint. This may include, but is not limited to: Human Resources, Division of Student Affairs, ATU Department of Public Safety, and the CARE Team. Information will be shared as necessary with Investigators, Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be limited as much as possible to preserve the parties' rights and privacy.

ATU may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

Confidentiality and mandated reporting are addressed more specifically later in this Policy.

1 For the purpose of this Policy, privacy and confidentiality have distinct meanings. **Privacy** means that information related to a complaint will be shared with a limited number of ATU employees who “need to know” in order to assist in

*the assessment, investigation, and resolution of the complaint. All employees who are involved in ATU's response to notice under this Policy receive specific training and guidance about sharing and safeguarding private information in accordance with state and federal law. The privacy of student education records will be protected in accordance with the Family Educational Rights and Privacy Act (“FERPA”), as outlined in ATU's FERPA policy. The privacy of employee records will be protected in accordance with Human Resources policies. **Confidentiality** exists in the context of laws that protect certain relationships, including those who provide services related to medical and clinical care, mental health providers, counselors, and ordained clergy. The law creates a privilege between certain health care providers, mental health care providers, attorneys, clergy, spouses, and others, with their patients, clients, parishioners, and spouses. ATU has designated individuals who have the ability to have privileged communications as Confidential Resources. More information about Confidential Resources can be found in this Policy. When information is shared by a Complainant with a Confidential Resource, the Confidential Resource cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. For example, information may be disclosed when: (1) the individual gives written consent for its disclosure; (2) there is a concern that the individual will likely cause serious physical harm to self or others; or (3) the information concerns conduct involving suspected abuse or neglect of a minor under the age of 18, elders, or individuals with disabilities. Non-identifiable information may be shared by Confidential Resources for statistical tracking purposes as required by the federal Clergy Act. Other information may be shared as required by law.*

12. Jurisdiction of ATU

This Policy, and the procedures in Process A, apply to the education program and activities of ATU. Specifically, they apply to conduct that takes place on the campus or on property owned or controlled by ATU, at ATU- sponsored events, or in buildings owned or controlled by ATU's recognized student organizations. The Respondent must be a member of ATU's community in order for ATU's policies to apply.

This Policy, and the procedures in Process A and Process B, can also be applicable to the effects of off-campus misconduct that effectively deprives a person of access to ATU's education program or activities. ATU may also extend jurisdiction to off-campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial ATU interest.

Regardless of where the conduct occurred, ATU will address notice/complaints to determine whether the conduct occurred in the context of its employment or education program or activity and/or has continuing effects on campus (including virtual learning and employment environments) or in an off campus sponsored program or activity. A substantial ATU interest includes:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
2. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student, employee, or other individual.
3. Any situation that significantly impinges upon the rights, property, or achievements of others, significantly breaches the peace, and/or causes social disorder.
4. Any situation that substantially interferes with the educational interests or mission of ATU.

If the Respondent is unknown or is not a member of the ATU community, the Title IX Coordinator or the AA/EEO Officer will assist the Complainant in identifying appropriate campus and local resources and supportive options. If criminal conduct is alleged, ATU can assist in contacting local or campus law enforcement if the individual would like to file a police report.

In addition, ATU may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from ATU property and/or events.

All vendors serving ATU through third-party contracts are subject to the policies and procedures of their employers and to these policies and procedures to which their employer has agreed to be bound by their contracts.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator or the AA/EEO Officer can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to pursue action through that institution's policies.

Similarly, the Title IX Coordinator or the AA/EEO Officer may be able to assist and support a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to ATU where harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

13. Time Limits on Reporting

There is no time limitation on providing notice or submitting Formal Complaints to the Title IX Coordinator or the AA/EEO Officer. However, if the Respondent is no longer subject to ATU's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator or the AA/EEO Officer, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When a notice/complaint is affected by significant time delay, ATU will typically apply the policy and procedures in place at the time the complaint is made.

14. Online Harassment and Misconduct

The policies of ATU cover online manifestations of any of the behaviors prohibited by this Policy, when those behaviors occur in, or have an effect on, ATU's education program or activities or when they involve ATU networks, technology, or equipment.

Although ATU may not control websites, social media, and other venues through which harassing communications are made, when such communications are reported to ATU, it will engage in a variety of means to address and mitigate the effects.

Members of the community are encouraged to be good digital citizens and to refrain from online misconduct, such as feeding anonymous gossip sites; sharing inappropriate content via social media; unwelcome sexual or sex-based messaging; distributing, or threatening to distribute, nude or semi-nude photos or recordings; breaches of privacy; or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the ATU community.

Any online posting or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of ATU's control (e.g., not on ATU networks, websites, or between ATU email accounts) will only be subject to this Policy when such online conduct can be shown to cause a substantial in-program disruption or infringement on the rights of others.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but legally protected speech cannot be subjected to discipline.

Off-campus harassing speech by employees, whether online or in person, may be regulated by ATU only when such speech is made in an employee's official or work-related capacity.

15. Policy on Nondiscrimination

ATU adheres to all federal, state, and local civil rights laws and regulations prohibiting discrimination in public institutions of higher education.

A. Protected Characteristics

ATU does not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of:

- Color
- Sex
- Sexual orientation
- Gender identity
- Race
- Age
- National origin
- Religion
- Veteran status
- Genetic information
- Disability
- or any other protected category under applicable local, state, or federal law, including protections for those opposing discrimination or participating in any grievance process on campus or with the Equal Employment Opportunity Commission.

This Policy covers nondiscrimination in both employment and access to educational opportunities. Any member of the ATU community whose acts deny, deprive, or limit the educational or employment opportunities of any member of the ATU community, guest, or visitor on the basis of that person's actual or perceived protected characteristics listed above is in violation of ATU policy on nondiscrimination.

When brought to the attention of ATU, any such discrimination will be promptly and fairly addressed and remedied by ATU according to the grievance process described in either Process A or Process B.

16. Policy on Disability Discrimination and Accommodation

ATU is committed to full compliance with the Americans With Disabilities Act of 1990 (ADA), as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified persons with disabilities, as well as other federal, state, and local laws and regulations pertaining to individuals with disabilities.

Under the ADA and its amendments, a person has a disability if they have a physical or mental impairment that substantially limits a major life activity.

The ADA also protects individuals who have a record of a substantially limiting impairment or who are regarded as disabled by ATU, regardless of whether they currently have a disability. A substantial impairment is one that significantly limits or restricts a major life activity such as hearing, seeing, speaking, breathing, performing manual tasks, walking, or caring for oneself.

Kristy Davis, Associate Dean for Student Wellness, has been designated as ATU's ADA/504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to grievances and conducting investigations of any allegation of noncompliance or discrimination based on disability. Any complaints submitted electronically or reported to other individuals alleging discrimination based upon disability will be forwarded to Kristy Davis.

Grievances related to disability status and/or accommodations will be addressed using Process B in this Policy. ATU will maintain these records in the Health and Wellness Center for a period of at least seven (7) years.

i. Students with Disabilities

ATU is committed to providing qualified students with disabilities with reasonable accommodations and support needed to ensure equal access to ATU academic programs, facilities, and activities.

All accommodations are made on an individualized basis. A student requesting any accommodation should first contact Ashlee Leavell, Assistant Dean for Student Wellness and Deputy Title IX Coordinator, who coordinates services for students with disabilities at sleavell8@atu.edu. Students may also submit a request electronically at <https://denali.accessiblelearning.com/ATU/ApplicationStudent.aspx>.

The staff in the Disability Services Office reviews documentation provided by the student and, in consultation with the student, determines which accommodations are appropriate for the student's particular needs and academic program(s) in accordance with ATU's applicable policies.

ii. Employees with Disabilities

Pursuant to the ADA, ATU will provide reasonable accommodation(s) to all qualified employees with known disabilities when their disability affects the performance of their essential job functions, except when doing so would be unduly disruptive or would result in undue hardship to ATU.

An employee with a disability is responsible for submitting a request for an accommodation to Melissa Riffle, Director of Human Resources and AA/EEO Officer/Deputy Title IX Coordinator, and providing necessary documentation at mriffle@atu.edu. The Director of Human Resources will work with the employee's supervisor to identify which essential functions of the position are affected by the employee's disability and what reasonable accommodations could enable the employee to perform those duties in accordance with ATU's applicable policies.

17. Policy on Discriminatory Harassment

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of discriminatory harassment. This Policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial, or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited harassment that are also prohibited under ATU policy. When speech or conduct is protected by academic freedom and/or the First Amendment, it will not be considered a violation of ATU policy. All offense definitions encompass actual and/or attempted offenses.

A. Discriminatory Harassment

Discriminatory harassment constitutes a form of discrimination that is prohibited by ATU policy. Discriminatory harassment is defined as unwelcome conduct by any member or group of the community on the basis of actual or perceived characteristics in a class protected by policy or law.

ATU does not tolerate discriminatory harassment of any employee, student, visitor, or third party. ATU will investigate harassment when reported.

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities **(2)**. This discriminatory effect results from harassing verbal, written, graphic, and/or physical conduct that is severe or pervasive and objectively offensive.

When discriminatory harassment rises to the level of creating a hostile environment, ATU may also impose sanctions on the Respondent through application of Process B in this Policy.

ATU reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected characteristic. Addressing such conduct may not result in the imposition of discipline under the Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy and Procedures, but may be addressed through respectful conversation, remedial actions, education, and/or other ATU policies or procedures. For assistance with informal resolution mechanisms, employees should contact the Director of Human Resources, and students should contact the Associate Dean for Student Conduct.

B. SEXUAL HARASSMENT

The U.S. Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Arkansas regard Sexual Harassment, a specific form of discriminatory harassment, as an unlawful discriminatory practice.

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.

ATU has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community. Two definitions are required by federal law. While they overlap, they are not identical, and they each apply as noted.

Title VII/FHA Sexual Harassment applies to situations where an employee is subjected to workplace sexual harassment or where a situation involves a residential Complainant in ATU- provided housing.

- a. Unwelcome verbal, written, graphic, and/or physical conduct;**
- b. that is severe or pervasive and objectively offensive;**
- c. on the basis of sex/gender, that**
- d. unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.**

(2) *This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: Department of Education Office for Civil Rights, Racial Incidents and Harassment Against Students at Educational Recipients Investigative Guidance.*

<http://www.ed.gov/about/offices/list/ocr/docs/race394.html>.

Title IX Sexual Harassment, as an umbrella category, includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking. This definition applies to all Formal Complaints that fall within Title IX jurisdiction as determined by the Title IX Coordinator. Sexual harassment includes:

Conduct on the basis of sex/gender, or that is sexual in nature, that satisfies one or more of the following:

1. Quid Pro Quo:

- a. an employee of ATU,
- b. conditions the provision of an aid, benefit, or service of ATU,
- c. on an individual's participation in unwelcome sexual conduct.

2. Sexual Harassment (Hostile Environment):

- a. **unwelcome conduct,**
- b. **determined by a reasonable person,**
- c. **to be so severe, and**
- d. **pervasive, and**
- e. **objectively offensive,**
- f. **that it effectively denies a Complainant equal access to ATU's education program or activity (3).**

3. Sexual assault, any sexual act directed against a Complainant, defined as:

A. Rape:

- Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person,
- without their consent,
- including instances where they are incapable of giving consent because of age **(4)**, or because of temporary or permanent mental or physical incapacity.

***(3)** Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is younger than the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.*

***(4)** Per state law.*

B. Sodomy:

- Oral or anal sexual intercourse with a Complainant,
- forcibly, and/or
- against their will (non-consensually), or
- not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

C. Sexual Assault with an Object:

- The use of an object or instrument to penetrate,
- however slightly,
- the genital or anal opening of the body of the Complainant,
- forcibly, and/or
- against their will (non-consensually), or
- not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

D. Fondling:

- The touching of the private body parts of the Complainant (buttocks, groin, breasts),
- for the purpose of sexual gratification,
- forcibly, and/or
- against that person's will (non-consensually), or
- not forcibly or against their will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

E. Sex Offenses, Non-forcible:

i. Incest:

- Non-forcible sexual intercourse,
- between persons who are related to each other,
- within the degrees wherein marriage is prohibited by Arkansas law.

ii. Statutory Rape:

- Non-forcible sexual intercourse,
- with a person who is under the statutory age of consent of 14.

4. Dating Violence, defined as:

- a. violence,
- b. on the basis of sex,
- c. committed by a person,
- d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
 - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - a) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuses
 - b) Dating violence does not include acts covered under the definition of domestic violence.

5. Domestic Violence, defined as (5):

- a. felony or misdemeanor crimes,
- b. on the basis of sex,
- c. committed by a current or former spouse or intimate partner of the Complainant under family or domestic violence laws of Arkansas, and
- d. includes the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a Complainant, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by a person who-
 - 1) is a current or former spouse or intimate partner of the Complainant, or person similarly situated to a spouse of the Complainant;
 - 2) is cohabitating, or has cohabitated, with the Complainant as a spouse or intimate partner;
 - 3) shares a child in common with the Complainant;
 - 4) commits acts against a youth or adult Complainant who is protected from those acts under the family or domestic violence laws of the jurisdiction.

(5) *Per VAWA Reauthorization 2022, 34 U.S.C. 12291.*

Economic abuse, in the context of domestic violence, dating violence, and abuse in later life, means behavior that is coercive, deceptive, or unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which they are entitled, including using coercion, fraud, or manipulation to—

- a. *Restrict a person's access to money, assets, credit, or financial information;*
- b. *Unfairly use a person's personal economic resources, including money, assets, and credit, for one's own advantage; or*
- c. *Exert undue influence over a person's financial and economic behavior or decisions, including forcing default on joint or other financial obligations, exploiting powers of attorney, guardianship, or conservatorship, or failing or neglecting to act in the best interests of a person to whom one has a fiduciary duty.*

Technological abuse means an act or pattern of behavior that occurs within domestic violence, sexual assault, dating violence or stalking and is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor, except as otherwise permitted by law, another person, that occurs using any form of technology, including but not limited to: internet-enabled devices, online spaces and platforms, computers, mobile devices, cameras and imaging programs, apps, location tracking devices, or communication technologies, or any other emerging technologies.

Abuse later in life means neglect, abandonment, economic abuse, or willful harm of an adult aged 50 or older by an individual in an ongoing relationship of trust with the victim or domestic violence, dating violence, sexual assault, or stalking of an adult aged 50 or older by any individual. This definition does not include self-neglect.

To categorize an incident as Domestic Violence under this Policy, the relationship between the Respondent and the Complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

6. Stalking, defined as:

- a. engaging in a course of conduct,
- b. on the basis of sex,
- c. directed at the Complainant, that
 - i) would cause a reasonable person to fear for the person's safety, or
 - ii) the safety of others, or
 - iii) suffer substantial emotional distress.

For the purposes of this definition—

- Course of conduct means two or more acts, including, but not limited to, acts in which the Respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

ATU reserves the right to impose any level of sanction, ranging from a warning up to and including suspension or expulsion/termination, for any offense under this Policy. The most serious offenses are likely to result in suspension/expulsion/termination.

C. Force, Coercion, Consent, and Incapacitation (6)

As used in the offenses above, the following definitions and understandings apply:

Force: Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you" which elicits the response "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non- consent.

Coercion: Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

(6) The State of Arkansas defines consent as follows: There is a lack of consent if a person engages in a sexual act with another person by forcible compulsion or with a person who is incapable of consent because he or she is physically helpless, mentally defective or mentally incapacitated, or because of a victim's age. Arkansas Code §§ 5-14- 103; 5-14-125.

- **“Mentally defective” means that a person suffers from a mental disease or defect that renders the person:**
 - incapable of understanding the nature and consequences of a sexual act; or
 - is unaware a sexual act is occurring.
 - Note: a determination that a person is mentally defective shall not be based solely on the person's IQ. Arkansas Code §§ 5-14-101(4).

- **“Mentally incapacitated” means that a person is temporarily incapable of appreciating or controlling the person's conduct as a result of the influence of a controlled or intoxicating substance:**
 - administered to the person without the person's consent; or
 - that renders the person unaware a sexual act is occurring. Arkansas Code §§ 5-14-101(5).

- **“Physically helpless” means that a person is:**
unconscious;
 - physically unable to communicate a lack of consent; or
 - rendered unaware that a sexual act is occurring. Arkansas Code §§ 5-14-101(7)
 - A nursing home patient was unable to communicate lack of consent and, thus, was “physically helpless” within meaning of statute for attempted rape purposes; victim was blind, unable to speak, and confined to bed or wheelchair, and victim could only grunt, raise her hand, and shake her head from side to side to communicate. *Dabney v. State*, 1996, 930 S.W.2d 360, 326 Ark. 382.

- Note: When criminality of conduct depends on a victim's being incapable of consent because he or she is mentally defective or mentally incapacitated, it is an affirmative defense that the actor reasonably believed that the victim was capable of consent. Arkansas Code §§ 5-14-102(e).

The existence of forcible compulsion in a rape case does not depend on the quantum of force that is applied but rather on whether the act is consummated against the victim's will. *Hillman v. State*, 569 S.W.3d 372 (Arkansas 2019), which is applicable to criminal prosecutions for sex offenses in Arkansas but may differ from the definition used on campus to address policy violations.

Consent is:

- knowing, and
- voluntary, and
- clear permission
- by word or action
- to engage in sexual activity.

Individuals may experience the same interaction in different ways. Therefore, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Reasonable reciprocation can be implied consent. For example, if someone kisses you, you can kiss them back (if you want to) without the need to explicitly obtain their consent to being kissed back.

Consent can also be withdrawn once given, as long as the withdrawal is reasonably and clearly communicated. If consent is withdrawn, that sexual activity should cease within a reasonable immediate time.

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent. If an individual expresses conditions on their willingness to consent (e.g., use of a condom) or limitations on the scope of their consent, those conditions and limitations must be respected.

The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged misconduct occurred and any similar and previous patterns that may be evidenced.

Incapacitation: A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drug consumption. As stated above, a Respondent violates this Policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. Intoxication of the Respondent does not excuse the knew or should have known standard.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, and/or being drunk.

This Policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating substances.

D. Other Civil Rights Offenses

In addition to the forms of sexual harassment described above, which are covered by Title IX, ATU additionally prohibits the following offenses as forms of discrimination that may be within or outside of Title IX when the act is based upon the Complainant’s actual or perceived protected characteristics.

1) Sexual Exploitation, defined as:

- a. an individual taking non-consensual or abusive sexual advantage of another,
- b. for their own benefit or for the benefit of anyone other than the person being exploited, and
- c. that conduct does not otherwise constitute sexual harassment under this Policy.

Examples of Sexual Exploitation include, but are not limited to:

- Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
- Indecent exposure
- Invasion of sexual privacy (e.g. doxing)
- Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity; or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity; or disseminating sexual pictures without the photographed person's consent), including the making or posting of non-consensual pornography
- Prostituting another person
- Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the virus, disease, or infection
- Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person's ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity
- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections (e.g., spoofing)
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity
- Knowingly soliciting a minor for sexual activity
- Engaging in sex trafficking
- Creation, possession, or dissemination of child pornography
- Threatening or causing physical harm, extreme verbal, emotional, or psychological abuse, or other conduct which threatens or endangers the health or safety of any person; and,
- Discrimination, defined as actions that deprive, limit, or deny other members of the community of educational or employment access, benefits, or opportunities.

Violation of any other ATU policies may constitute a Civil Rights Offense when a violation is motivated by actual or perceived protected characteristics, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

Sanctions for the above-listed Civil Rights Offenses range from warning up to and including suspension or expulsion/termination.

ATU Consensual Relations Policy

Sexual relations between employees and those with whom they also have an academic evaluative or supervisory relationship are fraught with the potential for exploitation. The respect and trust accorded a professor or staff member by a student, as well as the power exercised by the professor, or other staff member, in an academic or

evaluative role, make voluntary consent by the subordinate suspect. Even when both parties have previously consented, circumstances could change and conduct that was once welcome could become unwelcome and the development of a sexual relationship renders both the employee and the institution vulnerable to possible later allegations of sexual harassment in light of the significant power differential that exists between individuals in unequal positions.

In their relationships with students, members of the faculty, as well as employees whose position may be perceived as one of authority, are expected to be aware of their professional responsibilities and to avoid apparent or actual conflicts of interest, favoritism, or bias. When a sexual relationship exists, effective steps should be taken to ensure unbiased evaluation or supervision takes place.

An employee, whether faculty or staff, should not develop a dating or sexual relationship with a student whenever the employee is in a “position of authority”, real or perceived, over that student. An employee is in a “position of authority” whenever he or she is that student’s teacher, or when the employee is either evaluating or supervising the student. This includes resident assistants and students over whom they have direct responsibility. The “position of authority” may also include formally advising the student or when that student is a major in the employee’s department or college.

A supervisor, whether faculty or staff, should also not develop a dating or sexual relationship with an employee when the supervisor has a “position of authority”, real or perceived, with respect to the employee.

Should a dating or sexual relationship develop or exist, the person with the greater position of authority must consult with an appropriate supervisor immediately. Failure to self-report such relationships may result in disciplinary action. The supervisor, with advice from University Counsel, shall develop a mechanism to ensure that objective evaluation is achieved, that conflicts of interest are avoided, and that the interest of the other individual and University are fully protected. This will likely result in the removal of the employee from the supervisory or evaluative responsibility, or shift the individual out of being supervised or evaluated by someone with whom they have a consensual relationship.

ATU reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or expulsion/termination, for any offense under this Policy.

18. Retaliation

Protected activity under this Policy includes reporting alleged misconduct that may implicate this Policy, participating in the resolution process, supporting a Complainant or Respondent, assisting in providing information

relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator or the AA/EEO Officer and will be promptly investigated. ATU will take all appropriate steps to protect individuals who fear that they may be subjected to retaliation.

ATU and any member of ATU’s community are prohibited from taking or attempting to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report

or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure.

The exercise of rights protected under the First Amendment does not constitute retaliation.

Pursuing a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy and procedure does not constitute retaliation, provided that the determination regarding responsibility, by itself, is not sufficient to conclude that any party has made a materially false statement in bad faith.

19. Responsible Employees

Many ATU employees are mandated to report actual or suspected discrimination, harassment, and/or retaliation to the Title IX Coordinator immediately, though there are some limited exceptions. The employees are called Responsible Employees and include the following:

- President
- Chancellor
- Vice Presidents
- Chief Officers
- Associate Vice Presidents
- Assistant Vice Presidents
- Academic Dean
- Academic Department Heads and Program Chairs
- Dean of Students
- Associate Deans
- Assistant Deans
- Area Coordinators
- Athletic Director
- Head Coaches
- Assistant Coaches
- Faculty Advisors for Student Groups
- Employees in the Department of Public Safety
- Resident Directors
- Resident Assistants

Specific names associated with each of these positions can be located on the Title IX website.

To make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality and are not required to report actual or suspected discrimination, harassment, and/or retaliation in a way that identifies the parties. They may offer options and resources without any obligation to inform an outside agency or campus official unless a Complainant has requested the information be shared.

If a Complainant expects formal action in response to their allegations, reporting to an Official with Authority (the names of the Officials with Authority are provided in this Policy) can connect them with resources to report alleged crimes and/or policy violations, and these employees will immediately pass reports to the Title IX Coordinator (and/or police, if desired by the Complainant or required by law), who will act when an incident is reported to them.

The following sections describe the reporting options at ATU for a Complainant or third-party (including parents/ guardians when appropriate):

A. Confidential Resources

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- On-campus licensed professional counselors
- On-campus health service providers
- Off-campus (non-employees):
 - Licensed professional counselors and other medical providers
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/chaplains
 - Attorneys

All of the above-listed individuals will maintain confidentiality when acting under the scope of their licensure, professional ethics, professional credentials, or designation, except in extreme cases of immediacy of threat or danger or abuse of a minor/elder/individual with a disability, or when required to disclose by law or court order.

ATU employees who have confidentiality as described above, and who receive reports within the scope of their confidential roles will timely submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client or patient.

Licensed professional counselors at ATU are available to help students free of charge and may be consulted on an emergency basis during normal business hours.

At ATU confidential reports can be made to these employees, the licensed counselors and health care professionals staffed in the Health and Wellness Center. For more information on the Health and Wellness Center please visit <https://www.atu.edu/hwc/>.

You may also contact a licensed counselor or health care provider directly. A contact list is provided below:

Counseling Services:

Kristy Davis, LPC, Associate Dean for Student Wellness, kdavis51@atu.edu

Craig Witcher, LPC, Counselor, cwitcher@atu.edu Janis Taylor, LPC, Counselor, jtaylor78@atu.edu

Hunter Bramlitt, LPC, Counselor, jbramlitt@atu.edu Leann Watson, LPC, Counselor, lwatson12@atu.edu

Justin Qualls, LAC, Counselor, jqualls1@atu.edu

Health Services:

Robin Joslin, APRN, Nurse Practitioner, rkoontz@atu.edu

Kyle Wewers, APRN, Nurse Practitioner, kwewers@atu.edu

Ashley Shrives, APRN, Nurse Practitioner, ashrives@atu.edu

Heather Stout, RN, Registered Nurse, hstout1@atu.edu

Cori Hinson, RN, Registered Nurse, cpoore1@atu.edu

Brittany Holt, LPN, Licensed Practical Nurse, bholt9@atu.edu

B. Responsible Employees and Formal Notice/Complaints

Responsible employees (including student employees), with the exception of those who are designated as Confidential Resources, must promptly share with the Title IX Coordinator all known details of a report made to them in the course of their employment.

Responsible employees must also promptly share all details of behaviors under this Policy that they observe or have knowledge of, even if not reported to them by a Complainant or third-party.

Complainants may want to carefully consider whether they share personally identifiable details with non-confidential Responsible Employees, as those details must be shared with the Title IX Coordinator.

Generally, disclosures in climate surveys, classroom writing assignments or discussions, human subjects research, or at events such as “Take Back the Night” marches or speakouts do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or a seek a specific response from ATU.

Supportive measures may be offered as the result of such disclosures without formal ATU action.

Failure of a Responsible Employee, as described above in this section, to report an incident of harassment, discrimination, and/or retaliation of which they become aware is a violation of ATU policy and can be subject to disciplinary action for failure to comply/failure to report.

Though this may seem obvious, when a Responsible Employee is engaged in harassment or other violations of this Policy, they still have a duty to report their own misconduct, though ATU is technically not on notice when a harasser is also a Responsible Employee unless the harasser does in fact report themselves.

Finally, it is important to clarify that a Responsible Employee who is a target of harassment or other misconduct under this Policy is not required to report their own experience, though they are, of course, encouraged to do so.

20. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish for their name to be shared, does not wish for an investigation to take place, and/or does not want a Formal Complaint to be pursued, they may make such a request to the Title IX Coordinator and/ or the AA/EEO Officer, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether ATU proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a Formal Complaint to initiate a grievance process usually upon completion of an appropriate violence risk assessment.

The Title IX Coordinator’s decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires ATU to pursue formal action to protect the community.

A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. ATU may be compelled to act on alleged employee misconduct irrespective of a Complainant’s wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and ATU's ability to pursue a formal grievance process fairly and effectively.

When the Title IX Coordinator executes the written complaint, they do not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of this Policy.

When ATU proceeds, the Complainant (and/or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Policy irrespective of their level of participation. Typically, when the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant, though this does not extend to the provision of evidence and testimony.

Note that ATU's ability to remedy and respond to notice may be limited if the Complainant does not want ATU to proceed with an investigation and/or grievance process. The goal is to provide the Complainant with as much control over the process as possible, while balancing ATU's obligation to protect its community.

In cases in which the Complainant requests confidentiality/no formal action and the circumstances allow ATU to honor that request, ATU will offer informal resolution options, supportive measures, and remedies to the Complainant and the community, but will not otherwise pursue formal action.

If the Complainant elects to take no action, they can change that decision if they decide to pursue a Formal Complaint at a later date. Upon making a Formal Complaint, it will be investigated and resolved through these procedures. Delays may cause limitations on access to evidence, or present issues with respect to the status of the parties.

21. Federal Timely Warning Obligations

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking should be aware that under the Clery Act, ATU must issue timely warnings for Clery crimes, occurring within the Clery geography, reported to them that pose a serious or on-going threat to the campus community.

ATU will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

22. False Allegations and Evidence

Deliberately false and/or malicious accusations under this Policy are a serious offense and will be subject to appropriate disciplinary action. This does not include allegations that are made in good faith but are ultimately shown to be erroneous or do not result in a policy violation determination.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or destroying evidence, or deliberately misleading an official conducting an investigation, hearing, or informal resolution can be subject to discipline under applicable ATU policies.

23. Amnesty for Students

The ATU community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to ATU officials or participate in resolution

processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the ATU community that Complainants choose to report misconduct to ATU officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, ATU maintains a policy of offering parties and witnesses amnesty from minor policy violations – such as underage consumption of alcohol or the use of illicit drugs – related to the incident.

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to a Respondent with respect to a Complainant.

Sometimes, students are hesitant to assist others for fear that they may get in trouble themselves. For example, an underage student who has been drinking or using marijuana might hesitate to help take an individual who has experienced sexual assault to the Department of Public Safety.

ATU maintains a policy of amnesty for students who offer help to others in need. Although policy violations cannot be overlooked, ATU may provide purely educational options with no official disciplinary finding, rather than punitive sanctions, to those who offer their assistance to others in need.

24. Federal Statistical Reporting Obligations

Certain campus officials – those deemed Campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

1. All “primary crimes,” which include criminal homicide, rape, fondling, incest, statutory rape, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
2. Hate crimes, which include any bias motivated primary crime as well as any bias-motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
3. VAWA(7) -based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
4. Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug law violations.

All personally identifiable information is kept private, but statistical information must be shared with the Department of Public Safety regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily crime log.

(7) VAWA is the Violence Against Women Act, enacted in 1994 codified in part at 42 U.S.C. sections 13701 through 14040.

25. Preservation of Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining orders/protective orders, and is particularly time-sensitive. Complainants should consider preserving evidence by taking the following actions:

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).
- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take time stamped photographs of any physical evidence including notes, gifts, etc. in place when possible.
- Save copies of any messages, to include those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.

In cases of sexual assault, these additional actions should be considered:

- Seek forensic medical assistance at a local hospital, ideally within 96 hours of the incident (sooner is better), and this exam is paid for by the State of Arkansas. In Russellville, Saint Mary's Regional Medical Center is located at 1808 West Main Street. In Ozark, Mercy Hospital is located at 801 West River St.
- Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- Try not to urinate.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence).
- Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

PROCESS A

RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE POLICY ON EQUAL OPPORTUNITY, HARASSMENT (SEXUAL MISCONDUCT), AND NONDISCRIMINATION (KNOWN AS PROCESS A)

1. Overview

ATU will act on any formal notice/complaint of violation of the Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy and Procedures (“the Policy”) that is received by the Title IX Coordinator(8), the AA/ EEO Officer, or any other Official with Authority by applying these procedures, known as Process A.

Process A applies only to qualifying allegations of Title IX sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined in this Policy) involving students, staff, administrator, or faculty members.

If other policies are invoked, such as policies on protected characteristic harassment or discrimination, please see Appendix C for a description of the procedures applicable to the resolution of such offenses, known as Process B.

Process B can also apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined in this Policy) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

The procedures below may be used to address collateral misconduct by the Respondent arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another), when alleged violations of the Policy are being addressed at the same time. All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through procedures described in the student, staff, and faculty handbooks.

2. Notice/Complaint

Upon receipt of a Formal Complaint or notice of an alleged policy violation by the Title IX Coordinator, the Title IX Coordinator initiates a prompt initial assessment to determine the next steps ATU needs to take. The Title IX Coordinator will contact the Complainant to offer supportive measures and determine whether the Complainant wishes to file a Formal Complaint.

The Title IX Coordinator will initiate at least one of three responses:

1. Offer supportive measures because the Complainant does not want to file a Formal Complaint
2. An informal resolution (upon submission of a Formal Complaint)
3. A Formal Grievance Process including an investigation and a hearing (upon submission of a Formal Complaint)

(8) *Anywhere this procedure indicates “Title IX Coordinator” or “AA/EEO Officer”, ATU may substitute a trained designee.*

ATU uses the Formal Grievance Process to determine whether or not this Policy has been violated. If so, ATU will promptly implement effective remedies designed to ensure that ATU is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

3. Initial Assessment

Following receipt of a Formal Complaint or notice of an alleged violation of this Policy, the Title IX Coordinator⁽⁹⁾ engages in an initial assessment, typically within one (1) to five (5) business days. The steps in an initial assessment can include:

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a Formal Complaint, and will assist them to do so, if desired.
 - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint themselves because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a Formal Complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator attempts to meet with the Complainant to discuss and offer supportive measures, ensure the Complainant is aware of the right to have an Advisor, and to review the ATU First Conversation Checklist.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
 - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their needs, determines appropriate supports, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and may seek to determine if the Respondent is also willing to engage in informal resolution.

(9) If circumstances require, the ATU President or designee, or the Title IX Coordinator will designate another person to oversee the resolution process should an allegation be made about the Title IX Coordinator or the Title IX Coordinator be otherwise unavailable or unable to fulfill their duties.

- If a Formal Grievance Process is preferred by the Complainant, the Title IX Coordinator determines if the alleged misconduct falls within the scope of Title IX:
 - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address, based on the nature of the complaint:
 - an incident, and/or
 - a pattern of alleged misconduct, and/or
 - a culture/climate issue.
 - If the alleged misconduct does not fall within the scope of the Title IX regulations, the Title IX Coordinator determines that the regulations do not apply and will “dismiss” that aspect of the complaint, if any. The Title IX Coordinator will then assess which policies may apply, if any, and may refer the matter for resolution under Process B or applicable University policy. Please note that dismissing a complaint under Title IX regulations is solely a procedural requirement under Title IX, and does not limit ATU’s authority to address a complaint with another appropriate process and remedy.
 - If the Complainant prefers an informal resolution option or a Formal Grievance Process and the Title IX Coordinator initially determines that the alleged misconduct falls within the scope of Title IX regulations, the Title IX Coordinator will attempt to meet with the Respondent to provide them with a copy of the Formal Complaint, discuss and offer supportive measures, ensure the Respondent is aware of the right to have an Advisor, and to review the ATU First Conversation Checklist. After the Title IX Coordinator provides the Respondent with a copy of the Formal Complaint, the Respondent has five (5) business days to respond, in writing, to the Formal Complaint submitted by the Complainant. This information is used as part of the Title IX Coordinator’s initial assessment of the alleged misconduct.

A. Violence Risk Assessment

In some cases, the Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE Team as part of the initial assessment. A VRA can aid in nine (9) critical and/or required determinations, including:

1. Emergency removal of a Respondent on the basis of immediate threat to an individual or community’s physical health/safety;
2. Whether the Title IX Coordinator should pursue/sign a Formal Complaint absent awilling/able Complainant;
3. Whether the scope of the investigation should include an incident, and/or pattern of misconduct, and/or climate of hostility/harassment;
4. To help identify potential predatory conduct;
5. To help assess/identify grooming behaviors;
6. Whether it is reasonable to try to resolve a complaint through informal resolution, and, if so, what approach may be most successful;
7. Whether to permit a voluntary withdrawal by the Respondent;
8. Assessment of appropriate sanctions/remedies (to be applied post-hearing);
9. Whether a Clery Act Timely Warning or campus ban is needed.

Threat assessment is the process of evaluating the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A VRA is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, or other CARE Team (ATU's behavioral intervention team) members. A VRA authorized by the Title IX Coordinator will occur in collaboration with the CARE Team. Where a VRA is required by the Title IX Coordinator, a Respondent refusing to cooperate may result in a charge of failure to comply within the appropriate student or employee conduct process.

A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment. A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

More about ATU's process for VRA can be found In Appendix B.

B. Dismissal (Mandatory and Discretionary)(10)

ATU must dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- The conduct alleged in the Formal Complaint would not constitute Title IX sexual harassment as defined above, even if proved
- The conduct did not occur in an employment or educational program or activity controlled by ATU (including buildings or property controlled by recognized student organizations), and/or ATU does not have jurisdiction over the Respondent
- The conduct did not occur against a person in the United States
- At the time of filing a Formal Complaint, the Complainant is not participating in or attempting to participate in the education program or activity of ATU, and based on the information available, the Title IX Coordinator has determined that they do not need to sign a Formal Complaint on behalf of ATU.

ATU may dismiss a Formal Complaint or any allegations therein if, at any time during the investigation or hearing:

1. A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the Formal Complaint or any allegations therein
2. The Respondent is no longer enrolled in or employed by ATU
3. Specific circumstances prevent ATU from gathering evidence sufficient to reach a determination as to the Formal Complaint or allegations therein

Upon any dismissal, ATU will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

(10) *These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 C.F.R. Part 106.45.*

This dismissal decision is appealable by any party under the procedures for appeal. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it.

A complaint dismissed under Process A may be reviewed under an alternate ATU policy or process including Process B.

4. Counterclaims

ATU is obligated to ensure that the grievance process is not abused for retaliatory purposes, thus counterclaims made with retaliatory intent will not be permitted. ATU permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith.

Counterclaims determined to have been reported in good faith will be processed using the resolution process below. Investigation of such claims may take place after resolution of the underlying initial complaint, in which case a delay may occur.

Counterclaims may also be resolved through the same investigation as the underlying complaint, at the discretion of the Title IX Coordinator. When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of this Policy.

5. Right to an Advisor

The parties may each have an Advisor of their choice present with them for all meetings, interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available (11).

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-Maker(s).

A. Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the ATU community.

The Title IX Coordinator will also offer to assign a trained Advisor to any party if the party so chooses. If the parties choose an Advisor from the pool available from ATU, the Advisor will be trained by ATU and be familiar with ATU's resolution process.

(11) *“Available” means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.*

If the parties choose an Advisor from outside the pool of those identified by ATU, the Advisor may not have been trained by ATU and may not be familiar with ATU policies and procedures. Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

B. Advisor's Role in Meetings and Interviews

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

ATU cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, ATU is not obligated to provide an attorney.

C. Advisors in Hearings/ATU-Appointed Advisor

Under the Title IX regulations, a form of indirect questioning is required during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly question each other or any witnesses. If a party does not have an Advisor for a hearing, ATU will appoint a trained Advisor for the limited purpose of conducting any questioning of the parties or witnesses.

D. Pre-Interview Meetings

Advisors and their advisees may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and ATU's policies and procedures.

E. Advisor Violations of ATU Policy

All Advisors are subject to the same ATU policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by ATU. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address ATU officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-Maker(s) except during a hearing proceeding, during questioning.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee (12), either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

(12) Subject to the state law provisions or ATU policy above.

Any Advisor who oversteps their role as defined by this Policy, or who refuses to comply with ATU's established rules of decorum for the hearing, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended, or other appropriate measures implemented, including ATU requiring the party to use a different Advisor or providing a different ATU-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

F. Sharing Information with the Advisor

ATU expects that the parties may wish to have ATU share documentation and evidence related to the allegations with their Advisors. ATU provides a consent form that authorizes ATU to share such information directly with a party's Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before ATU is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, ATU may comply with that request at the discretion of the Title IX Coordinator.

G. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by ATU. ATU may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by ATU's privacy expectations.

H. Expectations of an Advisor

ATU generally expects an Advisor to adjust their schedule to allow them to attend ATU meetings/interviews/hearings when planned, but ATU may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay. This process will not be delayed by the unavailability of an Advisor.

ATU may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

I. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing, if the Advisor has changed after initial selection/assignment.

6. Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with ATU policy. Although there is an expectation of privacy around what Investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose. ATU encourages parties to discuss any sharing of information with their Advisors before doing so.

The formal grievance process is ATU's primary resolution approach unless Informal Resolution is elected by all parties and ATU.

A. Informal Resolution

Three options for Informal Resolution are detailed in this section:

- Supportive Resolution. When the Title IX Coordinator can resolve the matter informally by providing supportive measures only to remedy the situation.
- Alternative Resolution. When the parties agree to resolve the matter through an alternate resolution mechanism including mediation, restorative practices, facilitated dialogue, etc. as described below, often before a formal investigation takes place.
- Accepted Responsibility. When the Respondent accepts responsibility for violating policy, and desires to accept the recommended sanction(s) and end the resolution process.

To initiate Informal Resolution, a Complainant must submit a Formal Complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, ATU will provide the parties with written notice of the reported misconduct and any sanctions (only in the case of Accepted Responsibility) or measures/terms that may result from participating in such a process, including information regarding any records that will be maintained or shared by ATU.

ATU will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

B. Alternate Resolution Approaches

Alternate Resolution is an informal approach, including mediation, restorative practices facilitated dialogue, etc. by which parties reach a mutually agreed upon resolution of a complaint. All parties must consent to the use of an Alternate Resolution approach.

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- The parties' amenability to Alternate Resolution
- Likelihood of potential resolution, taking into account any power dynamics between the parties
- The parties' motivation to participate
- Civility of the parties
- Results of a violence risk assessment/ongoing risk analysis
- Disciplinary history
- Whether an emergency removal is needed
- Skill of the Alternate Resolution facilitator with this type of allegation
- Complaint complexity
- Emotional investment/capability of the parties
- Rationality of the parties
- Goals of the parties
- Adequate resources to invest in Alternate Resolution (time, staff, etc.)

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The parties may not enter into an agreement that requires ATU to impose specific sanctions, though the parties can agree to certain restrictions or other courses of action. The only Informal Resolution Process that can result in sanctions levied by ATU is "Accepted Responsibility." The Title IX Coordinator has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions (e.g., referral for formal resolution, referral to the conduct process for failure to comply). Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

C. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and ATU are able to agree on responsibility, sanctions/restrictions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of ATU policy and implements agreed-upon sanctions/restrictions and/or remedies in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon resolution terms. When the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction(s) or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

7. Formal Grievance Process Pool

The Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process. Members of the Pool are announced in an annual distribution of this Policy to all students, employees, prospective students, and prospective employees. The list of Pool members and a description of the Pool can be found at <https://www.atu.edu/titleix/pool.php>.

A. Pool Member Roles

Members of the Pool are trained annually, and can serve in in the following roles, at the direction of the Title IX Coordinator:

- To act as an Advisor to the parties
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Decision-Maker regarding the complaint

B. Pool Member Appointment

The Title IX Coordinator, in consultation with the President, appoints the Pool, which acts with independence and impartiality. Although members of the Pool(13) are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different complaints, ATU can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

C. Pool Member Training

Pool members receive annual training jointly. This training includes, but is not limited to:

- The scope of ATU’s discrimination and harassment policy and procedures
- How investigation and hearings are conducted that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- Trauma-informed practices pertaining to investigations and resolutions processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales

(13) *External, trained third-party neutral professionals may also be used to serve in Pool roles. This does not preclude ATU from having all members of the Pool go through an application and/interview/ selection process.*

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- The definitions of all offenses
- How to apply definitions used by ATU with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How investigations and grievance process are conducted including hearings, appeals, and informal resolution processes
- How to serve impartially by avoiding prejudgment of the facts at issue, conflicts of interest, and bias against Respondents and/or Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used at a live hearing
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment, discrimination, and/or retaliation allegations
- Recordkeeping

Specific training is also provided for Appeal Decision-Makers, intake personnel, Advisors (who are ATU employees), Investigators, and Chairs. All Pool members are required to attend these trainings annually. The materials used to train all members of the Pool are publicly posted at <https://www.atu.edu/titleix/pool.php>.

D. Pool Membership

The Hearing Panel will have three (3) members. The composition of the Hearing Panel will be two (2) faculty or staff members and will be chaired by a representative from Student Affairs or Human Resources.

The Pool includes representatives who can rotate, upon appointment to serve in either the Advisor or Decision-Maker role.

Pool members are appointed for one-year terms which are renewable. Individuals who are interested in serving in the Pool are encouraged to contact the Title IX Coordinator.

8. Formal Grievance Process: Notice of Investigation and Allegations

The Title IX Coordinator will provide written Notice of the Investigation and Allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all allegations
- The identity of the involved parties (if known)
- The precise misconduct being alleged
- The date and location of the alleged incident(s) (if known)
- The specific policies implicated
- A description of the applicable procedures
- Assignment of investigator(s)
- A statement of the potential sanctions/responsive actions that could result
- A statement that ATU presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination

- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity during the review and comment period to inspect and review all directly related and/or relevant evidence obtained
- A statement about ATU's policy on retaliation
- Information about the confidentiality of the process
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor
- A statement informing the parties that ATU's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process
- Detail on how the party may request disability accommodations during the resolution process
- A link to ATU's VAWA brochure
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have
- An instruction to preserve any evidence that is directly related to the allegations

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various allegations.

Notice will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official ATU records, or emailed to the parties' ATU issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

9. Resolution Timeline

ATU will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business-day time period, including appeal (if any), which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

10. Appointment of Investigator(s)

Once the decision to commence a formal investigation is made, the Title IX Coordinator appoints an Investigator(s) to conduct the investigation (typically using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed. This information is provided to the parties in the NOIA.

11. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, Investigator(s), and Decision-Maker(s) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX

Coordinator, concerns should be raised with Dr. Keegan Nichols, Vice President for Student Affairs, at knichols@atu.edu.

The Formal Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence that supports that the Respondent engaged in a policy violation and evidence that supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

ATU operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the preponderance of the evidence standard.

12. Investigation Timeline

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, law enforcement involvement, etc.

ATU will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

13. Delays in the Investigation Process and Interactions with Law Enforcement

ATU may undertake a short delay in its investigation (several days to a few weeks) if circumstances require. Such circumstances include, but are not limited to: a request from law enforcement to temporarily delay the investigation, the need for language assistance, the absence of parties and/or witnesses, and/or health conditions.

ATU will communicate in writing the anticipated duration of the delay and reason to the parties in writing and provide the parties with status updates if necessary. ATU will promptly resume its investigation and resolution process as soon as feasible. During such a delay, ATU will implement supportive measures as deemed appropriate.

ATU action(s) or processes are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

14. Steps in the Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all available relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary. Recordings of interviews are not provided to the parties, but the parties will have the ability to review their interview summary once the investigator(s) has completed the summary document. All other interview summaries will be available for review when the draft investigation report is released.

At the discretion of the Title IX Coordinator, investigations can be combined when complaints implicate a pattern, collusion, and/or other shared or similar actions.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The Investigator(s) typically take(s) the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- Assist the Title IX Coordinator, if needed, with identifying all policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated
- Assist the Title IX Coordinator, if needed, with conducting an initial assessment to determine if the allegations indicate a potential policy violation
- Commence a thorough, reliable, and impartial investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and the witnesses
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview all available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and/or witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions
- Complete the investigation promptly without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information may be used to render a finding within the draft investigation report
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- Gather, assess, and synthesize evidence, but make no conclusions, and render no recommendations as part of their report
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which ATU does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten (10) business days.
- May elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- Incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- Share the report with the Title IX Coordinator for their review and feedback
- Incorporate any relevant feedback and share the final report with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing

15. Role and Participation of Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of ATU are expected to cooperate with and participate in ATU's investigation and resolution process. Student witnesses and witnesses from outside the ATU community are encouraged to cooperate with ATU investigations and to share what they know about a complaint.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break, pandemic) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. ATU will take steps to reasonably ensure the security/privacy of remote interviews.

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

16. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during the resolution process. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware audio and/ or video recording.

Recordings of interviews are not provided to the parties or witnesses, but the parties and/or witnesses will have the ability to review the summary of their interview once the investigator(s) has completed the summary document.

17. Evidentiary Considerations in the Investigation

Neither the investigation nor the hearing consider: 1) incidents not relevant or directly related to the possible violation(s), unless they evidence a pattern; or 2) questions and evidence about the Complainant's sexual predisposition; or (3) questions and evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the investigation and the hearing can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is factual evidence or relates to a pattern of conduct.

18. Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation when the final investigation report is transmitted to the parties and the Decision-Makers—unless all parties and the Decision-Makers agree to an expedited timeline.

The Title IX Coordinator will select appropriate Decision-Makers from the Pool.

19. Hearing Decision-Makers Composition

ATU will designate a three (3) member panel from the Pool, at the discretion of the Title IX Coordinator. One of the three (3) members will be appointed as Chair by the Title IX Coordinator.

The Decision-Maker(s) will not have had any previous involvement with the complaint. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the hearing process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision- Makers. Those who are serving as Advisors for any party may not serve as Decision-Makers in that matter.

The Title IX Coordinator may not serve as a Decision-Maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill the facilitator role. The hearing will convene at a time and venue determined by the Chair or designee.

20. Additional Evidentiary Considerations in the Hearing

Any evidence that the Decision-Maker(s) determine(s) is relevant and credible may be considered.

Previous disciplinary action of any kind involving the Respondent may not be used unless there is an allegation of a pattern of misconduct but may be considered in determining an appropriate sanction upon a determination of responsibility because ATU uses a progressive discipline system. In this case, the information is only considered at the sanction stage of the process, and is not shared until then.

The parties may each submit a written impact statement and/or mitigation statement prior to the hearing for the consideration of the Decision-Maker(s) at the sanction stage of the process when a determination of responsibility is reached. Any such statement should be submitted to the Title IX Coordinator.

After post-hearing deliberation, the Decision-Makers render a determination based on the preponderance of the evidence, whether it is more likely than not that the Respondent violated the Policy as alleged.

21. Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice will contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.

- The time, date, and location of the hearing.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-Makers and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator or the Chair at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-Maker on the basis of demonstrated bias or conflict of interest. This must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- Information on how the hearing will be recorded and how the parties can access the recording after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the
- Title IX Coordinator if they wish to conduct cross-examination and do not have an Advisor, and ATU will appoint one. Each party must have an Advisor present if they intend to cross-examine others. There are no exceptions.
- A copy of all the materials provided to the Decision-Makers about the complaint, unless they have already been provided.
- An invitation to each party to submit to the Chair an impact and/or mitigation statement pre-hearing that the Decision- Makers will review during any sanction determination.
- An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by ATU and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). Employees who do not have 12-month contracts are still expected to participate in resolution proceedings that occur during months between contracts.

22. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator or the Chair at least five (5) business days prior to the hearing.

The Title IX Coordinator or the Chair can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator or the Chair know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

23. Pre-Hearing Preparation

After any necessary consultation with the parties, the Chair will provide the names of persons who have been asked to participate in the hearing, all pertinent documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing. For any evidence, excluding testimony, that is first offered at the hearing, the Chair may allow the new evidence to be introduced, delay the hearing, or may instruct that the investigation needs to be re-opened to consider that evidence. The Chair may also determine that the new information is not relevant, was not submitted in a timely manner, and may not be introduced. In which case, the hearing will continue. The Chair may invite explanations or persuasive statements regarding the introduction of new evidence from the parties.

The parties will be given a list of the names of the Decision-Makers at least five (5) business days in advance of the hearing. All objections to any Decision-Maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than two (2) days prior to the hearing. Decision-Makers will only be removed if the Title IX Coordinator concludes that their actual or perceived bias or conflict of interest precludes an impartial hearing of the complaint.

The Title IX Coordinator will give the Decision-Makers a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-Maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-Maker is unsure of whether a bias or conflict of interest exists, they must raise the concern to the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties have the opportunity for continued review and comment on the final investigation report and available evidence. That review and comment can be shared with the Chair at the pre-hearing meeting or at the hearing and will be exchanged between each party by the Chair.

24. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting(s) with the parties and/or their Advisors and invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or to provide recommendations for more appropriate phrasing.

However, this advance review opportunity does not preclude the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration on a pre-hearing ruling by the Chair based on any new information or testimony offered at the hearing.

The Chair, only with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their Advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator(s) may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with the Title IX Coordinator or ask them to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded. The pre-hearing meetings may be conducted as separate meetings with each party/Advisor, with all parties/Advisors present at the same time, remotely, or as a written-only exchange. The Chair will work with the parties to establish the format.

25. Hearing Procedures

At the hearing, the Decision-Makers have the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that occurred in concert with the discrimination, harassment, and/or retaliation, even though those collateral allegations may not specifically fall within the Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy and Procedures.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator (if needed), the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, and anyone providing authorized accommodations, interpretation, and/or assistive services.

The Chair will answer all questions of procedure.

Anyone appearing at the hearing to provide information will respond to questions on their own behalf. The Chair will allow witnesses who have relevant information to appear at a portion of the hearing to respond to specific questions from the Decision-Makers and the parties, and the witnesses will then be excused.

26. Joint Hearings

In hearings involving more than one Respondent and/or involving more than one Complainant who has accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent or complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each complaint with respect to each alleged policy violation.

27. The Order of the Hearing – Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. The Chair then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator, if needed. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of

the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

28. Investigator(s) Presentation of Final Investigation Report

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-Makers and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-Makers should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and Advisors and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

29. Testimony and Questioning

Once the Investigator(s) presents the report and responds to questions, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/ witnesses will submit to questioning by the Decision-Makers and then by the parties through their Advisors.

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by the parties and the Chair), the proceeding will pause to allow the Chair to consider the question, and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanations or persuasive statements regarding relevance with the Advisors if the Chair so chooses. The Chair may decide to call a recess to review relevancy and other arguments. During a recess, the Chair may choose to confer with the Title IX Coordinator. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with the Title IX Coordinator and/or legal counsel on any questions of admissibility. The Chair may ask Advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the Advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-Maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

30. Refusal to Submit to Cross-Examination and Inferences

Any party or witness may choose not to offer evidence and/or answer questions at the hearing, either because they do not attend the hearing, or because they attend but refuse to participate in some or all questioning. The Decision-Maker(s) can only rely on whatever relevant evidence is available through the investigation and hearing in making the ultimate determination of responsibility. The Decision-Maker(s) may not draw any inference solely from a party's or witness's absence from the hearing or refusal to submit to cross-examination or answer other questions.

31. Hearing Recordings

Hearings (but not deliberations) are recorded by ATU for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The Decision-Makers, the parties, their Advisors, and appropriate administrators of ATU will be permitted to listen to the recording in a controlled environment as determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

32. Deliberation, Decision-making, and Standard of Proof

The Decision-Makers will deliberate in closed session to determine whether the Respondent is for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-Makers may then consider the previously submitted party impact and/or mitigation statement(s) in determining appropriate sanction(s). The Decision-Makers will also review any pertinent conduct history provided by the Title IX Coordinator and will determine the appropriate sanction(s). Each of the parties may request to review any impact and/or mitigation statement (s) upon receipt of the Notice of Outcome letter.

The Chair will then prepare a written statement detailing all findings and final determinations, the rationale(s) explaining the decision(s), the evidence used in support of the determination(s), the evidence not relied upon in the determination(s), any credibility assessments, and any sanction(s) and will deliver the statement to the Title IX Coordinator.

This statement must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

33. Notice of Outcome

Using the deliberation statement, the Chair will work with the Title IX Coordinator to prepare a Notice of Outcome letter. The Title IX Coordinator will then share the letter, which includes the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within three (3) business days of finalizing the Decision-Makers' deliberation statement.

The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official ATU records, or emailed to the parties' ATU-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will articulate the specific alleged policy violation(s), including the relevant policy section(s), and will contain a description of the procedural steps taken by the ATU from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent ATU is permitted to share such information under state or federal law; any sanction(s) issued which ATU is permitted to share according to state or federal law; and whether remedies will be provided to the Complainant to ensure access to ATU's educational or employment program or activity.

The Notice of Outcome will also include information on when the results are considered to be final by ATU, will note any changes to the outcome and/or sanctions(s) that occur prior to finalization, and the relevant procedures and bases for appeal.

34. Sanctions

- Factors considered when determining a sanction/responsive action may include, but are not limited to:
- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-Makers

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for reopening a grievance process at any time, and/or referring that information to another process for resolution.

A. Student Sanctions

The following are the common sanctions that may be imposed upon students or registered student organizations singly or in combination(14):

- Warning: A formal statement that the conduct was unacceptable and a warning that further violation of any ATU policy, procedure, or directive will result in more severe sanctions/responsive actions.
- Probation: A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated.
- Loss of Privileges: Suspension or denial of rights and privileges for a designated period of time, and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact directives, and/or other measures deemed appropriate.
- Monetary Fines: A penalty imposed involving the collection of fees from the student.
- Restitution: Compensation for loss, injury, damage to or misappropriation of ATU property. This may take the form of appropriate service and/or monetary or material replacement.
- Educational Sanctions: Educational sanctions may be assigned that promote learning and understanding. These sanctions may be developed as necessary by a conduct body including, but not limited to:
 - Sponsorship of an education program;
 - Attendance at educational programs;
 - Requirement of members to complete educational training programs;
 - Attendance in conflict management training;
 - Educational service hours;
 - Attendance in ethics workshop/training;
 - Reflective exercises.
 - Research exercises.
- Discretionary Sanctions: Work assignments, service to ATU, or other related sanctions.
- Holds: Withholding of grades, the right to register for classes, official transcript, and/or degree.
- Housing Suspension: Separation of the student from ATU housing for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- Housing Expulsion: Permanent separation of the student from ATU housing.
- University Suspension: Termination of student status for a definite period of time and revocation of rights to be on campus for any reason or to attend ATU-sponsored events. Conditions for readmission may be specified. Students who return from suspension are automatically placed on probation for a definite period of time.
- University Expulsion: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend ATU-sponsored events.
- Loss of Scholarship: Scholarships awarded by ATU or ATU-related programs may be partially or fully revoked.

(14) *Subject to ATU's Organizational Code of Conduct*

- **Withholding Diploma:** ATU may withhold a student’s diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or
 - as a sanction if the student is found responsible for an alleged violation.
- **Revocation of Admission or Degree:** ATU reserves the right to revoke admission or a degree previously awarded from ATU for fraud, misrepresentation, and/or other violation of ATU policies, procedures, or directives in obtaining admission or the degree, or for other serious violations committed by a student prior to graduation.
- **Organizational Sanctions:** Censure, Disciplinary Probation, Deferred Suspension, Disciplinary Suspension, Indefinite Dismissal, Restrictions, Educational Sanctions, Restitution, and Monetary Fines.
- **Other Actions:** In addition to or in place of the above sanctions, ATU may assign any other sanctions as deemed appropriate.

B. Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer/Reassignment/Assignment to a New Supervisor
- Suspension/Administrative Leave with Pay
- Suspension/Administrative Leave without Pay
- Termination
- Other Actions: In addition to or in place of the above sanctions, ATU may assign any other sanctions as deemed appropriate.

35. Withdrawal or Resignation Before Complaint Resolution

- A. Students:** Should a student Respondent decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from ATU, the resolution process typically ends with a dismissal, as ATU no longer has disciplinary jurisdiction over the withdrawn student.

Regardless of whether the complaint is dismissed or pursued to completion of the resolution process, ATU will continue to address and remedy any systemic issues or concerns that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to ATU in any capacity. Admissions and Human Resources will be notified accordingly. Such exclusion applies to all campuses of ATU. A hold will be placed on their ability to be readmitted. They may also be barred from ATU property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and, if found in violation, that student is not permitted to return to ATU unless and until all sanctions, if any, have been satisfied.

B. Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process typically ends with dismissal, as ATU no longer has disciplinary jurisdiction over the resigned employee. However, ATU may continue the resolution process when, at the discretion of the Title IX Coordinator and/or AA/EEO Officer, doing so may be necessary to address safety and/or remedy any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

Regardless of whether the complaint is dismissed or pursued to completion of the resolution process, ATU will continue to address and remedy any systemic issues or concerns that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for academic admission or rehire at ATU or any campus of ATU, and the records retained by the Title IX Coordinator and/or the Director of Human Resources and AA/EEO Officer will reflect that status.

All ATU responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

36. Appeals

Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator within five (5) business days of the delivery of the Notice of Outcome letter.

The Request for Appeal will be forwarded to the appropriate Appeal Decision-Maker(s) for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

Respondent is a student or non-faculty employee:

Student appeals will be decided by the Vice President for Student Affairs. Employee appeals will be decided by the appropriate Vice President or Athletic Director.

Respondent is a faculty member:

If the Respondent is a faculty member with tenure or with a special or probationary appointment, the procedures set forth in the Academic Termination Policies and Procedures section of the Faculty Handbook shall govern the Respondent’s appeal.

A. Grounds for Appeal

Appeals are limited to the following grounds:

1. A procedural irregularity that affected the outcome of the matter
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter

3. The Title IX Coordinator, Investigator(s), or Decision-Makers had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Decision-Maker(s), and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-Maker(s) will notify all parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-Makers.

All other parties and their Advisors, the Title IX Coordinator, and, when appropriate, the Investigator(s) and/or the original Decision-Makers will be mailed, emailed, and/or provided a hard copy of the Request for Appeal with the approved grounds and then be given three (3) business days to submit a response to the portion of the appeal that was approved and involves them. All responses, if any, will be forwarded by the Appeal Decision-Maker(s) to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds of this Policy by the Appeal Decision-Maker(s) and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator, the Investigator(s), and/or original Decision-Makers, as necessary, who will submit their responses, if any, in three (3) business days. Any such responses will be circulated for review and comment by all parties. If not approved, the parties will be notified accordingly, in writing.

Neither party may submit any new requests for appeal after this time period. The Appeal Decision-Maker(s) will collect any additional information needed and all documentation regarding the approved grounds and the subsequent responses and will render a decision in no more than five (5) business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which ATU is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent ATU is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official ATU records, or emailed to the parties' ATU-issued email or otherwise approved account. Once mailed, emailed and/ or received in-person, notice will be presumptively delivered.

B. Sanctions Status During the Appeal

Any sanctions imposed as a result of the hearing are stayed (i.e., not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within 48 hours of implementation.

ATU may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

C. Appeal Considerations

- Appeals are not intended to provide for a full re-hearing of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- Decisions on appeal are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- An appeal is not an opportunity for the Appeal Decision-Maker to substitute their judgment for that of the original Decision-Makers merely because they disagree with the finding and/or sanction(s).
- The Appeal Decision-Maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-Makers for reconsideration.
- Once an appeal is decided, the outcome is final. Further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where error cannot be cured by the original Investigator(s) and/or the Decision-Makers (as in cases of bias), the Appeal Decision-Maker(s) may order a new investigation and/or a new hearing with new Investigator(s) and/or Decision-Makers.
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases that result in reinstatement to ATU or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

37. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator and/or the AA/EEO Officer may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

- These remedies/actions may include, but are not limited to:
- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator and/or the AA/EEO Officer, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator and/or the AA/EEO Officer will address any remedies to be provided by ATU to the Respondent to ensure no effective denial of educational access.

ATU will maintain the confidentiality of any long-term remedies/actions/measures, provided confidentiality does not impair ATU's ability to provide these services.

38. Failure to Comply with Sanctions and/or Interim and Long-term Remedies and/or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-Makers, including the Appeal Decision-Maker(s).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from ATU.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator or the AA/EEO Officer.

39. Recordkeeping

ATU will maintain for a period of at least seven (7) years following the conclusion of the resolution process, records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation
2. Any disciplinary sanctions imposed on the Respondent
3. Any remedies provided to the Complainant designed to restore or preserve equal access to ATU's education program or activity
4. Any appeal and the result therefrom
5. Any Informal Resolution and the result therefrom
6. All materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an informal resolution process. ATU will make these training materials publicly available on ATU's website
7. Any actions, including any supportive measures, taken in response to a report or Formal Complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent
 - b. Any measures designed to restore or preserve equal access to ATU's education program or activity
 - c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances

ATU will also maintain any and all records in accordance with state and federal laws.

40. Disabilities Accommodations in the Resolution Process

ATU is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to ATU's resolution process.

Anyone needing such accommodations or support should contact either Ashlee Leavell, Assistant Dean for Student Wellness and Deputy Title IX Coordinator, who coordinates services for students at sleavell8@atu.edu or Melissa Riffle, Director of Human Resources and AA/EEO Officer and Deputy Title IX Coordinator, who coordinates services for employees at mriffle@atu.edu. These individuals will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

41. Revision of this Policy and Procedures

This Policy and procedures supersede any previous policies addressing harassment, sexual misconduct, discrimination, and/or retaliation on or after August 2022 under Title IX and will be reviewed and updated annually by the Title IX Coordinator and the AA/EEO Officer. ATU reserves the right to make changes to this document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator or the AA/EEO Officer may make minor modifications to procedures that do not materially jeopardize the fairness to be provided to any party, such as to accommodate summer schedules. The Title IX Coordinator and AA/EEO Officer may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require Policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or court holdings. This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally. This policy and procedures are effective August 2022.

APPENDIX A: GLOSSARY

- Advisor means a person chosen by a party or appointed by ATU to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- Appeal Decision-Maker means the person or panel who accepts or rejects a submitted appeal request, determines whether an error occurred that substantially affected the investigation or original determination, and directs corrective action accordingly.
- Arkansas Tech University herein referenced as “ATU”.
- Complainant means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected characteristic or retaliation for engaging in a protected activity.
- Complaint (formal) means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that ATU investigate the allegation.
- Confidential Resource means an employee who is not mandated to report notice of harassment, discrimination, and/or retaliation (irrespective of Clery Act Campus Security Authority Status). At ATU, this includes the licensed counselors and the licensed health care providers in the Health and Wellness Center.
- Day means a business day when the ATU is in normal operation.
- Decision-Maker means the person or panel who hears evidence, determines relevance, and makes the final determination of whether this Policy has been violated and/or assigns sanctions.
- Directly Related Evidence is evidence connected to the complaint, but which is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation) and cannot be relied upon by the Decision- Maker(s). Compare to Relevant Evidence, below.
- Education program or activity means locations, events, or circumstances where ATU exercises substantial control over both the Respondent and the context in which the harassment, discrimination, and/or retaliation occurs and also includes any building owned or controlled by a student organization that is officially recognized by ATU.
- Final Determination is a conclusion by preponderance of the evidence of whether or not the alleged conduct did or did not violate policy.
- Finding is a conclusion by the preponderance of the evidence that the conduct did or did not occur as alleged (as in a “finding of fact”).

- Formal Complaint means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging a Respondent engaged in harassment or discrimination based on a protected characteristic or retaliation for engaging in a protected activity and requesting that ATU investigate the allegation(s).
- Formal Grievance Process means “Process A,” a method of formal resolution designated by ATU to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 C.F.R. § 106.45) and the Violence Against Women Act § 304.
- Grievance Process Pool includes any investigators, hearing decision-makers, appeal decision-makers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same complaint).
- Hearing Decision-Maker Panel refers to those who have decision-making and sanctioning authority within the ATU’s Formal Grievance process.
- Informal Resolution is a complaint resolution agreed to by the Parties and approved by the Title IX Coordinator that occurs prior to a formal Final Determination being reached.
- Investigator means the person(s) authorized by ATU to gather facts about an alleged violation of this Policy, assess relevance and credibility, synthesize the evidence, and compile this information into an investigation report of relevant evidence and file of directly related evidence.
- Notice means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- Official with Authority (OWA) means an employee of ATU explicitly vested with the authority to institute corrective measures for harassment, discrimination, and/or retaliation on behalf of ATU.
- Parties include the Complainant(s) and Respondent(s), collectively.
- Process A means the Formal Grievance Process used to address qualifying allegations of sexual harassment, sexual assault, dating violence, domestic violence, and stalking involving students, staff, administrator, or faculty members.
- Process B means the administrative resolution procedures detailed in Appendix C that apply only when Process A does not, as determined by the Title IX Coordinator.
- Recipient means a postsecondary education program that is a recipient of federal funding.
- Remedies are post-final determination actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to ATU’s educational program.
- Respondent means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected characteristic or retaliation for engaging in a protected activity under this Policy.

- Relevant Evidence is evidence that tends to prove (inculpatory) or disprove (exculpatory) an issue in the complaint.
- Resolution means the result of an Informal Resolution or Formal Grievance Process.
- Responsible Employee means an employee of ATU who is mandated by policy to share knowledge, notice, and/ or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator(15).
- Sanction means a consequence imposed by ATU on a Respondent who is found to have violated this Policy.
- Sexual Harassment is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence.
- Student refers to each person who is currently enrolled, full-time or part-time, in any non-credit or credit courses pursuing undergraduate, graduate, or post-graduate/professional studies. For the purposes of this Policy and under the ATU Student Code of Conduct, a student may also be defined as any individual who is a concurrently enrolled high school student.
- Title IX Coordinator is at least one official designated by ATU to ensure compliance with Title IX and ATU's Title IX program. References to the Coordinator throughout this Policy may also encompass a designee of the Coordinator for specific tasks.
- Title IX Team refers to the Title IX Coordinator, any deputy coordinators, and any member of the Grievance Process Pool.

(15) *Not to be confused with a Mandated Reporter who is obligated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy. The ATU administrator designated to receive information from Responsible Employees may vary depending upon the type of alleged discrimination, harassment, or retaliation (e.g., on the basis of sex, on the basis of race, on the basis of disability).*

APPENDIX B: VIOLENCE RISK ASSESSMENT (VRA)

Threat assessment is the process of assessing the actionability of violence by an individual against another person or group following the issuance of a direct or conditional threat. A Violence Risk Assessment (VRA) is a broader term used to assess any potential violence or danger, regardless of the presence of a vague, conditional, or direct threat.

The implementation of VRAs require specific training and are typically conducted by psychologists, clinical counselors, social workers, case managers, law enforcement officers, student conduct officers, and/or other Behavioral Intervention Team (BIT) (sometimes also known as CARE teams) members.

A VRA occurs in collaboration with the BIT, CARE, and/or threat assessment team and must be understood as an on- going process, rather than a singular evaluation or meeting. A VRA is not an evaluation for an involuntary behavioral health hospitalization, nor is it a psychological or mental health assessment.

A VRA assesses the risk of actionable violence, often with a focus on targeted/predatory escalations, and is supported by research from the fields of law enforcement, criminology, human resources, and psychology.

When conducting a VRA, the assessor(s) use an evidence-based process consisting of:

1. An appraisal of risk factors that escalate the potential for violence
2. A determination of stabilizing influences that reduce the risk of violence
3. A contextual analysis of violence risk by considering environmental circumstances, hopelessness, and suicidality; catalyst events; nature and actionability of threat; fixation and focus on target; grievance collection; and action and time imperative for violence
4. The application of intervention and management approaches to reduce the risk of violence

To assess an individual's level of violence risk, the Title IX Coordinator will initiate the violence risk assessment process through the CARE Team. The CARE Team will assign a trained individual(s) to perform the assessment, according to the specific nature of the Title IX case.

The assessor(s) will follow the process for conducting a violence risk assessment as outlined in the CARE Team Policy and Procedures and will rely on a consistent, research-based, reliable system that allows the for the evaluation of the risk levels.

Some examples of formalized approaches to the VRA process include: The NaBITA Risk Rubric(16), The Structured Interview for Violence Risk Assessment (SIVRA-35)(17), Violence Risk Assessment of the Written Word (VRAWW)(18)8, Workplace Assessment of Violence Risk (WAVR-21)(19), Historical Clinical Risk Management (HCR-20)(20), and MOSAIC(21).

(16) www.nabita.org

(17) www.nabita.org/resources/assessment-tools/sivra-35/

(18) <https://www.nabita.org/training/vraww/>

(19) www.wavr21.com

(20) <http://hcr-20.com/>

(21) <https://www.mosaicmethod.com/>

The VRA is conducted independently from the Title IX process, informed by it, but free from outcome pressure. The individual(s) conducting the assessment will be trained to mitigate any bias and provide the analysis and findings in a fair and equitable manner.

The CARE Team member(s) conducts a VRA process and makes a recommendation to the Title IX Coordinator as to whether the VRA indicates there is a substantial, compelling, and/or immediate risk to health and/or safety of an individual or the community.

APPENDIX C: PROCESS B

It is the policy of ATU to maintain a University community as a place of study and work for students, staff, and faculty, free of harassment and discrimination. All students, staff, and faculty should be aware both that ATU is concerned and prepared to act to prevent and correct such behavior.

ATU may use Process B of this Policy for all protected-characteristic discrimination complaints, except for gender discrimination complaints that meet the qualifications to be heard under Process A in compliance with Title IX regulations published by the U. S. Department of Education in May 2020.

Please note the following:

- Process B is applicable for gender discrimination complaints when the Title IX Coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed.
- If Process A is applicable, Process A must be applied in lieu of Process B.
- ATU can substitute any alternative process instead of Process B, if desired.
- In compliance with federal law, VAWA Section 304 requirements apply to Process B or any alternative process for reports that fall under VAWA.
- Title IX requirements outside of Section 106.30 (based on the original 1975 regulations, etc.) may also be applicable to Process B.

PROCESS B: RESOLUTION PROCESS FOR ALLEGED VIOLATIONS OF THE EQUAL OPPORTUNITY, HARASSMENT (SEXUAL MISCONDUCT), AND NONDISCRIMINATION

ATU will act on complaints of alleged violation(s) of the Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy and Procedures that is received by the Title IX Coordinator and/or the AA/EEO Officer, as articulated in the process outlined in this document.

The procedures described below apply to all allegations of harassment, discrimination, and/or retaliation on the basis of protected characteristic status involving students, staff, faculty members, or third parties.

These procedures may also be used to address collateral misconduct arising from the investigation of or occurring in conjunction with harassing, discriminatory, and/or retaliatory conduct (e.g., vandalism, physical abuse of another). All other allegations of misconduct unrelated to incidents covered by this Policy will be addressed through the procedures elaborated in the respective student, faculty, and staff handbooks.

1. Filing a Complaint

Formal Complaints of discrimination, harassment, and/or retaliation may be made using any of the following options:

- A. File a written Formal Complaint with the Title IX Coordinator and/or the AA/EEO Officer(22)
- B. Report online, using the reporting form posted at https://cm.maxient.com/reportingform.php?ArkansasTechUniv&layout_id=2. Anonymous reports are accepted but can give rise to a need to investigate to determine if the parties can be identified. If not, no further formal action is taken, though measures intended to protect the community may be enacted. ATU tries to provide supportive measures to all Complainants, which may be impossible with an anonymous report that does not identify the Complainant.

Because reporting carries no obligation to initiate a formal response, and because ATU respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety, the Complainant is largely in control and should not fear a loss of confidentiality by making a report that allows ATU to discuss and/or provide supportive measures. As used in this Policy, the term “Formal Complaint” means a document or electronic submission (such as by electronic mail or through an online portal provided by ATU for this purpose) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint, and requests that ATU investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator and/or the AA/EEO Officer will contact the Complainant to ensure that it is filed correctly.

An individual who believes that he or she has been subjected to discrimination, harassment, or retaliation should contact the Title IX Coordinator and/or the AA/EEO Officer who will review the facts presented. The individual, if they are a faculty member, may additionally contact the Faculty Welfare Committee representative. No person shall be subject to restraints, interference, or reprisal for action taken in good faith to report or to seek advice in matters of discrimination, harassment, or retaliation.

(22) If circumstances require, the President will designate another person to oversee the process below should an allegation be made about the Title IX Coordinator and/or AA/EEO Officer or should they be otherwise unavailable or unable to fulfill their duties.

2. Initial Assessment

Following receipt of a Formal Complaint or notice of an alleged violation, the Title IX Coordinator and/or the AA/EEO Officer engages in an initial assessment, which is typically one to five (1-5) business days in duration.

A. Complainant's Initial Meeting with the Title IX Coordinator or AA/EEO Officer

As soon as is practicable after receiving a Formal Complaint or notice, the Title IX Coordinator or AA/EEO Officer will contact the Complainant to schedule an initial meeting. If the Complainant is not the alleged victim, the Title IX Coordinator or AA/EEO Officer also will contact the alleged victim as soon as possible to schedule an initial meeting. All mentions of the "Complainant" in items 1-7 of this subsection also apply to the alleged victim if the Complainant is not the alleged victim. At this initial meeting (or these initial meetings, in the case of a Complainant who is not the alleged victim), the Title IX Coordinator or AA/EEO Officer will, as applicable:

1. Provide the Complainant a copy of this Policy;
2. If not already submitted, request that the Complainant submit a written Formal Complaint which the Complainant may, if he or she agrees to disclose the information, provide details regarding the allegation, including the name of the accused individual and the date, location, and general nature of the alleged violation;
3. Review the ATU First Conversation Checklist
4. Ensure the Complainant is aware of the right to have an Advisor
5. Explain avenues for Informal Resolution Process and Formal Complaint Resolution Process of the Complaint;
6. Explain the steps involved in an investigation;
7. Discuss confidentiality standards and concerns with the Complainant;
8. Determine whether the Complainant wishes to pursue a resolution (informal or formal) through ATU, or no resolution of any kind;
9. Discuss with the Complainant, as appropriate, possible supportive measures that can be provided to the Complainant, at no cost, during the pendency of the investigative and resolution processes. ATU may implement such measures if requested, appropriate, and reasonably available, whether a complaint has been filed or not. Supportive measures may include, but are not limited to:
 - a. issuing no-contact directives to prevent any contact between the Complainant, the Respondent, witnesses and/or third parties;
 - b. providing the Complainant an escort to ensure that he or she can move safely between classes, work, and/or activities;
 - c. changing a Complainant's or a Respondent's on-campus housing or dining, if any, to a different on-campus location and providing assistance from ATU support staff in completing the relocation;
 - d. arranging to dissolve a campus housing contract and offering a pro-rated refund;
 - e. changing work arrangements;
 - f. rescheduling class work, assignments, and examinations without penalty;
 - g. arranging for the Complainant to take an incomplete in a class; or
 - h. moving the Complainant or the Respondent from one class section to another without penalty;
 - i. permitting a temporary withdrawal from ATU;
 - j. providing alternative course completion options without penalty;
 - k. providing counseling services;
 - l. providing academic support services such as tutoring.

B. Respondent's Initial Meeting with the Title IX Coordinator or AA/EEO Officer

If the Complainant wishes to pursue an informal or formal resolution through ATU or if the ATU otherwise deems that a further investigation is warranted, as soon as is reasonably practicable after the Title IX Coordinators or the AA/EEO Officer's initial meeting with the Complainant (and if applicable, the alleged victim), the Title IX Coordinator or AA/EEO Officer will schedule an initial meeting with the Respondent. During the initial meeting with the Respondent, the Title IX Coordinator or the AA/EEO Officer will, as applicable:

1. Provide Respondent with a copy of the Complaint;
2. Provide Respondent with a copy of this Policy;
3. Review the ATU First Conversation Checklist.
4. Ensure the Respondent is aware of the right to have an Advisor
5. Explain the ATU's procedures for Informal Resolution Process and Formal Complaint Resolution Process of the Complaint; Share option being pursued by Complainant
6. Explain the steps involved in an investigation;
7. Discuss confidentiality standards and concerns with the Respondent;
8. Discuss non-retaliation requirements with the Respondent;
9. Discuss with the Respondent, as appropriate, possible supportive measures that can be provided, at no cost, during the pendency of the investigative and resolution processes. ATU may implement such measures if requested, appropriate, and reasonably available, whether a complaint has been filed or not. Supportive measures may include, but are not limited to:
 - a. issuing no-contact directives to prevent any contact between the Complainant, the Respondent, witnesses and/or third parties;
 - b. providing the Complainant an escort to ensure that he or she can move safely between classes, work, and/or activities;
 - c. changing a Complainant's or a Respondent's on-campus housing or dining, if any, to a different on-campus location and providing assistance from ATU support staff in completing the relocation;
 - d. arranging to dissolve a campus housing contract and offering a pro-rated refund;
 - e. changing work arrangements;
 - f. rescheduling class work, assignments, and examinations without penalty;
 - g. arranging for the Complainant to take an incomplete in a class; or
 - h. moving the Complainant or the Respondent from one class section to another without penalty;
 - i. permitting a temporary withdrawal from ATU;
 - j. providing alternative course completion options without penalty;
 - k. providing counseling services;
 - l. providing academic support services such as tutoring.
10. After the Title IX Coordinator or AA/EEO Officer provides the Respondent with a copy of the Formal Complaint, the Respondent has five (5) business days to respond, in writing, to the Formal Complaint submitted by the Complainant. This information is used as part of the Title IX Coordinator or AA/EEO Officer's initial assessment of the alleged misconduct.

C. Violence Risk Assessment

In some cases, the Title IX Coordinator and/or the AA/EEO Officer may determine that a Violence Risk Assessment (VRA) should be conducted by the CARE Team as part of the initial assessment. A VRA can aid in nine (9) critical and/or required determinations, including:

- Interim suspension of a Respondent who is a threat to an individual or the community's physical health/safety;
- Whether the Title IX Coordinator and/or the AA/EEO Officer should pursue a Complaint absent a willing/able Complainant;
- Whether the scope of the investigation should include an incident, and/or pattern of misconduct, and/or climate of hostility/harassment;
- To help identify potentially predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through Informal Resolution, and, if so, what approach may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing);
- Whether a Clery Act Timely Warning or campus ban is needed.

More about the ATU's process for VRA can be found in Appendix B.

3. Resolution Options

Based on the initial assessment, ATU will initiate one of three responses:

- Supportive Response – measures to help restore the Complainant's education/work access, as described in the Policy.
- Informal Resolution Process – may be used for less serious offenses and only when all parties agree to Informal Resolution, or when the Respondent is willing to accept responsibility for violating policy.
- Formal Complaint Resolution Process – investigation of alleged policy violation(s) and recommended finding, subject to a determination by the Decision-Makers and the opportunity to appeal.

The process followed considers the preference of the parties but is ultimately determined at the discretion of the Title IX Coordinator or the AA/EEO Officer. At any point during the initial assessment or formal investigation, if the Title IX Coordinator or the AA/EEO Officer determines that reasonable cause does not support the conclusion that this Policy has been violated, the process will end, and the parties will be notified. The Complainant may request that the Title IX Coordinator or the AA/EEO Officer review the reasonable cause determination and/or re-open the formal investigation. This decision lies in the sole discretion of the Title IX Coordinator or the AA/EEO Officer, but the request is usually only granted in extraordinary circumstances.

Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accord with ATU Policy. While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose but are encouraged to discuss with their Advisors first before doing so.

Informal Resolution Process

Informal Resolution is applicable when the parties voluntarily agree to resolve the matter through Informal Resolution, when the Respondent accepts responsibility for violating Policy, or when the Title IX Coordinator and/or the AA/EEO Officer can resolve the matter informally by providing remedies to resolve the situation. The Title IX Coordinator and/or the AA/EEO Officer has discretion to determine if an investigation will be paused during Informal Resolution, or if it will be limited, or will continue during the Informal Resolution process.

It is not necessary to pursue Informal Resolution first in order to pursue Formal Complaint Resolution Process, and any party participating in Informal Resolution can stop the process at any time and request the Formal Complaint Resolution Process. Further, if an Informal Resolution fails after the resolution is finalized, Formal Complaint Resolution Process may be pursued.

A. Informal Resolution Remedies

ATU methods for resolving complaints informally include, but are not limited to:

- Mediating between the Complainant and the Respondent
- Aiding in the modification of the situation in which the alleged misconduct occurred
- Assisting a department or division with the resolution of a situation
- Arranging for a documented meeting between the Respondent and an ATU official that involves, at a minimum, a discussion of the requirements of the Policy

Institutionally imposed sanctions are not possible as the result of this process, though the parties may agree to accept sanctions and/or appropriate remedies.

B. Respondent Accepts Responsibility for Alleged Violations

At any time prior to the date of the hearing, the Respondent may elect to acknowledge their actions and take responsibility for the alleged conduct. In such a situation, the Title IX Coordinator or the AA/EEO Officer will propose sanction(s). If the Complainant and the Respondent agree to such proposed sanction(s), then the complaint will be resolved without a hearing and without any further rights of appeal by any party. If either the Complainant or the Respondent objects to such proposed sanction(s), then the Hearing Board will convene for the exclusive purpose of determining a sanction, which determination may be subject to appeal as outlined in this Policy.

Formal Complaint Resolution Process

The Formal Complaint Resolution Process can be pursued at any time during the process for any behavior for which the Respondent has not accepted responsibility that would constitute conduct covered by the Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy if proven. The Formal Complaint Resolution Process starts with a thorough, reliable, and impartial investigation and concludes with a hearing.

The Title IX Coordinator or the AA/EEO Officer will provide notice of the allegations and investigation to the Respondent upon commencement of the Formal Complaint Resolution Process. This notice is also copied to the Complainant. Notification will be made in writing, include a meaningful summary of the allegations, policies allegedly violated, if known at the time, and may be delivered by one or more of the following methods: in

person, mailed to the local or permanent address of the parties as indicated in official ATU records, or emailed to the parties' ATU- issued or designated email account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. Alternatively, the policies allegedly violated can be provided at a later date, in writing, as the investigation progresses, and details become clearer.

Once the decision is made to commence an investigation, the Title IX Coordinator appoints Investigator(s) to conduct the investigation (typically using a team of two Investigators), usually within two (2) business days of determining that an investigation should proceed. The Title IX Coordinator or the AA/EEO Officer will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no conflicts of interest or disqualifying bias. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Investigator(s) will be assigned and the impact of the bias or conflict, if any, will be remedied. If the bias or conflict relates to the Title IX Coordinator or the AA/EEO Officer, concerns should be raised with Dr. Keegan Nichols, Vice President for Student Affairs or Ms. Laury Fiorello, Vice President for Administration and Finance respectively.

ATU aims to complete all investigations within a sixty (60) business-day time period, which can be extended as necessary for appropriate cause by the Title IX Coordinator or the AA/EEO Officer, with notice to the parties as appropriate. Investigations can take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc. ATU will make a good faith effort to complete the investigation as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation. ATU may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same behaviors that invoke ATU's resolution process are being investigated by law enforcement. ATU will promptly resume its investigation and resolution process once notified by law enforcement that the initial evidence collection process is complete. ATU action(s) are not typically altered or precluded on the grounds that civil or criminal charges involving the underlying incident(s) have been filed or that criminal charges have been dismissed or reduced.

Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence, and to fully review and respond to all evidence on the record.

4. Resolution Process Pool

The Formal Complaint Resolution Process relies on a pool of officials ("Pool") to carry out the process. Members of the Pool are announced in an annual distribution of this Policy to all students, employees, prospective students, and prospective employees.

The list of members and a description of the Pool can be found at <https://www.atu.edu/titleix/pool.php>. Members of the Pool are trained annually in all aspects of the resolution process and can serve in any of the following roles, at the direction of the Title IX Coordinator and the AA/EEO Officer:

- To act as an Advisor to the parties
- To serve as a hearing facilitator (process administrator, no decision-making role)
- To serve as a Decision-Maker regarding the complaint

The Title IX Coordinator and the AA/EEO Officer, in consultation with the President, appoints the Pool, which acts with independence and impartiality.

Pool members receive annual training organized by the Title IX Coordinator and the AA/EEO Officer, including a review of ATU policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety, and promote accountability.

The Pool members receive annual training jointly. This training includes, but is not limited to:

- The scope of ATU's discrimination and harassment policies and procedures
- How investigation and hearings are conducted that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- Trauma-informed practices pertaining to investigations and resolution processes
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by ATU with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How investigations and grievance process are conducted including hearings, appeals, and informal resolution processes
- How to serve impartially, by avoiding prejudice of the facts at issue, conflicts of interest, and bias against Respondents and/or Complainants, and on the basis of sex, race, religion, and other protected characteristics
- Any technology to be used
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment and discrimination allegations
- Recordkeeping

Specific training is also provided for Appeal Decision-Makers, intake personnel, and Advisors (who are ATU employees), Investigators, and Chairs. All Pool members are required to attend this annual training.

The Hearing Panel will have three (3) members. The composition of the Hearing Panel will be two (2) faculty or staff members and will be chaired by a representative from Student Affairs or Human Resources. The pool includes those representatives who can rotate, upon appointment to serve in either the Advisor or Decision-Maker role.

Pool members are usually appointed to one-year terms, which are renewable. Individuals who are interested in serving in the Pool are encouraged to contact the Title IX Coordinator or the AA/EEO Officer.

5. Counterclaims

Counterclaims by the Respondent may be made in good faith but are also sometimes made for purposes of retaliation. ATU is obligated to ensure that any process is not abused for retaliatory purposes. Counterclaims made with retaliatory intent will not be permitted.

ATU permits the filing of counterclaims, but uses the initial assessment, described above, to assess whether the allegations are made in good faith. If they are, the allegations will be processed using the resolution procedures in Process B, typically after resolution of the underlying allegation.

A delay in the processing of counterclaims is permitted, accordingly. Occasionally, allegations and counterclaims can be resolved through the same investigation, at the discretion of the Title IX Coordinator or the AA/EEO Officer. When counterclaims are not made in good faith, they will be considered retaliatory, and may constitute a violation of this Policy.

6. Advisors

The parties may each have an Advisor⁽²³⁾ of their choice present with them for all meetings and interviews within the resolution processes, if they so choose. The parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available⁽²⁴⁾.

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict of interest. A party who chooses an Advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing Decision-Maker(s).

A. Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of the ATU community.

The Title IX Coordinator will also offer to assign a trained Advisor to any party if the party so chooses. If the parties choose an Advisor from the pool available from ATU, the Advisor will be trained by ATU and be familiar with ATU's resolution process.

(23) *This could include an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally).*

(24) *“Available” means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.*

If the parties choose an Advisor from outside the pool of those identified by ATU, the Advisor may not have been trained by ATU and may not be familiar with ATU policies and procedures. Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

B. Advisors in Hearings/ATU-Appointed Advisor

A form of indirect questioning is allowed during the hearing but must be conducted by the parties' Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, ATU will appoint a trained Advisor for the limited purpose of conducting any questioning of the parties or witnesses.

A party may reject this appointment and choose their own Advisor, but they may not proceed without an Advisor. If the party's Advisor will not conduct questioning, ATU will appoint an Advisor who will do so thoroughly, regardless of the participation or non-participation of the advised party in the hearing itself. Extensive questioning of the parties and witnesses will also be conducted by the Decision-Maker(s) during the hearing.

C. Advisor's Role

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

ATU cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, ATU is not obligated to provide an attorney.

D. Pre-Interview Meetings

Advisors and their advisees may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role and ATU's policies and procedures.

E. Advisor Violations of ATU Policy

All Advisors are subject to the same ATU policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by ATU. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address ATU officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee(25) during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision- Maker(s) except during a hearing proceeding, during questioning.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this Policy, or who refuses to comply with ATU's established rules of decorum for the hearing, will be warned. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting/interview/hearing may be ended or other appropriate measures implemented, including ATU requiring the party to use a different Advisor or providing a different ATU-appointed Advisor. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

F. Sharing Information with the Advisor

ATU expects that the parties may wish to have ATU share documentation and evidence related to the allegations with their Advisors.

ATU provides a consent form that authorizes ATU to share such information directly with a Party's Advisor. The parties must either complete and submit this form to the Title IX Coordinator or provide similar documentation demonstrating consent to a release of information to the Advisor before ATU is able to share records with an Advisor.

If a party requests that all communication be made through their attorney Advisor, ATU may comply with that request at the discretion of the Title IX Coordinator.

G. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by ATU. ATU may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by ATU's privacy expectations.

H. Expectations of an Advisor

ATU generally expects an Advisor to adjust their schedule to allow them to attend ATU meetings/interviews/hearings when planned, but ATU may change scheduled meetings/interviews/hearings to accommodate an Advisor's inability to attend, if doing so does not cause an unreasonable delay.

ATU may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting/interview/hearing by telephone, video conferencing, or other similar technologies as may be convenient and available.

(25) Subject to the state law provisions or ATU policy above

I. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least two (2) business days before the date of their first meeting with the Investigator(s) (or as soon as possible if a more expeditious meeting is necessary or desired).

The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a release for the new Advisor must be secured. Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least two (2) business days before the hearing.

7. Investigation

Both the Complainant and the Respondent will be individually interviewed as a part of the investigation as will any witnesses or persons who have information related to the Complaint. Documents relevant to the Complaint will also be examined.

The Investigator(s) typically take the following steps, if not already completed (not necessarily in this order):

- Determine the identity and contact information of the Complainant
- Assist, if needed, in identifying all policies implicated by the alleged misconduct
- Assist the Title IX Coordinator or the AA/EEO Officer, if needed, with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy
- If there is insufficient evidence to support reasonable cause, the process is closed with no further action
- Commence a thorough, reliable, and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- Interview all relevant individuals and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses
- Complete the investigation promptly and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, summarize for the parties the list of witnesses whose information will be used to render a finding within the draft investigation report
- Write a comprehensive investigation report fully summarizing the investigation and all evidence
- Provide parties with a copy of the draft investigation report when it is completed
- Provide each party with a full and fair opportunity to respond to the report in writing within ten (10) business days and incorporate that response into the report
- Investigator(s) may choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses, while also ensuring that they do not create a never-ending feedback loop

- Gather, assess, and synthesize evidence but make no conclusion and render no recommendations as part of their report
- Share the draft report with the Title IX Coordinator or the AA/EEO Officer for review and feedback
- Provide the final report to the Title IX Coordinator or the AA/EEO Officer

Investigations are completed expeditiously, normally within sixty (60) business days, though some investigations take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

ATU will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

8. Resolution Timeline

ATU will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator or the AA/EEO Officer, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

9. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process, including the Title IX Coordinator, the AA/EEO Officer, Investigator(s), and Decision-Maker(s) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent.

The Title IX Coordinator or the AA/EEO Officer will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases. The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be raised with Dr. Keegan Nichols, Vice President for Student Affairs, at knichols@atu.edu.

The Formal Complaint Resolution Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a policy violation and evidence which supports that the Respondent did not engage in a policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

ATU operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a policy violation by the preponderance of the evidence standard.

10. Additional Details of the Investigation Process

A. Witness responsibilities

Witnesses (as distinguished from the parties) who are employees of ATU are expected to cooperate with and participate in ATU's investigation and resolution process. Student witnesses and witnesses from outside the

ATU community are encouraged to cooperate with ATU investigations and to share what they know about a complaint. Failure to participate may hinder ATU's ability to stop, remedy, and prevent the described forms of discrimination and harassment.

Although in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break, pandemic) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator(s) determine that timeliness or efficiency dictate a need for remote interviewing. ATU will take appropriate steps to reasonably ensure the security/privacy of remote interviews. Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred.

B. Remote processes

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator(s) or Decision-Makers determine that timeliness or efficiency dictates a need for remote interviewing. Where remote technologies are used, ATU makes reasonable efforts to ensure privacy, and that any technology does not work to the detriment of any party or subject them to unfairness.

C. Recording

No unauthorized audio or video recording of any kind is permitted during the resolution process. If Investigator(s) elect to audio and/or video record interviews, all involved parties must be made aware of audio and/or video recording.

Recordings of interviews are not provided to the parties or witnesses, but the parties and/or witnesses will have the ability to review the summary of their interview once the investigator(s) has completed the summary document.

D. Evidence

Neither the investigation nor the hearing will consider: (1) incidents not relevant or not directly related to the possible violation(s), unless they evidence a pattern; or (2) questions and evidence about the Complainant's sexual predisposition; or (3) questions and evidence about the Complainant's prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Within the boundaries stated above, the investigation and the hearing can consider character evidence generally, if offered, but that evidence is unlikely to be relevant unless it is fact evidence or relates to a pattern of conduct. Investigator(s) and/or Decision-Makers may elect to decline hearing from witnesses solely classified as character witnesses.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction(s) upon a determination of responsibility because ATU uses a progressive discipline system. This information is only considered at the sanctioning stage of the process.

The parties may each submit a written impact and/or mitigation statements to the Title IX Coordinator or the AA/EEO Officer prior to the hearing for the consideration of the Decision-Maker(s) at the sanctioning stage of the process if a determination of responsibility is reached.

After post-hearing deliberation, the Decision-Makers render a determination based on the preponderance of the evidence, whether it is more likely than not that the Respondent violated the Policy as alleged.

11. Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator or the AA/EEO Officer will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation, when the final investigation report is transmitted to the parties and the Decision-Makers, unless all parties and the Decision-Makers agree to an expedited timeline. The Title IX Coordinator or the AA/EEO Officer will select appropriate Decision-Makers from the Pool.

12. Hearing Panel Composition

ATU will designate a three (3) member panel from the Pool, at the discretion of the Title IX Coordinator or AA/EEO Officer. One of the three (3) members will be appointed as Chair by the Title IX Coordinator or the AA/EEO Officer.

The Decision-Maker(s) will not have had any previous involvement with the complaint. The Title IX Coordinator or AA/EEO Officer may elect to have an alternate from the Pool sit in throughout the resolution process in the event that a substitute is needed for any reason.

Those who have served as Investigators will be witnesses in the hearing and therefore may not serve as Decision-Makers. Those who are serving as Advisors for any party may not serve as Decision-Makers in that matter.

The Title IX Coordinator or AA/EEO Officer may not serve as a Decision-Maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this facilitator role. The hearing will convene at a time and venue determined by the Chair or designee.

13. Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator, AA/EEO Officer, or the Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The notice may contain:

- A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable hearing procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing.

- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-Makers and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator, AA/EEO Officer, or the Chair at least five
- (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-Maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator or the AA/EEO Officer at least five (5) business days prior to the hearing.
- An invitation to each party to submit to the Chair the questions or topics (the parties and their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendation for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing. The Chair will document and share their rationale for any relevance determination.
- Notification in advance of the hearing of any witnesses that do not need to be present if the Chair has determined their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing and both parties are in full agreement.
- Information on how the hearing will be recorded and how the parties can access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence. For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator or the AA/EEO Officer if they wish to conduct cross-examination and do not have an Advisor, and ATU will appoint one. Each party must have an Advisor present if they intend to cross-examine others. There are no exceptions.
- A copy of all the materials provided to the Decision-Makers about the complaint, unless they have already been provided.
- An invitation to each party to submit to the Chair an impact and/or mitigation statement pre-hearing that the Decision-Makers will review during any sanction determination.
- An invitation to contact the Title IX Coordinator or AA/EEO Officer to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by ATU and remain within the 60-90 business day goal for resolution.

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). Employees who do not have 12-month contracts are still expected to participate in resolution proceedings that occur during months between contracts.

14. Hearing Procedures

At the hearing, the Decision-Makers have the authority to hear and make determinations on all allegations of discrimination, harassment, and/or retaliation and may also hear and make determinations on any additional alleged policy violations that occurred in concert with the discrimination, harassment, and/or retaliation, even

though those collateral allegations may not specifically fall within the Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy and Procedures.

Participants at the hearing will include the Chair, any additional panelists, the hearing facilitator, if needed, the Investigator(s) who conducted the investigation, the parties (or three (3) organizational representatives when an organization is the Respondent), Advisors to the parties, any called witnesses, and anyone providing authorized accommodations, interpretation, and/or assistive services.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-Makers and the parties, and will then be excused.

15. Joint Hearings

In hearings involving more than one Respondent and/or involving more than one Complainant who has accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

However, the Title IX Coordinator or the AA/EEO Officer may permit the investigations and/or hearings pertinent to each Respondent or complaint to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent and/or for each complaint with respect to each alleged policy violation.

16. The Order of the Hearing – Introductions and Explanation of Procedure

The Chair explains the procedures and introduces the participants. The Chair then conducts the hearing according to the hearing script. At the hearing, recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process are managed by a non-voting hearing facilitator appointed by the Title IX Coordinator or the AA/EEO Officer. The hearing facilitator may attend to: logistics of rooms for various parties/witnesses as they wait; flow of parties/witnesses in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; copying and distributing materials to participants, as appropriate, etc.

17. Investigator(s) Presentation of Final Investigation Report

The Investigator(s) will then present a summary of the final investigation report, including items that are contested and those that are not, and will be subject to questioning by the Decision-Makers and the parties (through their Advisors). The Investigator(s) will be present during the entire hearing process, but not during deliberations.

Neither the parties nor the Decision-Makers should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations, and Advisors and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.

18. Testimony and Questioning

Once the Investigator(s) presents the report and responds to questions, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair.

The parties/witnesses will submit to questioning by the Decision-Makers and then by the parties through their Advisors.

All questions are subject to a relevance determination by the Chair. The Advisor, who will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request if agreed to by the parties and the Chair), the proceeding will pause to allow the Chair to consider the question, and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair may invite explanation or persuasive statements regarding relevance with the Advisors if the Chair so chooses. The Chair may decide to call a recess to review relevancy and other arguments. During a recess, the Chair may choose to confer with the Title IX Coordinator. The Chair will then state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair has final say on all questions and determinations of relevance. The Chair may consult with the Title IX Coordinator, the AA/EEO Officer, and/or legal counsel on any questions of admissibility. The Chair may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-Maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. If bias is not in issue at the hearing, the Chair should not permit irrelevant questions that probe for bias.

19. Decision

The Decision-Makers will deliberate in closed session to determine whether the Respondent is responsible or not responsible for the policy violation(s) in question. A simple majority vote is required to determine the finding. The preponderance of the evidence standard of proof is used. The hearing facilitator may be invited to attend the deliberation by the Chair, but is there only to facilitate procedurally, not to address the substance of the allegations.

When there is a finding of responsibility on one or more of the allegations, the Decision-Makers may then consider the previously submitted party impact and/or mitigation statements in determining appropriate sanction(s).

The Chair may permit the parties an opportunity to review any impact and/or mitigation statements submitted by the other party(ies).

The Decision-Makers will review the statements and any conduct history provided by the Title IX Coordinator and/or the AA/EEO Officer and will determine the appropriate sanction(s).

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator or AA/EEO Officer.

The statement must be submitted to the Title IX Coordinator or AA/EEO Officer within two (2) business days of the end of deliberations, unless the Title IX Coordinator or AA/EEO Officer grants an extension. If an extension is granted, the Title IX Coordinator or AA/EEO Officer will notify the parties.

20. Notice of Outcome

Using the deliberation statement, the Chair will work with the Title IX Coordinator or the AA/EEO Officer to prepare a Notice of Outcome. The Title IX Coordinator or AA/EEO Officer will then share the letter, including the final determination, rationale, and any applicable sanction(s) with the parties and their Advisors within three (3) business days of receiving the Decision-Makers' deliberation statement as permitted to share under state or federal law.

The Notice of Outcome will then be shared with the parties simultaneously. Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official ATU records, or emailed to the parties' ATU-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will detail when the determination is considered final. Unless based on an acceptance of violation by the Respondent, the determination may be appealed by either party.

21. Sanctions

Factors considered when determining any sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/ or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Decision-Makers

The sanction(s) will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the window to appeal without an appeal being requested.

The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed, by outside authorities.

If it is later determined that a party or witness intentionally provided false or misleading information, that action could be grounds for reopening a grievance process at any time, and/or referring that information to another process for resolution.

A. Student Sanctions

The following are the common sanctions that may be imposed upon students or registered student organizations singly or in combination(26):

- **Warning:** A formal statement that the conduct was unacceptable and a warning that further violation of any ATU policy, procedure, or directive will result in more severe sanctions/responsive actions.
- **Probation:** A written reprimand for violation of institutional policy, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated.
- **Loss of Privileges:** Suspension or denial of rights and privileges for a designated period of time, and may include denial of specified social privileges, exclusion from co-curricular activities, exclusion from designated areas of campus, no-contact directives, and/or other measures deemed appropriate.
- **Monetary Fines:** A penalty imposed involving the collection of fees from the student.
- **Restitution:** Compensation for loss, injury, damage to or misappropriation of ATU property. This may take the form of appropriate service and/or monetary or material replacement.
- **Educational Sanctions:** Educational sanctions may be assigned that promote learning and understanding. These sanctions may be developed as necessary by a conduct body, including, but not limited to:
 - Sponsorship of an education program;
 - Attendance at educational programs;
 - Requirement of members to complete educational training programs;
 - Attendance in conflict management training;
 - Educational service hours;
 - Attendance in ethics workshop/training;
 - Reflective exercises.
- **Discretionary Sanctions:** Work assignments, service to ATU, or other related sanctions.
- **Holds:** Withholding of grades, the right to register for classes, official transcript, and/or degree.
- **Housing Suspension:** Separation of the student from ATU housing for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- **Housing Expulsion:** Permanent separation of the student from ATU housing.
- **University Suspension:** Termination of student status for a definite period of time and revocation of rights to be on campus for any reason or to attend ATU-sponsored events. Conditions for readmission may be specified. Students who return from suspension are automatically placed on probation for a definite period of time.

(26) *Subject to ATU's RSO Code of Conduct sanctions.*

- University Expulsion: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend ATU-sponsored events.
- Withholding Diploma: ATU may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
- Revocation of Admission or Degree: ATU reserves the right to revoke admission or a degree previously awarded from ATU for fraud, misrepresentation, and/or other violation of ATU policies, procedures, or directives in obtaining admission or the degree, or for other serious violations committed by a student prior to graduation.
- Organizational Sanctions: Censure, Disciplinary Probation, Deferred Suspension, Disciplinary Suspension, Indefinite Dismissal, Restrictions, Educational Sanctions, Restitution, and Monetary Fines.
- Other Actions: In addition to or in place of the above sanctions, ATU may assign any other sanctions as deemed appropriate.

B. Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Required Training or Education
- Probation
- Denial of Pay Increase/Pay Grade
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Transfer/Reassignment/Assignment to a New Supervisor
- Administrative Leave/Suspension with Pay
- Administrative Leave/Suspension without Pay
- Termination
- Other Actions: In addition to or in place of the above sanctions, ATU may assign any other sanctions as deemed appropriate.

22. Withdrawal or Resignation While Charges are Pending

Students: If a student has an allegation pending for violation of the Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy and Procedures, ATU may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw from ATU, the resolution process ends, as ATU no longer has disciplinary jurisdiction over the withdrawn student.

However, ATU will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment, discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to ATU. Such exclusion applies to all campuses of ATU. A hold will be placed on their ability to be readmitted. They may also be barred from ATU property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to ATU unless and until all sanctions have been satisfied.

Employees: Should an employee Respondent resign with unresolved allegations pending, the resolution process ends, as ATU no longer has disciplinary jurisdiction over the resigned employee.

The employee who resigns with unresolved allegations pending is not eligible for rehire at ATU or any campus of ATU, and the records retained by the Title IX Coordinator and/or the Director of Human Resources and AA/EEO Officer will reflect that status.

All ATU responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

23. Appeals

Any party may submit a written request for appeal (“Request for Appeal”) to the Title IX Coordinator or the AA/EEO Officer within five (5) business days of the delivery of the written finding of the Decision-Maker(s).

The Request for Appeal will be forwarded to the appropriate Appeal Decision-Maker(s) for consideration to determine if the request meets the grounds for appeal (a Review for Standing).

This review is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds and is timely filed.

Respondent is a student or non-faculty employee:

Student appeals will be decided by the Vice President for Student Affairs. Employee appeals will be decided by the appropriate Vice President or Athletic Director.

Respondent is a faculty member:

If the Respondent is a faculty member with tenure or with a special or probationary appointment, the procedures set forth in the Academic Termination Policies and Procedures section of the Faculty Handbook shall govern the Respondent’s appeal.

Appeals are limited to the following grounds:

- A procedural irregularity that affected the outcome of the matter
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter
- The Title IX Coordinator or AA/EEO Officer, Investigator(s), or Decision-Makers had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter

If any of the grounds in the Request for Appeal do not meet the grounds in this Policy, that request will be denied by the Appeal Decision-Maker(s) and the parties and their Advisors will be notified in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Policy, then the Appeal Decision-Maker(s) will notify all parties and their Advisors, the Title IX Coordinator or AA/EEO Officer, and, when appropriate, the Investigator(s) and/or the original Decision- Makers.

All other parties and their Advisors, the Title IX Coordinator or the AA/EEO Officer, and, when appropriate, the Investigator(s) and/or the original Decision-Makers will be mailed, emailed, and/or provided a hard copy of the Request for Appeal with the approved grounds and then be given three (3) business days to submit a response to the portion of the appeal that was approved and involves them. All responses, if any, will be forwarded by the Appeal Decision- Maker(s) to all parties for review and comment.

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds of this Policy by the Appeal Decision-Maker(s) and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Title IX Coordinator or the AA/EEO Officer, the Investigator(s), and/or original Decision-Makers, as necessary, who will submit their responses, if any, in three (3) business days, which will be circulated for review and comment by all parties. If not approved, the parties will be notified accordingly, in writing.

Neither party may submit any new requests for appeal after this time period. The Appeal Decision-Maker(s) will collect any additional information needed and all documentation regarding the approved grounds for appeal and the subsequent responses and will render a decision in no more than five (5) business days, barring exigent circumstances. All decisions apply the preponderance of the evidence standard.

A Notice of Appeal Outcome will be sent to all parties simultaneously. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanction(s) that may result which ATU is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent ATU is permitted to share under state or federal law.

Notification will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official ATU records, or emailed to the parties' ATU-issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

Any sanctions imposed as a result of the hearing are stayed (i.e., not implemented) during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

If any of the sanctions are to be implemented immediately post-hearing, but pre-appeal, then emergency removal procedures (detailed above) for a show cause meeting on the justification for doing so must be permitted within 48 hours of implementation.

ATU may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation.

Appeal Considerations

- Appeals are not intended to provide for a full rehearing of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- Decisions on appeal are to be deferential to the original determination, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- An appeal is not an opportunity for the Appeal Decision-Maker to substitute their judgment for that of the original Decision-Makers merely because they disagree with the finding and/or sanction(s).
- The Appeal Decision-Maker may consult with the Title IX Coordinator or the AA/EEO Officer on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained. Appeals granted should normally be remanded (or partially remanded) to the original Investigator(s) and/or Decision-Makers for reconsideration.
- Once an appeal is decided, the outcome is final. Further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where error cannot be cured by the original Investigator(s) and/or the Decision-Makers (as in cases of bias), the Appeal Decision-Makers may order a new investigation and/or hearing with new Investigator(s) and/or Decision-Makers.
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases that result in reinstatement to ATU or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

24. Long-Term Remedies/Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator or the AA/EEO Officer may implement long-term remedies or actions with respect to the parties and/or the campus community to stop the harassment, discrimination, and/or retaliation; remedy its effects; and prevent its reoccurrence.

These remedies/actions may include, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator or the AA/EEO Officer, long-term remedies may also be provided to the Complainant even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator or the AA/EEO Officer will address any remedies to be provided by ATU to the Respondent.

25. Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions

All Respondents are expected to comply with conduct sanctions, responsive actions, and corrective actions within the timeframe specified.

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/responsive/corrective action(s), including suspension, expulsion, and/or termination from ATU.

A hold will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator or the AA/EEO Officer.

26. Recordkeeping

ATU will maintain for a period of at least seven (7) years records of complaints filed under Process B. ATU will also maintain any and all records in accordance with state and federal laws.

27. Disabilities Accommodation in the Resolution Process

ATU is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the resolution process at ATU.

Anyone needing such accommodations or support should contact either Ashlee Leavell, Assistant Dean for Student Wellness and Deputy Title IX Coordinator, who coordinates services for students at sleavell@atu.edu or Melissa Riffle, Director of Human Resources and AA/EEO Officer and Deputy Title IX Coordinator, who coordinates services for employees at mriffle@atu.edu. These individuals will review the request and, in consultation with the person requesting the accommodation, and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

28. Revision

These policies and procedures will be reviewed and updated annually by the Title IX Coordinator and the AA/EEO Officer. ATU reserves the right to make changes to this document as necessary and once those changes are posted online, they are in effect.

The Title IX Coordinator or the AA/EEO Officer may make minor modifications to these procedures that do not materially jeopardize the fairness to be provided to any party, such as to accommodate summer schedules.

The Title IX Coordinator or the AA/EEO Officer may also vary procedures materially with notice (on the ATU website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedure.

Policy and procedures in effect at the time of the resolution will apply to resolution of incidents, regardless of when the incident occurred.

If government regulations change in a way that impacts this document, this document will be construed to comply with the most recent government regulations.

This document does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

This Policy was implemented in August 2022.

Appendix D: Suggested Actions for Victims of Sexual Assault

If you have experienced a form of sexual assault, please consider your options. ATU's first priority is to help you take steps to address your safety, medical needs, and emotional well-being. You are encouraged to take the following actions, as applicable, regardless of whether you have made a decision about whether to pursue a complaint at ATU or criminal charges.

1. Ensure Your Physical Safety.

You may seek help from local law enforcement agencies by dialing 911.

2. Seek Medical Assistance and Treatment.

Local options for medical care include the ATU Health and Wellness Center, Saint Mary's Regional Medical Center in Russellville, and Mercy Hospital in Ozark. Even if you do not believe you have urgent medical needs, it is crucial that you obtain medical attention as soon as possible after experiencing sexual misconduct to determine the possibilities of physical injury and to prevent or treat sexually transmitted infections.

The Health and Wellness Center at Arkansas Tech University can help survivors of sexual misconduct sort through their feelings and begin the recovery process. The professionals at Counseling Services are trained to provide crisis intervention on short term and emergency issues. Counseling Services can also provide referral services for outside providers, law enforcement, and Title IX. Staff in the Health and Wellness Center can provide:

- Counseling services (free for all students)
- Sexually transmitted infection testing and treatment
- Women's health services

Saint Mary's Regional Medical Center in Russellville and Mercy Hospital in Ozark offer many services 24/7 for survivors of sexual and interpersonal violence such as:

- Prevention and treatment of sexually transmitted infections as well as pregnancy prevention
- Forensic evidence collection such as DNA and injury documentation
- Screening for the presence of sedative drugs such as Rohypnol or GHB (date- rape drugs)

3. Preserve Evidence

The preservation of evidence is critical to potential criminal prosecution and to obtaining restraining orders/protective orders, and is particularly time-sensitive. Complainants should consider preserving evidence by taking the following actions:

- Evidence in the form of text and voice messages will be lost in most cases if the Complainant changes their phone number.
 - Make a secondary recording of any voice messages and/or save the audio files to a cloud server.
 - Take screenshots and/or a video recording of any text messages or other electronic messages (e.g., Instagram, Snapchat, Facebook).

- Save copies of email and social media correspondence, including notifications related to account access alerts.
- Take time stamped photographs of any physical evidence including notes, gifts, etc. in place when possible.
- Save copies of any messages, to include those showing any request for no further contact.
- Obtain copies of call logs showing the specific phone number being used rather than a saved contact name if possible.
- In cases of sexual assault, these additional actions should be considered:
- Seek forensic medical assistance at a local hospital, ideally within 96 hours of the incident (sooner is better), and this exam is paid for by the State of Arkansas. In Russellville, Saint Mary's Regional Medical Center is located at 1808 West Main Street. In Ozark, Mercy Hospital is located at 801 West River.
- Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
- Try not to urinate.
- If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
- If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence).
- Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

4. Obtain Emotional Support

The ATU Health and Wellness Center can assist victims sort through their feelings and begin the recovery process. The professionals in Counseling Services are trained to provide crisis intervention on short term and emergency issues. Counseling Services can also provide referral services for outside providers and law enforcement. Counseling is free of charge to all students. In some instances, the law may require the disclosure of information shared by students with counselors. However, absent a legal mandate to the contrary, Counseling Services are strictly confidential, are not part of students' ATU records, and will not be reported to other ATU personnel.

5. Obtain Information/Report Misconduct

You are encouraged to report incidents of sexual assault to ATU's Title IX Coordinator or other designated University individuals or offices as outlined in the Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy and Procedures (even if you have filed a report directly with law enforcement). Further information about how to report sexual assault is provided in the Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy and Procedures. ATU staff in the Title IX Office can help you access resources and can provide you with support and information, including information on the ATU's procedures for investigating and addressing instances of sexual assault.

IMPORTANT CONTACT INFORMATION

ATU Resources

Title IX Office

Russellville

Amy Pennington
AVP/Dean of Students and Title IX Coordinator
479-968-0407 apennington@atu.edu
Doc Bryan Student Services Center, Suite 233
Russellville, AR 72801

Stacy Galbo
Deputy Title IX Coordinator for Educational Outreach and Training/Title IX Investigator
479-964-0583 ext. 4714 sgalbo2@atu.edu
Doc Bryan Student Services Center, Suite 233
Russellville, AR 72801

Ashlee Leavell
Assistant Dean for Student Wellness/Deputy Title IX Coordinator
479-968-0302 sleavell8@atu.edu
Doc Bryan Student Services Center, Suite 141
Russellville, AR 72801

Melissa Riffle
Director of Human Resources and AA/EEO Officer/Deputy Title IX Coordinator
479-968-0396 mriffle@atu.edu
715 North El Paso Ave
Russellville, AR 72801

Title IX Office

Ozark

Mitzi Reano
Project/Program Specialist and Deputy Title IX Coordinator
479-667-2117 ext. 6532 mreano@atu.edu
Technology and Academic Support Building, Room 154
Ozark, AR 72949

Law Enforcement Resources

In case of emergency, dial 911.

On Campus – Russellville: Assistance can be obtained 24 hours a day, 7 days a week, from the Arkansas Tech University Department of Public Safety located at 716 North El Paso Avenue and available by telephone at 479-968- 0222 or dialing 911.

On Campus – Ozark: Assistance can be obtained from 8 am to 5 pm, Monday through Friday by contacting Officer David Spicer, Public Safety Officer, located at the Collegiate Career Center, Room 100C, 1700 Helberg Lane or by telephone at 479-508-3359 or dialing 911.

Health and Wellness Center

Counseling Services and Health Services are available to students on both the Russellville and Ozark campuses by calling the Health and Wellness Center at 479-968-0329 or visiting in-person in the Doc Bryan Student Services Center, Suite 119, Russellville, AR. For more information on the Health and Wellness Center please visit <https://www.atu.edu/hwc/>.

You may also contact a licensed counselor or health care provider directly. A contact list is provided below:

Counseling Services:

Kristy Davis, LPC
Associate Dean for Student Wellness, kdavis51@atu.edu

Craig Witcher, LPC
Counselor, cwitcher@atu.edu

Janis Taylor, LPC
Counselor, jtaylor78@atu.edu

Hunter Bramlitt, LPC
Counselor, jbramlitt@atu.edu

Leann Watson, LPC
Counselor, lwatson12@atu.edu

Justin Qualls, LAC
Counselor, jqualls1@atu.edu

Health Services:

Robin Joslin, APRN, Nurse Practitioner, rkoontz@atu.edu
Kyle Wewers, APRN, Nurse Practitioner, kwewers@atu.edu
Ashley Shrives, APRN, Nurse Practitioner, ashrives@atu.edu
Heather Stout, RN, Registered Nurse, hstout1@atu.edu
Cori Hinson, RN, Registered Nurse, cpoore1@atu.edu
Brittany Holt, LPN, Licensed Practical Nurse, bholt9@atu.edu

Community Resources

Saint Mary's Regional Medical Center 1808 West Main Street,
Russellville, AR 72801 479-968-2841

Mercy Hospital
801 West River, Ozark, AR 72949
479-667-4138

Victim Assistance Outreach Program

The 5th Judicial District Prosecuting Attorney's Office's Victim Assistance Outreach Program provides assistance with:

- Orders of Protection
- Contacting Law Enforcement Agencies
- VINE (Victim Identification and Notification Everyday)
- Arkansas Crime Victims Reparations Program (assists with financial compensation, counseling, lost wages, and funeral expenses)
- Referrals to other community services such as the Ozark Rape Crisis Center, River Valley Shelter, and Crisis Intervention Center
- Information on the criminal court process

The Arkansas Victim Assistance Coordinator for Pope County can be reached at 479-968-8600 and the Coordinator for Johnson and Franklin County can be reached at 479-705-0579.

Arkansas Coalition Against Sexual Assault

The Arkansas Coalition Against Sexual Assault provides a 24-hour Sexual Assault Crisis Response Hotline. The hotline telephone number is 1-800-656-4673 and the website can be located at <https://www.arkcasa.org/>.

Arkansas Coalition Against Domestic Violence

The U. S. Hotline number is 1-800-799-7233. List of domestic violence shelters throughout the state: <https://www.domesticpeace.com/>

Ozark Rape Crisis Center

With locations in Clarksville and Russellville, Arkansas, this entity provides 24-hour crisis intervention. The hotline telephone number is 1-800-818-1189 and the website can be located at <https://www.ozarkrapecrisiscenter.org.>

National Domestic Violence Hotline

24-hour hotline: 1-800-799-(SAFE) 7233

24-hour live chat: www.thehotline.org

National Sexual Assault Hotline

24-hour hotline: 1-800-656-4673

24-hour online hotline: <https://hotline.rainn.org/online>

CONFLICTS OF INTEREST

All members of the Arkansas Tech University community, including faculty, staff and members of the Board of Trustees, should remain free from conflicts of interest. The following describe areas of possible conflict of interest:

- Using or attempting to use their official position to secure special privileges or exemptions for themselves or their spouses, children, parents, or other persons standing in the first degree of relationship, or for those with whom they have a substantial financial relationship that are not available to others except as may be otherwise provided by law.
- Accepting employment or engaging in public or professional activity while serving as public officials and in which they might reasonably expect would require or induce to them to disclose any information acquired by them by reason of their official positions that is declared by law or regulation to be confidential.
- Disclosing or using information gained by reason of their position for their personal gain or benefit.
- Receiving gifts for the performance of the duties and responsibilities of their position. This does not apply to gifts from friends, professional associates and relatives that are not work related or to awards recognizing achievement. Nominal gifts (having a value of \$100 or less) among faculty, staff and students are also excluded.

*Updated 07/13/2022

ETHICS POLICY

Introduction

This ethics policy serves (1) to emphasize the University's commitment to ethical conduct and compliance with the law; (2) to set forth basic standards of ethical behavior; (3) to provide reporting mechanisms for known or suspected ethical violations; (4) to help prevent and detect wrongdoing.

Given the variety and complexity of ethical questions that may arise in the course of carrying out the University's business, this Code can serve only as a general guide. Confronted with ethically ambiguous situations, employees should keep in mind the University's commitment to the highest ethical standards and seek advice from appropriate levels of University administration so as to ensure that this commitment is honored at all times.

This ethics policy has been adopted by the Board of Trustees and is to be administered at the direction of the President. A campus, department, or area may implement more specific associational or professional policies that supplement this policy, but each must be approved by the President and each must have a higher (and not lower) ethical requirement than this policy. In the event of a conflict between this policy and those of a campus, unit, or area, this policy will control.

This ethics policy applies to all Arkansas Tech University employees. This policy may be amended or supplemented from time to time by the Board of Trustees

Public employment is a public trust. It is the policy of Arkansas Tech University to promote and balance the objective of protecting government integrity and the objective of facilitating the recruitment and retention of personnel needed by the university. The policy is implemented by prescribing essential restrictions against conflict of interest without creating unnecessary obstacles to entering public service.

The institution and its employees shall conduct themselves in a manner that strengthens the public's trust and confidence by adhering to the following principles:

- Conduct that is beyond reproach and integrity of the highest caliber;
- Act with honesty and fairness in good faith and professionalism;
- Accountability, transparency and commitment to compliance with statutory requirements; and
- Being proactive in pursuing ethical conduct in future years.

Definitions

1. "Confidential information" means any information which is available to an employee only because of the employee's status as an employee of this state and is not a matter of public knowledge or available to the public on request.
2. "Employee" means an individual drawing a salary from the university and any non-salaried individual performing personal services for the university.
3. "Gift" is defined for purposes of this policy using the definition of the Arkansas Ethics Commission rule §300(b), which is set forth in its entirety in attachment "A".
4. "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
5. "Immediate family" means a spouse, children, parents, brother and sisters, and grandparents.
6. "Personal gain" means a benefit or advantage that relates to a particular person rather than to a business, group or organization.

General standards of ethical conduct

1. Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of a public trust.
2. Employee Conflict of Interest.
 - a. It shall be a breach of ethical standards for any employee to participate directly or indirectly in any proceeding or application, in any request for ruling or other determination, in any claim or controversy, or in any other particular matter pertaining to any contract or subcontract, and any solicitation or proposal therefore, in which to the employee's knowledge;
 - (i) The employee or any member of the employee's immediate family has a financial interest;
 - (ii) A business or organization has a financial interest, in which business or organization the employee, or any member of the employee's immediate family, has a financial interest; or
 - (iii) Any other person, business, or organization with whom the employee or any member of the employee's immediately family is negotiating or has an arrangement concerning prospective employment is a party.
 - b. "Direct or indirect participation" shall include, but not be limited to, involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, including the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
3. Gratuities and kickbacks
 - a. It is a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, including the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim, or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.
 - b. It is a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a subcontract or order. Meals provided as part of a conference are excluded from this provision.
4. Use of confidential information
 - a. It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person.
5. Non-employees
 - a. Any effort to influence any public employee to breach the standards of ethical conduct set forth herein is also a breach of ethical standards.
6. Violations

Violations of this policy may constitute violations of law as set forth in A.C.A. §19-11-701 et. seq.

7. Reporting suspected violations

Employees wishing to report a suspected violation of this ethics policy may report it anonymously to the Human Resources department or the Office of University Counsel. Submit a suspected violation. (<https://www.atu.edu/standingcommittees/ethics-form.php>)

8. Guidance

All employees must work together to ensure prompt and consistent enforcement of this Ethics Policy. In some situations, it may be difficult to know if a violation has occurred. Because it is impossible to anticipate every situation that will arise, it is important to approach a new question or problem with confidence. Employees having questions about their obligations under this Code should consult the University's administration and/or the University Counsel.

GRIEVANCE POLICY

Informal Process

Faculty should first attempt to resolve problems they encounter at work informally, through discussion with the other persons involved in a spirit of cooperation. If the attempt to resolve the matter is unsuccessful, grievances are to be reported through the chain of command in the following manner:

- 1. Make an appointment to speak with the Program Chair or immediate supervisor to discuss the problem.**
- 2. If the Faculty Member is still dissatisfied after discussing his or her problem with the Program Chair or immediate supervisor, the faculty member may resort to the formal grievance process set forth below.**

Formal Process

In the event that a problem cannot be resolved informally, the following Formal grievance procedure is available to the Faculty.

Definitions:

Day: A regularly scheduled workday, excluding holidays.

Grievance: a claim or concern related to the interpretation, application, or claimed violation of the university policies, federal or state laws and regulations, terms or conditions of employment, raised by a Faculty member.

Grievance Committee: The Chancellor shall request the Faculty Senate to select three Workforce Education Faculty employees to serve as a grievance committee for any grievance appealed to the grievance committee pursuant to this policy. The grievance committee shall hear all evidence relevant to the grievance, make findings, and make recommendations to the Chancellor based on its findings. The Committee shall not be bound by official rules of evidence and shall have no subpoena power.

Formal Grievance Procedure

Step I – The grievant must contact the grievance officer (Affirmative Action Officer for the Ozark Campus) to initiate the formal grievance procedure. In the event the Affirmative Action Officer is the person to be grieved, the Chancellor will appoint a Chief Officer to act as the grievance officer. The grievant shall submit to the grievance officer a written statement of the facts and the resolution sought. The statement must be signed and dated by the grievant.

The grievance officer shall advise the grievant of the steps to be followed in the formal grievance procedure and advise the grievant of his or her right to:

- Use the grievance procedure;
- Receive copies of all documentation, regardless of form, during all steps of the grievance procedure.

Within five days of receipt of the grievance statement, the grievance officer shall transmit a copy of the grievance to the grievant's immediate supervisor. Within five days of receipt of the grievance statement, the supervisor shall either (1) set a date for a formal meeting or (2) respond to the grievant in writing.

The grievant will have five days in which to provide the grievance officer with a written request for a review of the grievance by a grievance committee.

Within five days of receipt of the written request for review of the grievance, the grievance officer shall initiate formation of a grievance committee pursuant to the procedure described in the Definitions section above.

Within five days of the formation of the grievance committee, the grievance officer shall call the grievance committee members together to:

- Advise the committee members of their responsibility to select a committee chairperson;
- Provide the grievance record to the grievance committee;
- Establish a mutually agreeable time and place for the hearing; and
- Notify all parties of the time and place of the hearing.

Within ten days of its meeting with the grievance officer, the grievance committee shall hear all evidence relevant to the grievance; and determine whether, in the opinion of the committee, university policies and procedures were followed.

The grievant, grievance committee, and the grievance officer may request the presence at the hearing of anyone having information pertinent to the grievance.

Within two days of the conclusion of the hearing, the grievance officer shall transmit the grievance record to the Chancellor. The Chancellor shall review the committee's findings as provided below or designate a Chief Officer to perform the review. Within five days of the conclusion of the hearing, the grievance committee shall submit in writing to the Chancellor or Chief Officer the committee's proposal for resolution of the grievance and the reasons for the course of action proposed.

The Chancellor or Chief Officer shall prepare a written statement addressed to the grievant containing the decision for resolution of the grievance and the reasons for the decision. The Chancellor or Chief Officer's decision shall be considered final, and no further administrative review shall be available to the grievant.

A copy of the grievance committee's proposal for resolution of the grievance shall be attached to the written statement. The written statement shall be submitted to the grievant, with a copy to the grievance officer.

The grievance officer shall inform the grievant’s immediate supervisor or Program Chair of the action required to carry out the decision of the Chancellor or Chief Officer.

Specific grievances dealing with Sexual Harassment or Whistle Blower protection are provided in prior sections of the Faculty Handbook.

FACULTY PROMOTION

Promotion in rank is recognition of past achievement of the individual being considered for promotion. In addition, the advancement in rank is recognition of future potential and a sign of confidence that the individual is capable of even greater accomplishments and of assuming greater responsibilities. The policy of the Arkansas Tech University-Ozark Campus is to make promotions strictly on consideration of merit tempered by college and fiscal considerations. The purpose of this policy is to help ensure that promotions are made objectively, equitably, impartially, and as recognition of merit consistent with the following policy guidelines.

Scope

This policy applies to all full-time faculty. It does not apply to faculty who are employed on limited appointments or adjunct faculty.

This policy shall not alter the rank of any faculty member held at the time of adoption of this policy.

Minimum Criteria for Promotion

The following information should be considered MINIMAL. The criteria deal with degree, length of time in rank, and a summative performance evaluation.

<i>Rank</i>	<i>Classification Criteria</i>
Workforce Education Instructor	<ol style="list-style-type: none"> 1. All faculty will be hired as an instructor based on programmatic requirements such as Higher Learning Commission faculty credential requirements, program accreditation requirements, state licensing agency requirements, etc. 2. Sufficient experience in subject. Experience may include, but is not limited to, undergraduate/graduate degrees, technical certifications, licensure, and employment history.
Workforce Education Advanced Instructor	<ol style="list-style-type: none"> 1. At least five years of experience as an Instructor**. 2. Annual faculty evaluation scores in the area of “Teaching” must have been evaluated with a score of at least 3.5 on the 5 point scale in four of the last five years. If being considered for early promotion, all scores must have been evaluated with a score of at least 3.5 on the 5 point scale. 3. Annual faculty evaluation scores in the area of “Scholarship or Industry-based activities and research”

	<p>must have been evaluated with a score of at least 3.5 on 5 point scale in three of the last five years. If being considered for early promotion, all scores must have been evaluated with a score of at least 3.5 on the 5 point scale.</p> <p>4. No formal disciplinary action.</p>
<p>Workforce Education Master Instructor</p>	<p>1. At least 5 years of experience as an Advanced Instructor**.</p> <p>2. Annual faculty evaluation scores in the area of “Teaching” must have been evaluated with a score of at least 3.5 on the 5 point scale in four of the last five years. If being considered for early promotion, all scores must have been evaluated with a score of at least 3.5 on the 5 point scale.</p> <p>3. Annual faculty evaluation scores in the area of “Scholarship or Industry-based activities and research” must have been evaluated with a score of at least 3.5 on 5 point scale in four of the last five years. If being considered for early promotion, all scores must have been evaluated with a score of at least 3.5 on the 5-point scale.</p> <p>4. No formal disciplinary action.</p>

**** Advancement in degree attainment above program requirements may be substituted in lieu of years of experience as an instructor -- up to a maximum of three (3) years substituted during a single promotion cycle per the following guide:**

1. One year of experience for initial Associate’s degree
2. One year of experience for initial Bachelor’s degree
3. Two years of experience for initial Master’s degree
4. Two years of experience for initial Doctoral degree

Years of experience in rank means experience at the institution unless, at the time of initial contract, credit is given for previous experience. Whether and to what extent prior experience will be included must be decided at the time of initial appointment in a mutually acceptable written agreement between the faculty member and Arkansas Tech University-Ozark Campus. The maximum time to be allowed for prior service is three (3) years at an accredited institution of higher learning.

Minimum criteria may be waived if approved by the Chancellor when a candidate offers extraordinary qualifications in lieu of the stated minimum rank criteria. Such approval must be supported by evidence of the extraordinary nature of the qualifications. For example, a candidate with recognized, national prominence and expertise might qualify for such a waiver.

Procedures for Promotion

The steps are as follows:

1. Individual promotion opportunities will be evaluated with eligible faculty during their annual evaluations. It is the responsibility of the individual faculty member to assemble all of the materials necessary for consideration listed under the Criteria for Promotion. This includes, but may not be limited to, the contents of individual Portfolios as described above, and copies of the

annual Summative Evaluations performed by the Chief Academic Officer (CAO) and/or the assigned program chair.

- 2. If deemed to have met all Criteria for Promotion, the CAO will make a recommendation for promotion to the Chancellor.**
- 3. If deemed to have met all Criteria for Promotion, the Chancellor will make a recommendation for promotion to the President to recommend for approval by the Board of Trustees.**
- 4. Upon Board of Trustees approval, promotion will begin at the start of the next fiscal year.**

Appeals

Appeals to review promotion criteria results may be made to the Chief Academic Officer (CAO). If the instructor is not satisfied with the CAO decision, the faculty member may submit the grievance in writing to the Chancellor. The Chancellor will establish an Ad Hoc Grievance Committee to review the appeal only under the following conditions and prior to recommendations being acted upon by the Chancellor:

- A. The faculty member's appeal is a claim that a promotion policy process was not followed at a specified level of review.**
- B. The faculty member's appeal is a claim that evidence which had been presented in a timely manner was not considered at a specified level of review.**

The Ad Hoc Grievance Committee will submit findings and recommendation to the Chancellor. All decisions by the Chancellor are final.

EMPLOYMENT AND RETIREMENT POLICIES

Salaries

The University does not have a fixed salary schedule; however, acting within the limitations of the budget and in response to definite needs and demands, it does undertake to maintain a well-defined pattern in establishing salaries. Faculty positions are established by the State of Arkansas Legislature with a minimum and maximum line item for salary. This salary pattern represents the considerations given to education, experience, special needs, and the relative value of the individual to the University.

Payroll Information

Immediately upon arrival on the campus, new faculty members will need to schedule a formal orientation with the Human Resources Office. The orientation process will include completion of personnel data information, employee insurance and retirement election.

Payroll Deductions

Certain payroll deductions are made automatically by the University and others are made at the request of the employee.

Deductions are as follows:

1. **Social Security (FICA)** – All employees are subject to Social Security deductions not to exceed the annual maximum set by the Social Security Administration. These deductions are shown in two parts on the check stub: Social Security (FICA) and Medicare (MEDIC).
2. **Income Tax** – Both Federal and State taxes are automatically deducted from the paycheck according to information on a W-4 form and a state tax form furnished by the employee to the Human Resources Office.
3. **Retirement** – Employees who are members of TIAA-CREF may make contributions on a pre-tax basis. Deductions for members of Arkansas Teacher Retirement System (ATRS) may be optional and may be made on a pre-tax or after-tax basis based upon the date of original enrollment. The University contributes to the designated retirement plan for each eligible employee.
4. **Group Health Insurance** – The University pays the employee's health and dental insurance premium, provided the employee is in a pay status. Payroll deductions are made for those employees who insure dependents, and these can either be made on a pre-tax or after-tax basis.
5. **Life Insurance** – The University pays for one-half of the employee's premium for the Group Life Insurance. The employee is responsible for the remaining half. This benefit is optional.
6. **Tax-sheltered annuities** – Pre-tax deductions (within annual pre-tax limits) may be selected by employees for approved tax-sheltered annuity plans. Current vendors within the plans are TIAA-CREF, VALIC and American Fidelity.
7. **Other deductions** – Certain other deductions are made as authorized by A.C.A. §19-4-1602 or other applicable law.

8. **Employees are encouraged to request assistance from the Human Resources Office before making changes in payroll deductions.**

Outside Employment

The following policy concerning outside employment was approved by the Board of Trustees on February 21, 1980:

Certain outside employment situations may provide needed services to the community, as well as supplemental income to faculty members, without impeding the fulfillment of the faculty member's contractual agreement with the University. However, full-time faculty personnel are expected to discharge all professional responsibilities and time obligations related to their position at Arkansas Tech. Outside employment, whether self-employed, managerial, or employee status, should not interfere with the faculty position.

Concurrent Employment

The Human Resources Office coordinates all concurrent employment forms regarding classified and non-classified employees, and in conjunction with Academic Affairs regarding faculty requests.

Professional Services Contract Employment

Only within narrow guidelines and with express prior approval may current state employees also contract to provide services to their employer and/or any other state agency or institution. (For example, contracts awarded through the competitive sealed bid process may in general be awarded to state employees.) Before entering into any contract to provide services, employees should contact the University Legal Counsel or the Director of Human Resources for assistance and information.

Employees who knowingly violate state regulations regarding professional services contracts may be subject to fines and/or disciplinary actions.

Nepotism

Immediate relatives may not work in any capacity in situations where one relative might supervise another. Immediate relative is defined as husband, wife, mother, father, daughter, son, sister or brother. Son or Daughter means a biological, adopted, foster child, stepchild, legal ward or a child of a person standing in loco parentis

1. **Under eighteen (18) years of age; or**
2. **Eighteen (18) years of age or older and incapable of self-care because of mental or physical disability.**

Resignations

An instructor who does not wish to return for the ensuing school year should so inform the head of the department and should submit a formal letter of resignation to the Chief Academic Officer. After receiving a notice of appointment, an instructor who decides not to accept the appointment should return the unsigned employment notice on or before the date indicated. In this case, the above resignation

procedures shall be followed. After employment has been accepted and the agreement signed, instructors are contractually obligated to fulfill the commitment.

FACULTY BENEFITS AND PRIVILEGES

Retirement Policies

Arkansas Tech University complies with the Federal Age Discrimination in Employment Amendments of 1986 which prohibit the mandatory retirement of any employee. All exemptions applying to higher education were repealed as of December 31, 1993, eliminating compulsory retirement for all faculty.

Arkansas State Employees Association

ASEA is an independent, non-profit organization which works to make conditions better for state employees. The association works with the legislature, agencies and institutions of state government, and employees of the state. Information is available in the Human Resources Office. Dues can be payroll deducted.

Credit Union

Employees may participate in the Priority Federal Credit Union through payroll deduction of at least five dollars per month. Additional information is available in the Human Resources Office. Employees may also participate in the Arkansas Federal Credit Union.

Faculty Identification Card

Each faculty member may obtain without charge from the Student Accounts Office a photo-identification card. Library materials may also be checked out upon presentation of the employee I.D. Card.

Parking on Campus

Each Faculty member who wishes to park on campus must purchase a parking hang tag for the current school year. Hang tags are available for purchase in the Student Accounts Office.

ATU Tuition Benefit Policy

I. Eligibility

All full-time, active ATU employees, their spouses, and their dependents (as defined by the Internal Revenue Service Qualifying Child Test:

<https://www.irs.gov/credits-deductions/individuals/earned-income-tax-credit/qualifying-child-rules>) are eligible.

Employees on workers' compensation, military or family medical leave are eligible. Employees on leave without pay are not eligible.

Tuition Waiver requests must be submitted by the first day of class (fall, spring, summer, condensed classes) in order for the waiver to be considered.

For the employee's waiver and/or the dependent's waiver to be valid the employee must be an active employee on the first day of class (fall, spring, summer, condensed classes).

II. Extent of Benefit

a. Employee 2

i. For employees hired after July 1, 2018 and for current employees on June 30, 2018 who earn hours after July 1, 2018, employees may take up to a lifetime total of 144 undergraduate and/or 40 graduate master's level, semester credit hours at ATU with a 100% tuition and fee waiver benefit (excluding course specific fees). For purposes of clarity, hours already earned by existing employees on June 30, 2018 will not count against the lifetime total caps that begin on July 1, 2018.

ii. Employees must have the permission of their immediate supervisor and appropriate dean or vice president to take courses. Employees may not take classes during regular duty hours without permission from their supervisor. The sole exception to this is that with their supervisor's permission, an employee may take a course in lieu of their lunch hour.

iii. Employees' semester credit hours may not exceed 18 hours total in any fiscal year (July 1 through June 30) unless approved by the Vice President for the employee's specific unit.

iv. Tuition and fee waiver will cover audited courses provided the employee initially registers to audit the course.

b. Dependents

i. Employee's spouses and dependents may take up to a lifetime total of 144 undergraduate and/or 40 graduate master's level, semester credit hours at ATU with a 50% tuition only waiver benefit. Dependents may receive a full discount of tuition for three semester credit hours or 50% of total tuition for the semester, whichever is greater. Reduced tuition for dependents applies only to tuition not otherwise covered by scholarships and the total should not exceed the total tuition charged for the semester. The maximum graduate course discount is equivalent to three semester credit hours per term.

ii. Tuition waiver benefit does not cover audited courses for dependents.

III. Failure and Withdrawal guidelines

a. Failure

i. Employees who receive failing grades, F in undergraduate level courses and D or F in graduate level courses, must repay 100% of the total tuition and fee benefit for each course in which they receive a failing grade.

b. Withdrawal

i. Employees and dependents who withdraw or change the status of their course(s) to audit after the last day to withdraw with a full reduction of tuition and fees and before the last day to withdraw with an 80% reduction of tuition only (as indicated by the Academic Calendar) will be required to repay the University benefit by 20% of tuition and all fees.

ii. Employees and dependents who withdraw or change the status of their course(s) to audit after the final day for an 80% reduction in tuition (as indicated by the Academic Calendar) will be required to repay the University 100% of the total waiver benefit.

IV. Financial Obligation

a. Failure to Pay

i. Employees and/or dependents who do not complete their financial obligation to the University due to III, a., i. or III b., i, ii; will be billed for the amount owed. If not paid, the University has the right to forward the account outstanding to a collections processor or the use the State's Set-Off Fund.

Bookstore Discounts

Full-time faculty members making purchases at the Bookstore are entitled to discounts on purchases of \$2.00 or more (excluding regalia and convenience items such as snacks, drinks, medicines, etc.). The discount allowed on new and used textbooks is ten percent.

Faculty/Staff Tickets for Athletic Events

Faculty/staff members, their immediate family, and one guest will be admitted to most athletic events on the presentation of the identification (ID) card.

Group Insurance

Group insurance is available for all full-time employees. The plan includes hospitalization, accidental injury, and major medical insurance. Life insurance with accidental death provisions and long-term disability insurance is available on an elective basis. The University participates in the cost of hospitalization, accidental injury, major medical, and life insurance. Contribution to the long-term disability insurance program is related to sick leave as outlined in this section.

***An employee may elect to "opt out".**

***Dependent children can be covered under insurance if unmarried – full-time student – attending accredited school and through age 23 – for State Insurance and through age 25 – for BCBS Insurance.**

Retirement Benefits

State law requires that all full-time faculty participate in an approved retirement system. The two systems available are the Arkansas Teacher Retirement System and the Teachers' Insurance and Annuity Association. A choice may be made on initial employment. Basic information on these plans will be furnished in faculty orientation sessions.

Benefits specific to retirees include the following:

- 1. Retirees are issued an Arkansas Tech University identification card free of charge.**
- 2. Retirees are admitted free to most conference athletic events by showing the Tech identification card.**
- 3. Discounts at the Tech Bookstore are given to retirees.**
- 4. Retirees are allowed to use the swimming pool located in the Hull Building when it is open for faculty/staff use.**
- 5. The Tech identification card allows retirees the use of the Library when it is open.**
- 6. Retirees may use Tucker Coliseum and the track at Buerkle Field for exercising.**
- 7. Retirees are invited to special social events on the campus which are for the purpose of entertaining faculty and staff.**
- 8. Retirees with official campus business may request one complimentary automobile decal with additional decals issued at the regular price.**

Retirement Policy

Employees who are age 60 or above and have completed ten (10) years of service at Arkansas Tech University may retire and be eligible to receive the same health insurance benefit options as current employees until the retiree reaches Medicare eligibility age. All employer contributions will then cease. Also, a partial premium is paid for life insurance. All other family insurance coverage is the responsibility of the retiree.

As is the case with all other benefits, this is subject to continuing approval by the Board of Trustees. Arkansas Tech University specifically reserves the right to amend, revise, supplement, or rescind any policies or portion of the handbook from time to time as it deems appropriate, in its sole and absolute discretion.

Savings Bonds

Savings Bonds are available to employees and are payroll deductible. Information is available in the Human Resources Office.

Sick Leave

The following policies concerning sick leave were approved by the Board of Trustees on February 21, 1980:

Academic personnel, including faculty, deans, directors, and librarians, are provided sick leave protection up to ninety calendar days per academic year for illness or disability. The University is able to provide this liberal sick-leave policy through the cooperation of fellow faculty members who, to the extent possible, assume the instructional responsibilities of those on sick leave. For those who have long-term disability insurance, the ninety-day provision enables continuous compensation until the insurance becomes effective.

Maternity Leave Policy

Maternity leave is to be treated as any other leave for sickness or disability. However, the employee may elect to take leave of absence without pay without exhausting accumulated annual sick leave.

FAMILY AND MEDICAL LEAVE ACT

Entitlements Under The Family and Medical Leave Act

The Family and Medical Leave of 1993 (FMLA), codified at 29CFR 825 entitles “eligible” employees to a total of twelve (12) workweeks of leave during any 12-month period for one of the following reasons:

- A. The birth of a son or daughter, and to care for the newborn child;**
- B. The placement with the employee of a son or daughter for adoption or foster care;**
- C. The care of the employee’s spouse, son, daughter or parent with a serious health condition; and,**
- D. A serious health condition that make the employee unable to perform the functions of the employee’s job.**

The 12-month period used by the state for determining eligibility is the calendar year. In the case of birth or adoption eligibility for FMLA leave shall expire at the end of the 12- month period beginning on the date of a child’s birth or placement. However, leave used for this purpose shall also be calculated on a calendar year basis.

Military Family Leave

On January 28, 2008, the National Defense Authorization Act was signed into law (NDAA), Public Law 110-181. Section 585(a) of the NDAA amended the FMLA to provide eligible employees working for covered employers two important new leave rights related to military service:

- 1. New Qualifying Reason for Leave. Eligible employees are entitled to up to 12 weeks of leave because of “any qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. By the terms of the statute, this provision requires**

the Secretary of Labor to issue regulations defining “any qualifying exigency.” In the interim, employers are encouraged to provide this type of leave to qualifying employees.

2. **New Leave Entitlement.** An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the servicemember. This provision became effective immediately upon enactment. This military caregiver leave is available during “a single 12-month period” during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave. Additional information on the amendments and a version of Title I of the FMLA with the new statutory language incorporated are available on the FMLA amendments Web site at http://www.dol.gov/esa/whd/fmla/NDAA_fmla.htm.

U.S. Department of Labor Employment Standards Administration Wage and Hour Division

Designation of Family and Medical Leave

- A. **FMLA leave is without pay, However if an eligible employee has accumulated, unused sick or annual leave, the employee is required to substitute such paid leave, including any paid catastrophic leave benefits, for any FMLA leave taken during the 12-week period, with the exception that an employee taking maternity leave may elect to not substitute accrued, unused sick and annual leave while on FMLA leave, Paid leave to handle personal and family medical needs is currently available under existing sick, annual and catastrophic leave policies.**

If the Arkansas Tech University has knowledge that an employee’s requested leave period is covered by FMLA, it is the responsibility of the agency to notify the employee that they have been placed on FMLA leave.

Arkansas Tech University must determine whether leave will be counted within two business days of the time the employee gives notice of the need for leave, or if the employer does not initially have sufficient information to make determination, at the point this information becomes available. IF the employer learns that the leave is for an FMLA purpose after leave has begun or within two days for the employee’s return to work, the entire or some portion of the leave period may be reactively accounted as FMLA. An employee desiring to have a leave period designated as FMLA and obtain FMLA protections for the absence must so notify the employer within two business days of returning to work.

Compensatory time off may not be counted as part of the 12-week FMLA entitlement. However, an employee may request to use his/her compensatory time for an FMLA reason.

- B. **FMLA may be taken “intermittently or on a reduced leave schedule” under certain circumstances.**
1. **Leave may be taken on an intermittent or a reduced leave (part-time) schedule so long as this does not result in a reduction in the total amount of leave to which the employee is entitled. Only the amount of leave actually taken may be counted toward the 12 weeks of leave to which an employee is entitled. For example, if an employee who normally works five days a week takes off one day, the employee would use 1/5 of a week of FMLA Leave.**

- 2. Leave may be taken intermittently when medically necessary. If an employee requests intermittent leave that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position with equivalent pay and benefits but which better accommodates recurring periods of leave.**
- 3. When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employer agrees. Such a schedule reduction might occur where an employee, with the employer's agreement, works part-time after the birth of a child, or takes leave in several segments. Arkansas Tech University's agreement is not required for leave during which the mother has serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.**
- 4. An expectant mother may take FMLA leave before the birth of the child for prenatal care or if her condition makes her unable to work.**
- 5. An employee may request leave before the actual placement or adoption of a child if an absence from work is required for the placement for adoption of foster care to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with his or her attorney or doctor(s) representing the birth parent, or submit to a physical examination.**
- 6. An employee may request intermittent or reduced leave schedule to care for a family member in situations where the family member's condition itself is intermittent or where the employee may be needed to share care responsibilities with another party or to make arrangements for changes in care, such as transfer to a nursing home.**
- 7. Intermittent leave may be taken for a serious health condition which requires treatment by a health care provider periodically, rather than for one continuous period of time.**
- 8. Intermittent or reduced schedule leave may be taken for absences where the employee of family member is incapacitated or unable to perform the essential function of the position because of a chronic serious health condition even if he/she does not receive treatment by a health care provider.**

Eligibility

- A. To be eligible for leave under this policy an employee must have been employed by the state for at least (12) months and must have worked at least 1250 hours during the twelve month period preceding the commencement of the leave.**
- B. Spouses who are both employed by the state are entitled to a total of twelve weeks of leave (rather than twelve weeks each) for the birth or adoption of a child or for the care of a sick parent. However, each spouse would be entitled twelve (12) weeks for their own serious health condition or the care of a child or spouse.**

Each employee is entitled to FMLA for the care of his/her own parent only. Nevertheless, the husband and wife are limited to a combined total of 12 weeks for this purpose regardless of which parent or the number of parents involved.

C. Certification: A request for leave for an employee’s own serious health condition or to care for a seriously ill child, spouse, or parent must be supported by a certificate issued by a health care provider. The certificate must contain the following information:

- 1. The date on which the serious health condition commenced**
- 2. The probable duration of the condition**
- 3. The appropriate medical facts within the knowledge of the health care provider regarding the condition.**
- 4. If the leave is to care for a family member, the certificate must contain a statement that the eligible employee is needed to care for the son, daughter, spouse or parent and an estimate of the amount of time required.**
- 5. If the leave is due to the employee’s illness, a statement that the employee is unable to perform the functions of the position must be included.**

If an employee submits a complete certification signed by a health care provider, the agency/institution may not request additional information from the employee’s health care provider. However, a health care provider representing the employer may contact the employee’s health care provider, with the employee’s permission, for purposes of clarification and authenticity of the medical certification.

If there is reason to doubt the validity of a medical certification, Arkansas Tech University may require a second opinion from a health care provider designated or approved by Arkansas Tech University so long as that provider is not employed by the state on a regular basis. If that opinion differs, the opinion of a third health care provider jointly approved by the Arkansas Tech University and employee may be solicited. Those opinions of both the second and third health care providers shall be obtained at Arkansas Tech University’s expense.

The employer and the employee must each act in good faith to attempt to reach agreement on whom to select for the third health care provider. If the employer does not attempt in “good faith” to reach agreement, the employer will be bound by the first certification. If the employee does not attempt in “good faith” to reach agreement, the employee will be bound by the second certification.

D. The employee shall provide Arkansas Tech University with a completed Certification of Physician or Practitioner from thirty (30) days prior to the date leave begins and make efforts to schedule leave so as not to disrupt Arkansas Tech University operations when the necessity for leave is foreseeable such as for the birth or adoption of a child, or planned medical treatment. If circumstances require that leave begin in less than 30 days, the employee shall provide such notice as is practical. In cases of illness, the employee will be required to report periodically on his or her leave status and intention to return to work.

E. The Chancellor may require that the employee obtain subsequent re-certification on a reasonable basis, but not more often than every thirty (30) days.

F. Medical information gathered as a result of the serious health condition is considered confidential.

Employment and Benefits Protection

- A. Upon return from Family and Medical Leave an employee shall be entitled to be restored to (a) the position formerly occupied or (b) an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment.**
- B. Apart from the paid leave actually used during the Family or Medical Leave period, the taking of leave shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced. However, no seniority or employment benefits shall be accrued during the period of leave, the employee is not entitled to any right, benefit, or position of employment other than any right, benefit or position to which the employee would have been entitled had the employee not taken leave.**
- C. Arkansas Tech University shall maintain benefits coverage for the employee under its group health plan at the same level and under the conditions coverage would have been provided if the employee had continued in employment. Arkansas Tech University shall continue to pay the “employer matching” portion of the health insurance premium and the employee will pay the employee’s portion if such was the arrangement prior to leave. If Arkansas Tech University paid the full premium it must continue to do so.**

An employee may choose not to retain health coverage during leave. However, when the employee returns from leave, the employee is entitled to be reinstated on the same terms as prior to taking the leave, without any qualifying period, physical examination, exclusion of preexisting conditions, etc.

Arkansas Tech University’s obligation to maintain health insurance coverage ceases under FMLA if an employee’s premium payment is more than 30 days late. Written notice to the employee that the payment has not been received must be mailed at least 15 days before coverage is to cease.

Arkansas Tech University may recover any payments made by Arkansas Tech University to cover the employee’s share of the premium once the employee returns to work. An employer may recover its share of health plan premium paid during unpaid FMLA if the employee fails to return to work unless the failure to return to work is due to a serious health condition or other circumstances beyond an employee’s control. If an employee upon return from FMLA leave, the employer is entitled to recover the costs incurred for paying the premium whether or not the employee returns to work.

Definitions

- A. Serious Health Condition means an illness, injury, impairment, or physical or mental condition that involves:**
- 1. Inpatient care: Any period of incapacity or treatment in connection with or consequent to inpatient care in a hospital, hospice or residential medical care facility;**
 - 2. Continuing treatment by a health care provider: Any period of incapacity of more than three consecutive calendar days, that also involves continuing treatment as follows:**

- Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a health care provider; or
- Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under supervision of a health care provider. A regimen of continuing treatment includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. It does not include the taking of over-the-counter medications or other similar activities that can be initiated without a visit to a health care provider.

3. Any period of incapacity due to pregnancy

- 4. Treatment for a chronic health condition that 1) requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider, 2) continues over an extended period of time (including recurring episodes of a single underlying condition), and 3) may cause episodic rather than a continuing period of incapacity (asthma, diabetes, epilepsy, etc.);**
- 5. A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective: The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include: Alzheimer's, severe stroke or the terminal stages of a disease.**

6. Multiple treatments for non-chronic conditions:

Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition such as cancer, severe arthritis, or kidney disease that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

- 7. Continuing supervision of, but not necessarily active treatment by, a health care provider due to a serious long-term or chronic condition or disability which cannot be cured.**

NOTE: The FMLA only allows leave for substance abuse in order to undergo treatment by a health care provider and specifically excludes employee absence because of the use of the substance. Stress qualifies as a serious health condition only if it rises to the level of a mental illness or results in a physical illness.

B. Period of Incapacity means a period of time when an employee or family member is unable to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery therefore.

C. Treatment for purposes of FMLA, includes examinations to determine if a serious health condition exists and evaluations of the condition, but does not include routine physical examinations, eye examinations, or dental examinations.

- D. Health Care Provider is defined as a doctor of medicine osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or any other person determined by the United States Department of Labor to be capable of providing health care services, Included in the second part of that definition are podiatrists, dentists, clinical psychologists, clinical social workers, optometrists and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated to exist by x-ray), nurse practitioners and nurse-midwives and Christian Science Practitioners.**
- E. Spouse is defined in accordance with applicable State Law. It is clear from the legislative history that unmarried domestic partners do not qualify for family/medical leave to care for their partner.**
- F. Parent means the biological parent of an employee, or an individual who stands or who stood in loco parentis to an employee, when the employee was a son or daughter. It does not include parent-in-law.**
- G. Son or Daughter means a biological, adopted, foster child, stepchild, legal ward or a child of a person standing in loco parentis**
- Under eighteen (18) years of age; or
 - Eighteen (18) years of age or older and incapable of self-care because of mental or physical disability.
- H. Group Health Plan for purposes of FMLA, this term shall not include an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:**
- 1. No contributions are made by the employer**
 - 2. Participation in the program is completely voluntary for employees.**
 - 3. The sole functions of the employer with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer.**
 - 4. The employer receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction.**
 - 5. The premium charged with respect to such coverage does not increase in the event the employment relationship terminates.**

The same group health plan benefits provided to the employee prior to taking FMLA leave must be maintained during the FMLA leave. For example, if family member coverage is provided to an employee, family member coverage must be maintained during the FMLA leave. Similarly, benefit coverage during FMLA leave for medical care, surgical care, hospital care, dental care, eye care, mental health counseling, substance abuse treatment, etc. must be maintained during leave provided in an employer's group health plan,

including a supplement to a group health plan whether or not provided through a flexible spending account or other component of a cafeteria plan.

Family and Medical Leave Act Record Keeping Requirements

Arkansas Tech University must keep the following records for no less than three years and make them available for inspection, copying and transcription by Department of Labor representatives upon request (29 CFR 825.500 (c)):

A. Basic payroll and identifying employee data, including name, address and occupation; rate or basis of pay in terms of compensation; daily and weekly hours worked per pay period (unless FLSA exempt); additions to or deductions from wages; and total compensation paid;

B. Dates FMLA leave is taken.

C. If FMLA leave is taken in increments of less than one full day, the hours of the leave.

D. Copies of employee notices of leave furnished to the agency/institution, if in writing and copies of all general and specific notices given to employees as required under the FMLA and its regulations.

E. Any documents describing employee benefits or employer policies and practices regarding the taking of paid and unpaid leave.

F. Premium payments of employee benefits.

G. Records of any dispute between the employer and the employee regarding designation of leave as FMLA leave including employer requests for second or third medial opinions.

H. Employer/employee agreement on work schedules during intermittent or reduced schedule leave.

Records and documents relating to medical certifications, re-certifications or medical histories of employees or employees' family members, must be maintained in separate files and be treated as confidential medical records, The only person who can obtain access to these confidential records are: (a) supervisors and managers who need to be informed of restrictions on the work of duties of an employee and necessary accommodations; (b) first aid and safety personnel if an employee's physical or medical condition might require emergency treatment; and (c) government officials investigating compliance with the FMLA (29 CFR 825.500 (a)).

The general rule established by the statute is that the Department of Labor may only require an employer to submit its books or records for review once during any 12-month period. However, if the Department of Labor has reasonable cause to believe an employer has violated the FMLA of its regulations, or if the DOL is investigating an employee complaint, it may request or subpoena an employer's books or records at any time.

The Effect of Other Laws and Employer Practices on FMLA Employee Rights

A. State Law

Nothing in FMLA supersedes any provision of state law that provides greater family or medical leave rights than those provided by FMLA. For example, State of Arkansas employees who take maternity leave have the option to reserve annual and sick leave balances when on FMLA leave.

Even though the agency would normally require employees to use their leave balances during FMLA leave, state law, with regard to maternity leave, extends certain exceptions.

B. Americans With Disabilities Act (ADA)

ADA’s “disability” and FMLA “serious health condition” are different concepts and must be analyzed separately. FMLA entitles eligible employees to 12 weeks of leave in any 12 month period, whereas the ADA allows an indeterminate amount of leave, barring undue hardship, as a reasonable accommodation. FMLA requires employers to maintain employees’ group health plan coverage during FMLA leave on the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period, whereas ADA does not require maintenance of health insurance unless other employees receive health insurance during leave under the same circumstances.

In cases where the two laws interact, i.e. the employee is eligible under both, the University will provide the greater right to the employee. A disabled employee may be entitled to continuous, reduced schedule, or intermittent leave as “reasonable accommodation”, and that leave may also be counted as FMLA leave. Since FMLA requires insurance coverage, the disabled employee would receive health insurance during the 12 week FMLA eligibility period even though that is not an ADA requirement.

FMLA requires reinstatement to the same or equivalent position. If the employee were unable to perform the essential functions of that equivalent position even with reasonable accommodation, because of a disability, the ADA may require the employer to make a reasonable accommodation of that time by allowing the employee to work part-time or by reassigning the employee to a vacant position, barring undue hardship.

C. Workers’ Compensation

Worker’s compensation absence and FMLA leave may run concurrently (subject to proper notice and designation by the employer). Under Workers’ Compensation, the University may offer a medically certified employee a “light duty” position. Under FMLA the employee is permitted, but not required, to accept the position. Thus it is possible that the worker will no longer qualify for Workers’ Compensation, but is still entitled to FMLA.

D. Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA)

An employer’s obligation under FMLA ceases and a COBRA qualifying event may occur when and if 1) the employment relationship would have terminated if the employee had not taken FMLA (i.e. his/her position eliminated due to Reduction in Force and no transfer is available), 2) an employee informs the employer of his or her intent not to return from leave (which may be before the leave starts), or the employee fails to return from leave after exhausting his or her FMLA entitlement.

E. Employee Retirement Security Act (ERISA)

There is no requirement that unpaid FMLA leave be counted as additional service for eligibility, vesting, or benefit accrual purposes. However, the final regulation clarify that if a plan requires an employee to be employed on a specific date in order to be credited with a year of service for participation, vesting, or contribution purposes, an employee on FMLA leave is deemed to have been employed on that date. Previously, employees were required to work in order to receive the year of service.

Family and Medical Leave Act Posting Requirements

Arkansas Tech University is required to post and keep posted on its premises, in conspicuous places where employees are employed, a notice explaining the Act's provisions and providing information concerning the procedures for filing complaints of violations of the Act with the Wage and Hour Division of the Department of Labor. The notice must be posted prominently where it can be readily seen by employees and applicants for employment. Agencies/institutions may duplicate the text of the notice contained in OPM FORM 006 "YOUR RIGHTS FORM", or copies of the required notice may be obtained from local offices of Wage and Hour Division (Telephone: 501-324-5292).

Organ Donor and Bone Marrow Donor Leave

All state employees are entitled to leave with pay for up to thirty (30) days per calendar year in order to serve as a human organ donor. In addition, all state employees are entitled to leave with pay for up to seven (7) days per calendar year to serve as a bone marrow donor.

In order to qualify for organ donor or bone marrow donor leave, employees must provide a written request from both the employee and the medical physician that will perform the transplantation. Following the transplantation, written verification of the fact must be provided by the same physician.

Court and Jury Leave

An employee who serves as a juror or is subpoenaed as a witness to give a deposition in a court or hearing, not involving personal litigation or service as a paid witness outside the scope of state employment is entitled to receive normal and full compensation in addition to any fees paid for such services. If the employee provides reasonable notice to Arkansas Tech University of the required proceedings, the employee shall not be subject to discharge from employment, loss of annual or sick leave days or accrual rates, or any other form of penalty.

Court and jury leave will not be considered annual leave.

"Whistle-Blower" Act Protection

As used in this section, unless the context otherwise requires:

- A. "Adverse action" means discharge, threaten, or otherwise discriminate or retaliate against a state employee in any manner that affects the employee's employment, including compensation, job location, rights, immunities, promotions or privileges.**
- B. "Appropriate authority" means a state agency or organization having jurisdiction over criminal law enforcement, regulatory violations, professional conduct or ethics, or waste; or a member, officer, agent, investigator, auditor, representative or supervisory employee of the body, agency or**

organization. The terms includes, but is not limited to, the office of the Attorney General, the office of the Auditor of State, the Arkansas Ethics Commission, the Legislative Joint Audit Committee and the Division of Legislative Audit, and the offices of the various prosecuting attorneys having the power and duty to investigate criminal law enforcement, regulatory violations, professional conduct or ethics, or waste.

C. “Communicate” means a verbal or written report to an appropriate authority.

D. “State employee” means a person who performs a full or part-time service for wages, salary, or other remuneration for a state agency or institution of higher education.

E. “State employer” means any of the following:

- 1. An agency, department, board, commission, division, office, bureau, council, authority or other instrumentality of the State of Arkansas, including the offices of the various Arkansas elected constitutional officers and the Arkansas General Assembly and its agencies, bureaus, and divisions;**
- 2. A state-supported college, university, technical college, community college or other institution of higher education, or department, division, or agency of a state institution of higher education;**
- 3. The Arkansas Supreme Court, Court of Appeals, The Administrative Office of the Courts, the circuit and chancery courts, and prosecuting attorney’s offices;**

F. “Violation” means an infraction or a breach, which is not of a merely technical or minimal nature, of a state statute or regulation, of a political subdivision ordinance or regulation or of a code of conduct or code of ethics designed to protect the interest of the public or a public employer.

G. “Waste” means a state agency’s or institution of higher education’s conduct or omissions which result in substantial abuse, misuse, destruction or loss of public funds, property, or manpower belonging to or derived from state or local political subdivision’s resources.

H. “Whistle-blower” means a person who witnesses or has evidence of a waste or violation while employed with a state agency or institution of higher education and who communicates, in good faith, or testifies to, the waste or violation, verbally or in writing, to one of the employee’s superiors, to an agent of the public employer or to an appropriate authority, provided that the communication is made prior to any adverse action by the employer.

The institution of higher education shall not take adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith the existence of waste of public funds, property, or manpower, including federal funds, property, or manpower, administered or controlled by the University, or a violation or suspected violation of law, rule or regulation adopted under the law of this State or a political subdivision of the state to an appropriate authority. The communication shall be made at a time and in a manner which gives the public employer reasonable notice of the need to correct the waste or violation.

A state employee communicates in good faith if there is a reasonable basis in fact for the communication of the existence of waste or of a violation. Good faith is lacking when the state employee does not have personal knowledge of a factual basis for the communication or where the state employee knew or

reasonably should have known that the communication of the waste or of the violation is malicious, false or frivolous.

An institution of higher education shall not take an adverse action against a state employee because the employee participates or give information in an investigation, hearing, court proceeding, legislative or other inquiry, or in any form of administrative review.

A state or institution of higher education shall not take an adverse action against a state employee because an employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law or a rule or regulation adopted under the authority of laws of the state.

A state employee who alleges a violation of “Whistle-Blower” protections may bring a civil action for appropriate injunctive relief or actual damages, or both, within one hundred eighty (180) calendar days after the occurrence of the alleged violation.

To prevail in an action brought under this law, the state employee shall establish, by preponderance of the evidence, that the employee has suffered an adverse action because the employee, or a person acting on his behalf, engaged or intended to engage in a protected activity.

As used in this section, “damages” means damages for a job-related injury or loss cause by each violation of the “Whistle-Blower” act, including but not limited to, fringe benefits, retirement service credit, compensation for lost wages, benefits, and any other remuneration, and reasonable court costs and attorneys’ fees.

A state institution of higher education shall have an affirmative defense to a civil action brought by a state employee if the adverse action taken against the state employee was due to employee misconduct, poor job performance or a reduction in workforce unrelated to a communication made pursuant to the “Whistle-Blower” protections. The state agency or institution of higher education must prove the existence of the state employee’s misconduct, poor job performance or a reduction in workforce is unrelated to the communication by a preponderance of the evidence.

A court in rendering judgment under this act may order any or all of the following remedies:

- A. An injunction to restrain continued violation of the provisions of the “Whistle-Blower” act;**
- B. The reinstatement of the public employee to the same position held before the adverse action or to an equivalent position;**
- C. The reinstatement of full fringe benefits and retirement service credit;**
- D. The compensation for lost wages, benefits, and any other remuneration;**
- E. The payment by the state employer of reasonable court costs and attorney’s fees.**

A court may also order that reasonable attorney’s fees and court costs be awarded to the employer if the court determine that an action brought by a state employee under this act is without basis in law or fact.

Provided, a state employ shall not be assessed attorney’s fees under this section if, after exercising reasonable and diligent efforts after filing the suit, the state employee files a voluntary nonsuit concerning the employer within sixty (60) calendar days after determining the employer would not be liable for damages.

The “Whistler-Blower” Act shall not be construed to permit a disclosure which would diminish or impair the rights of any person or any public official to the continued protection of confidentiality of records or working papers where a statute or the common law provides for protection.

State agencies and institutions of higher education shall use appropriate means to notify their employees of their protection and obligations under the act.

Drug Free Workplace Policy

State agencies, boards, commissions and institutions are required to certify that they are in compliance with the Drug Free Workplace Act of 1988. It is the policy of the State of Arkansas that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in a state agency’s or institution’s workplace is prohibited. Violation of this policy can subject employees to discipline up to and including termination.

Social Security

The University pays the maximum as specified by law.

Travel Card

To request a State Travel Card, an individual must be a current full time employee of Arkansas Tech University subject to having reimbursable travel expenses as a normal part of performing his/her official University duties and must meet the following criteria:

- 1. Spends more than \$250 per year on travel, or**
- 2. Travels within the State twice per year, or**
- 3. Travels out of State once per year.**

The Individual Account application forms must be completed to request a travel card. They can be found on the ATU web page under on-line forms under Travel Forms (go to www.atu.edu; click on “Faculty and Staff”; and then click on “Online Forms” or go to <http://budget.atu.edu> and click on “Forms”). The completed forms must be submitted to the Budget Office, Bryan Hall, Room 208 for processing.

Unemployment Insurance

All regular employees of the University are covered under the Arkansas Employment Security Law.

Worker's Compensation Insurance

All employees are insured under the Worker's Compensation Insurance program without cost to the individual. This program provides benefits in connection with injuries received on the job. Injuries should be reported to the Human Resources Office within twenty-four hours.

PROFESSIONAL GROWTH AND DEVELOPMENT

At Arkansas Tech University professional growth and development are critical individual and instructional concerns. A major component of the University's efforts is to maintain and improve the quality and scope of the instructional program.

The following programs have been established at Arkansas Tech University to enhance individual and departmental efforts for professional growth and development. Additional information on these programs is available at <http://research.atu.edu>.

On-Campus Study

Faculty members may enroll for credit or for audit, at no cost, in undergraduate and graduate courses. Procedures for utilizing this aid for on-campus study are listed in the "Faculty Benefits and Privileges" section of this handbook. A faculty member may participate in the learning activities of classes offered through class visitation, upon approval of the class instructor.

Other Opportunities for Professional Growth and Development

Arkansas Tech University – Ozark Campus institutes professional development activities through the Chief Academic Officer's office in consultation with the Professional Development Committee. The Adhoc Professional Development Committee shall be made up of faculty members representing Allied Health, Adult & Continuing Education, Business Technology, General Technology and Industry/Technology areas. The task of the Professional Development Committee is to establish campus wide initiatives or needs with regards to faculty and professional development offerings which effect student learning campus wide. In addition to campus initiatives, professional development activities specific to each program will be developed by the individual Program Chairs in consultation with the Chief Academic Officer. Program Chairs are responsible to outline specific professional development activities which enhance student learning and individual program development. As a guide to determine program professional development needs, Program Chairs will organize development activities using but not limited to: assessment data, advisory board data, accreditation requirements or emerging technologies as sources of reference in outlining professional development activities for their program. Full time faculty members will keep in their portfolio professional development activities for each year July 1 – June 30.

Requests of funding for developmental activities not listed in this section and for activities requiring support in excess of that available through departmental budgets should be made in consultation with the Program Chair to determine the appropriate method of application.

PRIVATE GIFTS TO ARKANSAS TECH UNIVERSITY

Securing private gifts for Arkansas Tech University is a team effort. Faculty, staff, and administrative personnel are considered impactful members of the fundraising efforts at Arkansas Tech University. The contacts and communication each employee at Tech has with the students throughout their college careers, and afterwards, is an important first step in developing alumni who care enough about their alma mater to contribute to its support. The Arkansas Tech University Foundation serves as a channel for all private gifts which benefit Arkansas Tech University. All Arkansas Tech University fundraising activities must be approved in advance of the activity through the Advancement Office, Administration Building, Room 209.

Purpose

The Foundation partners with Arkansas Tech to strengthen and further the University's mission. The Arkansas Tech University Foundation is recognized by Arkansas Tech's Board of Trustees as a private partner, tax exempt, and an independent organization to receive and manage private gifts. The Arkansas Tech University Foundation maintains accounts for many of the academic departments and collegiate programs, as well as scholarship accounts. These accounts receive contributions from donors who direct that their gifts be used by a particular department, or to support the Alumni Association, the Green and Gold Booster Club, or any of the other student programs on campus. The appropriate Chief Officer, Program Chair, or other program advisor may request expenditures from these funds, to support travel, professional meetings, luncheons, general supplies, or other discretionary spending needs.

Management

The Foundation is governed by the ATU Foundation Board of Directors. Designation of membership is done through a selection process. The volunteer members of the Foundation Board provide prudent and sound investment management. They also work closely with the Advancement Division to raise funds from corporations, foundations, and individuals.

Faculty and Staff Payroll Deductions

Through a program of payroll deductions, faculty and staff members may authorize a contribution withheld from their monthly paycheck, to be used specifically by the academic department or program of their choice. Because the Foundation is a separate, non-profit organization, all contributions received are qualified tax-deductible charitable contributions. Necessary forms can be obtained from the Advancement Division in Administration 209, by phone at 968-0400, or by E-mail to givetotech@atu.edu.

A Strong Partnership for Leadership

The strong partnership between Arkansas Tech University and the Arkansas Tech University Foundation has enhanced private giving through the years. This partnership will also serve as the catalyst that will allow Arkansas Tech to strengthen its educational leadership and academic excellence into the future.

DISABILITY SERVICES FOR STUDENTS

Arkansas Tech is subject to and endorses both the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. The Disabilities Coordinator serves as the coordinator for these federal

programs. *The Disabilities Coordinator is located in the Administration Building, and may be contacted by calling (479) 667-2117, or (479) 667-1422 (FAX).

STUDENT SCHEDULING

Registration

Arkansas Tech utilizes an on-line student registration system. Registration in classes during August and January as well as for summer sessions is conducted on a rotating alphabetical schedule. Pre-registration for fall and spring semesters is conducted by hours earned with upperclassman first. Generally, students must be approved through the offices of Admissions, the Registrar, Student Services, and Student Accounts prior to official enrollment in classes.

Official class rosters reflecting enrollments as of the first day of class, the last day to enroll, and the eleventh day of classes are available on Banner and OneTech. In accordance with Federal financial aid regulations, class attendance must be accounted and reported, using the announced procedure. The eleventh-day-of-class roster is the official class roll. Faculty should check this roster and report immediately to the Office of Student Services any discrepancies between it and the students actually attending class. The official roster is kept current by distributions from the Office of Student Services.

Procedure for Changing Class Schedule

Students may drop, add, or change sections of courses only by following the official procedure, which involves these steps: (1) obtaining from the Office of Student Services the official course change form on which the student lists the reason for the change and itemizes all changes in classes or sections; (2) obtaining the advisor's approval for the change; and (3) returning the required form to the Office of Student Services. Students who withdraw from a class prior to the eleventh-day will not be listed on the class roster. Thereafter, changes will be reflected by accessing the electronic roster.

The deadline for adding or changing sections of courses is approximately one week after registration. Thereafter, students may drop courses according to the procedure outlined in the "Regulations and Procedures" section of the University catalogs.

ASSEMBLY PROGRAMS/SPECIAL DAYS

Assembly Programs

Each semester a few day-time assembly programs are held. Except for programs of unusual significance, there will be no campus-wide dismissal of classes for assembly programs. However, faculty members have the option of dismissing a class to attend a program which promises to be of special interest or value to them or their students.

Special Days

Family Day is a special day for the Ozark Campus. Members of the faculty cooperate in making each of these days a successful occasion by assisting in the planning of programs and by attending assemblies and other events incident to these days.

RELATION OF THE FACULTY MEMBER TO STUDENTS

The primary relationship of a faculty member to students is most relevant in matters pertaining to instruction. The following standard operating procedures are set forth as guidelines for meeting conditions which arise from ongoing classroom activities.

ASSIGNMENT OF INSTRUCTIONAL DUTIES

Course assignments for each faculty member are made by the Program Chair in consultation with the Chief Academic Officer, subject to the approval of the Chancellor. The schedule of courses for each term is prepared and published by the Academic Affairs office. To identify problems and reduce conflicts for students, the Academic Affairs office prepares a tentative schedule and distributes it to the faculty two or three weeks prior to the publication of the official schedule of course offerings.

Faculty Appointments:

Faculty members are given one-year contracts, submitted to the Board of Trustees for renewal in May of each calendar year. Should a faculty member's contract not be renewed, their employment will end upon the expiration of the contract. Generally and absent extraordinary circumstances, notice will be given of non-renewal by 31 March.

Faculty Qualifications:

Ozark Campus faculty members will hold an academic, teaching, or industry-recognized credential appropriate to the discipline taught. Faculty members should possess a minimum of 3 years of occupational experience and/or appropriate industry credential and/or teaching experience.

Teaching Load:

The average faculty teaching load on the Ozark Campus equates to 15 credit hours OR a minimum of 25 contact/lab hours per week, depending on the discipline taught. Faculty members who carry 15 credit hours per semester will hold a minimum of ten office hours per week.

Teaching loads are determined by program chairs of the discipline subject to approval by the Chief Academic Officer. Teaching loads for program chairs are adjusted by the Chief Academic Officer to allow for administrative duties and to comply with appropriate governing board and/or accreditation standards committee of the discipline.

Summer teaching loads are assigned based on the faculty contractual obligations for 10 ½ month contracts. Faculty members on nine-month contracts are paid 1/9th of their base salary for one summer term, which equals 6 credit hours OR a minimum of 25 contact/lab hours per week. Summer course assignments are contingent upon enrollment.

Faculty duties and responsibilities:

- 1. Classroom, Laboratory, and Clinical Instruction.**
- 2. Office Hours**
- 3. Academic Advising**
- 4. Instructional development activities**
- 5. Program developmental activities (advisory board meeting, industry visits)**
- 6. Accreditation requirements**
- 7. Assessment of student learning activities**
- 8. Service to campus (university committees)**
- 9. Service to community**

CLASS RECORDS

University Grades and Attendance

It is the responsibility of the faculty member to maintain adequate records necessary for grading and accounting for student attendance prior to the official attendance date and throughout the semester/term. Class rolls and attendance records are the property of Arkansas Tech University. They should be retained for at least six months following the conclusion of the course or turned over to the department head or dean in the event that the faculty member leaves the University.

Attendance Accounting

The faculty member is to report students who have not reported to class by the official attendance date. Based on the reporting, students not reporting to class will be dropped for non-attendance.

For electronically delivered classes, the faculty member must ascertain whether students have actively contributed to the course at least once on or before the attendance verification date for the course. For purposes of attendance accounting this means that faculty are required to have students complete the Blackboard Attendance Accounting Module or submit an assignment on or before the attendance verification date for the course.

Attendance accounting is completed electronically in the Banner system. Instructions are provided to all faculty members prior to the beginning of each semester.

Class Attendance

The following statements regarding faculty and student attendance and the faculty members' responsibility to set student attendance expectations for each class do not release the faculty from the responsibility to maintain student attendance records throughout the semester/term.

Faculty. Any time that a faculty member must miss a class, the students are entitled to advance notice or, if the absence is due to a last minute emergency, to notification at the time they report to class. Absence by a faculty member must have the prior approval of the Department Head or the Dean of the College, as appropriate.

Students. The policy of the University in regard to class absences may be stated as the considered belief that regular class attendance is essential to the maximum growth and development of the student, and that students, in their own interest, are therefore responsible for attending all classes for which they are enrolled. For electronically delivered classes, where physical attendance is not a reasonable requirement, equivalent on-line interaction must be documented in lieu of attendance. Absence/participation policies and procedures are applicable both to the regular terms and to the summer sessions.

The procedure for implementation of this policy (as adopted by the faculty on September 9, 1966, and as amended by the Faculty Senate on September 27, 1990) is as follows:

1. Control of class attendance is vested in the teacher who has the responsibility for clearly defining in each course, early in the semester, the standards and procedures in regard to regularity and punctuality of class attendance.

2. Students will not be penalized by their instructors for class absences that result from participation in officially sanctioned University activities. It is the responsibility of students to present to their instructors notice and verification of authorized participation in such activities. Individual instructors retain the authority to determine how students in their classes will avoid academic penalties for the resulting absences.
3. Before invoking the most severe penalty for unsatisfactory class attendance or non-attendance – dropping a student from a course with a grade of WN – withdraw for non-attendance – the instructor is obligated to notify the student, in writing, that an additional absence would result in this penalty. The WN may also be awarded by an instructor to a student who does not participate in an online course as required by federal financial aid guidelines.
4. A student accumulating an excessive number of unjustifiable absences/non-attendance in an audited course may be administratively withdrawn at the request of the instructor.
5. The action of dropping a student from a course for excessive absences/non-attendance becomes final when the instructor reports this action in writing to the Registrar's Office. The student who chooses to protest such action as unjustified has recourse through the grievance procedure for appeal of an academic grade as outlined beginning on page 135.

GRADING--POLICY AND REPORTING

Grading System

Arkansas Tech University uses the four-point system of computing grade points: A, 4 points; B, 3 points; C, 2 points; D, 1 point; F, 0 points.

Students may repeat courses they have taken at Arkansas Tech University for the purpose of grade point adjustments (1) only by re-enrolling in the same courses at Arkansas Tech University and (2) subject to the following provisions. For repeated courses, only the grade from the best attempt of the repeated course is calculated into a student's cumulative grade point although all grades and all attempts are recorded on the student's academic record. Students may not repeat a course in which the highest grade possible has already been earned. Adjustments to cumulative grade points are not made for courses transferred from other colleges or universities.

Grading

Although Arkansas Tech University does not require fixed percentages in individual classes, equitable grading requires certain rough proportions which should, generally, approximate the normal grade curves. This system is more applicable to lower level courses; upper-level courses will usually depart from this pattern.

Grades are reported electronically to the Registrar's office at the conclusion of each semester or term. Mid-term grades are reported for freshmen and sophomores only. A grade of "I" may be recorded for a student who has not completed all the requirements of a course only in situations where the student has an illness or other circumstances beyond the student's control, and has completed seventy-five percent of the course requirements. If a grade of "I" is assigned the instructor will set a reasonable time limit within the following semester in which the work must be completed. Beginning the first summer term, 1990, and thereafter, a grade of "I" will not be computed in the grade-point average for the semester recorded; however, the "I" will be automatically changed to a grade of "F" for grade and grade-point purposes at the end of the next regular semester (fall or spring) unless course requirements are completed and the

final grade is reported before the end of the semester. A grade of "I" recorded prior to the first summer term, 1990, will be computed as an "F" for grade-point purposes until the "I" is removed. The change of a grade of "I" to a permanent grade is accomplished by written notification from the instructor to the Registrar.

No grade other than "I" may be changed after it is recorded except if an instructor finds that a grade has been erroneously reported. In such instances the instructor may correct the grade by submitting a Grade Change Request form with an explanation of the change to the Chief Academic Officer.

Reporting Grades

Grades are to be reported at mid-term (for freshmen and sophomores only) and the end of a semester through an on-line grading system. Only final grades are reported in each summer term. Faculty members are obligated to report grades on schedule as requested by the Chief Academic Officer.

After grade submission due dates, grades are available on the student's OneTech account. Notification is sent to students in academic jeopardy.

Examination Week

At the end of each fall and spring semester approximately one week is set aside for examination week. Examination week is established as a time to administer end-of-course examinations. For laboratory, internship, and other special courses approved by the Chief Academic Officer, examination week will be the last week of classes. For all other courses, examination week will be the week after the last day of classes. The end-of-course examination schedule is published by the Academic Affairs office. It is Arkansas Tech University policy that each full-time and each part-time faculty member will administer, at the assigned time, an end-of-course examination appropriate for each course assigned to the faculty member. Failure to administer an end-of-course examination, at the assigned time, may be considered an act of insubordination. Any deviation from the end-of-course examination schedule must be approved by the appropriate program chair, school dean, or Chief Academic Officer. Instructors who wish to administer a single test to multiple sections of a course should submit such a request to the Academic Affairs office at least two months before examination week. In the summer terms there is no separate schedule of examinations-instructors give the end-of-course examinations the last day of the summer term.

CODE OF ACADEMIC INTEGRITY

The Preamble

A university exists for the purpose of educating students and granting degrees to all students who complete graduation requirements. Therefore, Arkansas Tech University requires the highest standards of academic integrity and conduct from all students. Students at Arkansas Tech University will refrain from committing any of the violations of academic integrity as detailed below. Further, Arkansas Tech University expects that all classes maintain an academic and courteous atmosphere. Both the professor and students are responsible for creating an environment that enables all students to reach their academic potential. The classroom is under the control of the professor who will give students a statement of his or her classroom expectations and policies in a syllabus at the beginning of the semester. The term "classroom" as used in this Academic Integrity Policy includes face-to-face, hybrid and online classes. It is not restricted to classrooms on or off campus but also includes playing fields and laboratories, as well as University computer areas on or off campus as well as field trips associated with class-related matters. Students will conduct themselves in a non-disruptive and civil manner when attending classes and other events associated with Arkansas Tech University.

A. Types of Academic Integrity Violations

A violation of academic integrity refers to various categories of inappropriate academic behavior with respect to a course. Students must refrain from cheating, plagiarism, fabrication, impersonation, forgery, collusion and/or other dishonest practices. Below are common examples of unacceptable academic behavior.

Cheating on an examination, quiz, report, or assignment involves any of several categories of dishonest activity. Examples of cheating *include, but are not limited to*:

- copying from the examination or quiz of another student;
- using classroom notes, messages, or crib sheets in any format (paper or electronic) which gives the student extra help on the exam or quiz, and which were not approved by the instructor of the class;
- obtaining advance copies of exams or quizzes;
- soliciting of unethical academic services, including purchasing of research papers, essays, or any other scholastic endeavor; and
- using the same paper to fulfill requirements in several classes without the consent of the professors teaching those classes.

Plagiarism is stealing the ideas, data, tables, graphs, artistic works, or writing of another person and using them as one's own. This includes not only passages, but also sentences and phrases incorporated in the student's written work without acknowledgment to the true author. Any paper written by cutting and pasting from the Internet or any other source is plagiarized. Slight modifications in wording do not change the fact that the sentence or phrase is plagiarized. Acknowledgment of the source of ideas must be made through a recognized footnoting or citation format (MLA, APA, etc.). Plagiarism includes recasting the phrase or passage in the student's own words of another's ideas that are not considered common knowledge. Acknowledgment of source must be made in this case as well.

Collusion is the act of collaborating with one or more students or others on coursework (i.e., a test, assignments, paper, etc.) when the professor has not expressly approved collaboration or group work on the assignment. Individual coursework is to be entirely the work of the student submitting it for a grade. When a student submits work that was produced through collaboration with others without the authorization of the instructor as the individual student's own work and performance, this is a violation of academic integrity.

Impersonation, fabrication, and forgery are all violations of academic integrity. Impersonation is assuming a student's identity with the intent to provide an advantage for the student academically. Fabrication and forgery are "to fake; forge (a document signature, etc.)," particularly the faking or forging of the information or signature on course assignments. Examples of impersonation *include but are not limited to* hiring a substitute to take an exam, write a paper; or complete some other course assignment.

Examples of academic fabrication and forgery *include but are not limited to*:

- furnishing false information, data, or research findings on coursework;
- failing to identify yourself honestly in the context of an academic obligation;
- fabricating or altering information or data and presenting it as legitimate;
- providing false or misleading information to an instructor or any other University official;
- forging an instructor's signature on a letter of recommendation or any other document;
- submitting an altered transcript of grades to or from another institution or employer;
- putting your name on another person's exam or assignment; and
- altering a previously graded exam or assignment for purposes of a grade appeal or of gaining points in a re-grading process.

B. Classroom Behavior

Each member of the Arkansas Tech University community is obliged to conduct her/himself in a non-disruptive manner in the classroom. If a student is being disruptive, the instructor will address the situation, discussing behavioral expectations moving forward, and emphasize possible consequences for failing to comply. If the disruptive behavior persists, the student may be suspended on an interim basis from the class. Instructors may report excessive and/or repeated disruptive behavior through the Procedures for Addressing Violations of Academic Integrity and Classroom Behavior. This process includes an appeals process students may use to challenge perceived violations or excessive penalties. Students who exhibit disruptive behavior may also be referred to the Department of Student Conduct (see Article III, Section C of the Arkansas Tech University Student Handbook).

If a classroom incident constitutes an emergency (e.g., any immediate threat to life and/or property) and requires an immediate response from police, fire or emergency medical services, **please call 911**.

C. Procedures for Addressing Violations of Academic Integrity and Classroom Behavior

Since allegations of a violation of academic integrity may have serious consequences, below are the procedures for reporting allegations, the administrative procedure for processing alleged violations, and a statement of institutional penalties that may be applied on top of the instructor's academic penalty in those cases where violations occurred.

1. Principles

1. Arkansas Tech University promotes a culture of academic integrity and professionalism that enhances the quality of an Arkansas Tech degree.
2. The process for reporting and adjudicating an allegation of academic dishonesty should be fair and just for all involved.
3. Faculty members have sole purview for any academic sanction administered if a violation of the academic integrity policy is found to have occurred.
4. Arkansas Tech supports educational, not solely punitive, measures for addressing violations of the academic integrity policy.

2. Reporting Procedure

1. If any instructor, student, or staff member has compelling facts and evidence an individual has violated any category of academic integrity, that instructor, student, or staff member must report the suspected violation(s) to Academic Affairs using the Arkansas Tech University "Academic Integrity Referral" form found at: www.atu.edu/academic-integrity.
2. Upon receipt of an allegation, Academic Affairs will either create a file for the student if it is a first-time offense or add the report to an existing file for the individual if one already exists.

3. Administrative Procedure

1. Within *three business days* of receiving a reported violation of academic integrity, Academic Affairs will notify:
 - a. The instructor of record for the course, the Department Head and Dean. They will be supplied the report, the evidence and the number of allegations and proven violations of academic integrity or disruptive classroom behavior by the student.
 - b. The student of the alleged violation, the report and evidence.

NOTE: A course withdrawal or drop by the student that occurs after a reported violation of academic integrity or classroom behavioral conduct may not be honored. If a violation is determined to have occurred, the student may be reinstated if the penalty is an “F” in the course.

2. Upon notification of an alleged violation, the student has *five business days* to schedule a meeting with the instructor to resolve the allegation. If the instructor is unreachable, the student should arrange within this timeframe a meeting with the instructor’s Department Head or Dean.
 - a. If the student fails to respond to the instructor (or Department Head or Dean) within *five business days* of notification, this is taken as tacit acceptance that the violation occurred. After five business days, the instructor informs Academic Affairs, his/her Department Head, and Dean that the student has failed to request a meeting. The instructor may apply the academic penalty as prescribed in his/her course syllabus. Academic Affairs may also apply additional institutional penalties based on the number and severity of the violation.
 - b. If the student does request a meeting within five business days, the instructor (or Department Head or Dean, if necessary) and student will meet (either face-to-face, by conference call or using other electronic means) to attempt to resolve the allegation. This meeting may result in one of the following:
 1. The student provides explanation and evidence to the satisfaction of the instructor that no violation occurred. The instructor informs Academic Affairs, his/her Department Head, and Dean that the allegation against the student has been resolved and no penalties will be assessed.
 2. The instructor educates the student on what qualifies as a violation of the policy and the student accepts that he/she violated it. The instructor may apply the academic penalty as prescribed in the course syllabus, which may include a final grade of “F” that would override the student’s course drop or withdrawal if such has occurred. Academic Affairs may also apply additional institutional penalties based on the number and severity of the violation.

NOTE: If the student feels the instructor’s academic penalty is excessive or unfair, he/she should refer to the Student Handbook, Article V: Classroom Provisions, Section C: Student Academic Grievance Procedure, on how to appeal it.

3. The student and the instructor are unable to resolve the issue. The student then has *three business days* from the meeting to file an appeal with Academic Affairs. Academic Affairs then forwards the case to the Academic Affairs Appeals Committee Chair for resolution.
 - c. If neither the individual nor the instructor acknowledge the report and/or take action to resolve it within the *five business days*, Academic Affairs follows up with the Department Head and/or Dean to get acknowledgment of the report and resolution of the allegation by the student and/or instructor.
3. For cases where the student appeals the allegation to the Academic Appeals Committee, the Chair will provide the Academic Appeals Committee with the original report and evidence provided by the reporting party, any report and evidence supplied by the instructor, as well as the appeal and explanation by the student. The committee will decide whether the facts merit investigation. If so, the Academic Appeals Committee will appoint from its body a subcommittee to investigate and recommend action. The Chair forms the subcommittee of at least three members (two students and a faculty member) who will be responsible for investigating the case. The Chair will provide the subcommittee with the original report and evidence provided by the reporting party, any report and evidence supplied by the instructor, as well as the appeal and explanation by the student. Upon conclusion of its investigation, the subcommittee reports its findings and recommendation to the Chair of the Academic Appeals Committee. The Chair then shares the subcommittee’s recommendation with the full Academic Appeals Committee, who make the final decision on the appeal. The Chair will report the full committee’s decision to Academic Affairs. Academic Affairs then contacts all parties as follows:
 - a. If the decision is that no violation has occurred, Academic Affairs notifies the individual, as well as the instructor, his/her Department Head and Dean to that effect. No penalties are assessed against the student.

b. If the decision is that a violation of the policy occurred, Academic Affairs notifies the student, as well as the instructor, his/her Department Head and Dean to that effect. The instructor may apply the academic penalty as prescribed in the course syllabus, which may include a final grade of “F” that would trump the student’s course drop or withdrawal if such has occurred. Academic Affairs may also apply additional institutional penalties based on the number and severity of the violation.

Academic Affairs updates the file for the individual as appropriate and the issue is resolved.

4. The procedural process for violations of academic integrity for Graduate Students can be found in the Graduate Catalog in the Academic Information Section located at this website:
https://www.atu.edu/catalog/graduate/academic_info.php.

D. Penalties for Violations of Academic Integrity and Classroom Behavior

1. Arkansas Tech University respects the right of the instructor of record for the course to determine and apply all academic sanctions for violations of academic integrity. The classroom is under the control of the instructor, who will give students a statement of his/her classroom expectations and policies in a syllabus at the beginning of the semester. Typical penalties *can include, but are not limited to*, giving an ‘F’ on a particular quiz or exam, giving an ‘F’ on a term paper or other written work, or giving the student an ‘F’ or ‘W’ for the course. Instructors may also have different penalties depending on the number and severity of violations.
2. As an institution, Arkansas Tech University may deem it necessary to apply additional sanctions beyond the academic penalties imposed through the course. Examples of the types of penalties Arkansas Tech may choose to apply *include but are not limited to* required completion of academic integrity training, as well as disciplinary probation, suspension or expulsion from the university. Any institutional penalties that may be applied will vary based on the number and severity of violations. Below is the general rubric Academic Affairs will follow when applying an institutional penalty.
 - a. First Offense: If an institutional penalty is applied, generally this will involve required training on academic integrity and acceptable academic practices and behaviors. However, the severity of the violation may justify probation or even suspension from the university.
 - i. Note: The academic integrity course or training is to be completed within *two business weeks* of notification by Academic Affairs that it is required. Failure to complete the course in this timely fashion may result in a hold being placed on the individual’s account by the Registrar. It will not be removed until the training is completed. Also, any costs for the course or training must be paid by the student.
 - b. Second Offense: For a second offense, additional training on acceptable academic practices and behaviors may be required, as well as disciplinary probation. However, the severity of the violation may entail suspension or even expulsion from the university.
 - c. Third Offense: For a third offense the individual has already had two courses on academic training and incurred disciplinary probation. The minimum penalty is now suspension. However, the severity of the violation along with the multiple infractions may result in expulsion from the university.
 - d. Fourth Offense: For a fourth offense, the individual will be expelled from the university.

UNDERGRADUATE STUDENT ACADEMIC GRIEVANCE PROCEDURE

Appeal of an Academic Course Grade

This section describes the process for an academic grade appeal for undergraduate students. The relevant policy for grade appeal by graduate students can be found in the Graduate Catalog.

The assessment of the quality of a student's academic performance is solely and properly one of the major responsibilities of university faculty members. A grade appeal is not appropriate when a student simply disagrees with the faculty member's judgment about the quality of the student's work. Grade appeals should be based on problems of process and not on differences in opinion concerning academic performance. A student who is uncertain about whether or not a grade should be appealed or who needs additional information about the grade appeal process can contact the department head's office (or dean's office should the instructor be the department head). This policy is implemented within the college that administratively houses the department through which the course was offered, irrespective of a student's major or class standing.

The grade appeal process is designed to give the student an opportunity to correct an injustice. Disagreement or dissatisfaction with a faculty member's professional evaluation of coursework is not the basis for a grade appeal. It should only be utilized when the student contends that the final grade assigned for the course by the instructor is a result of procedural/calculation error, a result of prejudice, or is arbitrary and/or capricious. Arbitrary and/or capricious here implies that,

- 1) The student has been assigned a grade on the basis of something other than their performance in the course; or
- 2) Standards utilized in determining final course grade were not evenly applied to all students in the course; or
- 3) The grade is based on standards that are unannounced or are substantially different and unreasonable departures from those articulated in the course syllabus at the beginning of the course.

The burden of proof is always on the student appellant to prove that a change of grade is an appropriate action in their case.

Informal

In all cases, the student must begin a grade appeal process informally with the instructor involved to attempt to resolve the disagreement in a cooperative atmosphere. The student must explain their position to the instructor and attempt to understand the justification for the grade assigned by the instructor. The purpose of the meeting is to reach a mutual understanding of the student's situation and the instructor's actions and to resolve differences in an informal and cooperative manner. If the student and instructor cannot, after consultation, reach a satisfactory resolution, the student may begin a formal grade appeal process based on procedural/ calculation error, prejudice, or an arbitrary and/or capricious assertion.

Formal

The following apply to the formal appeal process for an academic final course grade assigned by an instructor and challenged by a student that has failed to reach a resolution during the informal process.

- 1. Appeal of a final course grade must be made by the student directly affected and must be made immediately following the conclusion of the course. Immediately, here, means before the beginning of another semester or summer term.**

2. **All appeals of a grade must begin with the student making a written appeal to the instructor involved and explaining the nature of the problem and the student's desired resolution. In the case of an instructor who has terminated his/her association with the University, the appeal would begin with the department head or to the dean of the college if the department head should be the instructor involved.**

Appeals must be presented in writing and contain the following information:

- a. A listing of the student name, course prefix, number, section, semester term/year and instructor of course;
 - b. A clear concise statement describing the specific supporting evidence of arbitrary and/or capricious grading as defined above must be provided. It is very important that the basis of the appeal is clearly understood.;
 - c. A brief summary of the prior informal attempts to resolve the matter and the results of those previous discussions; and
 - d. A specific statement of the action or resolution sought.
3. The instructor (or department head/dean) will have 10 business days to provide a written response to the student appellant. If the instructor is a department head who has left the University and the dean determines no grade change is warranted, the appeals process is completed.
 4. If the appeal is not resolved in the previous step, within 5 business days of the date of the written response from the instructor, the student wishing further consideration would take the issue and documents to the head of the department in which the course is taught, or to the dean of the college if the department head should be the instructor involved. The department head (or dean) will review the case and make a judgment on the appeal to determine if a change of grade is warranted. The department head (or dean) will provide a written notice to the instructor and student appellant of their decision within 10 business days of receiving the documents from **the student appellant. If the instructor is a department head and the dean determines no grade change is warranted, the appeals process is completed.**
 5. **If the student wishes further consideration after the previous step, within 5 business days of the date of the written response from the department head, the student may appeal to the dean of the college offering the course only if the student has new evidence pertaining directly to their case that was not reasonably available at the time of the initial appeal or contends that the procedures outlined here were not followed.** The student would submit a written formal presentation of the case, with all related supporting documents, to the dean. Should the dean determine that there is no new relevant evidence or that procedures were properly followed, the appeals process is completed and the student appellant will be notified in writing within 5 business days. If the dean agrees that there is new relevant evidence or that procedures were not followed, an ad hoc hearing committee will be appointed. The committee will be composed of three faculty members from the college in which the course is offered, or two from the college and one from the student's major department, if that department is not in the same college as that in which the course is offered. The committee members will be appointed by the dean(s) of the college(s) involved. The committee will review the documents and can then either reject the appeal on the basis of its content or proceed to investigate further. The committee will have full cooperation of all parties in gathering information and conducting interviews for the hearing. Once an issue is before the committee, the committee shall have the authority to recommend a lower grade, recommend a higher grade, or recommend no change of a grade. Review by the committee should be completed within 15 business days of the submission of the written presentation of the case to the dean by the student appellant. The committee recommendation will be conveyed to the dean of the college in which the course is offered. The dean would inform the student appellant, instructor, department head, and registrar of any grade change for the course if applicable. The dean's determination is final.

Appeal of an Academic Undergraduate Program Dismissal

The following apply for an undergraduate student appeal of program dismissal having been made by an academic department.

1. Appeal of a program dismissal must be made by the student directly affected and must be made immediately following the departmental decision to the department head. Immediately, here, means within 10 business day of the date of the dismissal notification.
2. It is very important that the basis of the appeal is clearly understood. Appeals must be presented in writing and contain the following information:
 - (a) A clear concise statement about the student's desire and motivation for reinstatement must be provided;
 - (b) A brief summary of any prior informal attempts to resolve the matter and the results of those previous discussions; and
 - (c) A specific statement of the action or resolution sought.
3. If the student wishes further consideration after the previous step, within 5 business days of the date of the written response from the department head, the student may appeal to the dean of the college in which the academic program department is housed only if the student has new evidence pertaining directly to their case that was not reasonably available at the time of the initial appeal or contends that the procedures outlined here were not followed. The student would submit a written formal presentation of the case, with all related supporting documents, to the dean. Should the dean determine that there is no new relevant evidence or that procedures were properly followed, the appeals process is completed and the student appellant will be notified in writing within 5 business days. If the dean agrees that there is new relevant evidence or that procedures were not followed, an ad hoc hearing committee will be appointed. The committee will be composed of three faculty members from the college in which the academic program is administered. The committee will select its own chairperson. The committee will review the documents and can then either reject the appeal on the basis of its content or proceed to investigate further. The committee will have full cooperation of all parties in gathering information and conducting interviews for the hearing. The committee shall have the authority to recommend that the student be retained in the program or confirm the original dismissal decision of the department. Review by the committee should be completed within 15 business days of the submission of the written presentation of the case to the dean by the student appellant. The committee recommendation will be conveyed to the dean of the college who will notify the department head and student appellant in writing of the committee's decision.

Other Academic Grievances

Other grievances relating to an instructor will proceed through an appeal to the program chair and Chief Academic Officer. The Chief Academic Officer will evaluate the grievance to determine if the charge and evidence warrants initiating proceedings against the instructor under the appropriate provisions in the "Regulations on Academic Freedom and Tenure" approved by the Board of Trustees.

COURSE SYLLABI

Syllabi should be distributed in each class during the first week of the semester. For electronically delivered classes, syllabi should be posted when the course is developed. The following information should be included for both face-to-face and electronic course delivery:

A. Course number (e.g., ACR 1203; to also include the appropriate Arkansas Course Transfer System, or ACTS, course number when applicable.)

B. Course title

C. Name of instructor, office hours, contact information (telephone, email)

D. Method of delivery

E. Catalog description

F. Text required for course

G. Bibliography (supplemental reading list)

H. Justification/rationale for the course

I. Course objectives

J. Description of how course meets general education objectives, if applicable (courses included in the general education component should show how the course meets one or more of the objectives contained in General Education Objectives listed in undergraduate catalog)

K. Assessment methods (include grading policy with specific equivalents for A, B, C)

L. Policy on absences, cheating, plagiarism, etc.

M. Course content (outline of material to be covered in course).

N. Disabilities statement

O. Emergency procedures statement: (In case of emergency or severe weather, students will be notified and are asked to follow the emergency guidelines posted in each room.)

UTILIZATION OF CLASS TIME

Faculty members are to meet their classes at the time and for the period scheduled. Early dismissals or absences for legitimate purposes should be considered only after consultation and approval of the Program Chair or Chief Academic Officer.

OFFICE HOURS AND ACADEMIC ADVISING

Each faculty member is expected to schedule adequate and regular office hours in consultation with the Program Chair or Chief Academic Officer for consultation with students and colleagues. The total and spacing of these office hours should be planned to permit adequate student contact. This schedule should be posted and adhered to. Faculty members who expect to be away from the campus during scheduled office hours should notify their Program Chair and should post a notice showing the approximate time of return. Ordinarily, the Program Chair should be apprised of where the faculty member could be reached.

SPECIAL COURSES

Evening Classes

In order to accommodate the educational needs of residents of the University's service area who, for various reasons, cannot attend regularly scheduled day classes, a variety of evening courses are scheduled each semester during the hours of 5:00 p.m. to 9:30 p.m. All rules and regulations applying to the regularly scheduled day classes also apply to evening courses. Information pertaining to registration for evening courses will be published in the course schedule, which is disseminated each semester and summer term.

Off-Campus Courses

Arkansas Tech University endeavors to render an educational service to those persons in every community who cannot, for one reason or another, attend the regular sessions of the University. One of the credit-type programs offered by the University for this purpose is off-campus courses taught in cities and communities in the University's service area.

Regular faculty members teach courses at centers in which classes of sufficient size can be organized. Off-campus courses are identical in content with the courses offered on campus.

Requirements for enrolling for credit in off-campus courses are basically the same as those for enrolling in on-campus residence courses for credit. Students must complete an admission application and submit a copy of transcripts of all their previous college work. Transcripts must be sent directly from the issuing institutions to the Office of Student Services at Arkansas Tech University.

Conferences, Institutes, Seminars

The University assists groups from all professions and vocations by planning and conducting educational activities to help members of those groups to keep informed about new developments in their field of work. Tuition fees vary in relation to the costs of conducting the program, but in all cases the expense for participants is minimal. Conferences, institutes, and seminars conducted by the University are generally required to meet five basic requirements: (1) the program must be of an educational nature and be planned for off-campus people; (2) it is planned to help participants gain a better understanding of problems related to their professional or personal interests; (3) it is planned and conducted jointly by participants, University faculty members, and conference consultants; (4) it usually absorbs the major part of each participant's time while in session; and (5) the programs can be offered for credit or non-credit depending on the nature and purpose of the activity.

Non-Credit Courses

The University offers informal non-credit courses in a variety of subjects designed to meet the educational needs of adults which are not met by conventional education procedures. These courses generally meet in the evenings and vary in length relative to the subject being taught.

The constituency of non-credit courses represents a social, economic, educational, and ethnic cross-section of the population which the University serves. Adults who are not high school graduates attend classes along with those who hold advanced degrees, and the only requirement for enrolling in these informal courses is a genuine desire to work toward enlightenment and self-improvement. Because these classes are a community-service function of the University, tuition is minimal and is charged only to the degree necessary to make the program self-supporting.

Online Learning Center

The Online Learning Center enhances and supports the delivery of online courses. The Online Learning Center facilitates faculty development by emphasizing pedagogical foundations and technology integration in the design and delivery of quality, engaging courses.

Course developers work under the auspices of the university's approved Course Ownership Policy. A copy of the policy is included on page 158 of the *Faculty Handbook*.

The university uses Blackboard as its learning management system. Links are available on the college's Resources site (<http://www.atu.edu/etech/resources.php>) for the most current version of Blackboard and additional support materials.

The *Faculty Handbook* requires teaching be evaluated by a standard, university-wide student evaluation.

The Online Learning Center works collaboratively with Information Systems. For technical support, please contact the Information Services' Help Desk at 479-968-0646 or 1-866-400-8022. Assistance with general technical issues is available via email at campussupport@atu.edu or visit the Information Systems website at <https://ois.atu.edu/>.

FAMILY EDUCATION RIGHTS AND PRIVACY ACT (FERPA)

As stated in the Arkansas Tech University – Ozark Campus catalogs; FERPA legislation seeks to assure confidentiality of the educational records containing information directly related to a presently enrolled student, a former student, or alumni. As a matter of policy, the Ozark Campus makes every effort to

abide within the confines of confidentiality and security of educational records as prescribed in the FERPA laws and regulations. For more information on FERPA, please go to <http://www.atu.edu/ucounsel/>.

Questions about specific access to information or the release of information to any third party should be referred to the Registrar's Office or the Chief Student Officer.

TOBACCO FREE POLICY FOR ARKANSAS TECH UNIVERSITY

Effective August 1, 2009 use of any tobacco product, including, but not limited to, smoking, use of electronic cigarettes, dipping, or chewing tobacco is prohibited on campus. This policy shall be enforced by the Arkansas Tech University Department of Public Safety.

“Campus” means all property, including buildings and grounds that are owned or operated by Arkansas Tech University.

“Smoking” as that term is used in this policy means inhaling, exhaling, burning, or carrying any:

- (A) Lighted tobacco product, including cigarettes, cigars, and pipe tobacco; and
- (B) Other lighted combustible plant material.

“Electronic cigarette” (also known as “e-cig” or “e-cigarette”) means a battery or USB powered device containing a nicotine-based liquid that is vaporized and inhaled, used to simulate the experience of smoking tobacco.

“Student” as that term is used in this policy means an individual enrolled in a credit or non-credit course at Arkansas Tech University.

1. Student discipline

Students who violate this policy shall be disciplined as follows:

- (a) First Offense – Written warning.
- (b) Second Offense – Six months' probation as defined in the Student Code of Conduct.
- (c) Third and subsequent Offenses - \$50.00 fine.

2. Employee discipline

Employees who violate this policy shall be disciplined as follows:

- (a) First Offense – written warning
- (b) Second Offense – Written reprimand placed in personnel folder
- (c) Third and subsequent Offenses -- \$50.00 fine.

3. Visitors/independent contractor discipline

Visitors or employees of independent contractors who violate this policy shall be disciplined as follows:

- (a) First Offense – written warning
- (b) Second offense – banishment from campus

Students may appeal their sanction pursuant to the terms of the Student Code of Conduct. All others may appeal the sanction imposed pursuant to this policy by submitting a written appeal to the Human Resources Committee within five calendar days of the infraction.

Pursuant to Act 734 of 2009, beginning August 1, 2010, any person who smokes on campus shall in addition to the penalties set forth above, be guilty of a violation and upon conviction in Russellville District Court, shall be punished by a fine of not less than (\$100) one hundred dollars nor more than (\$500) five hundred dollars.

UNIVERSITY GOVERNANCE

Shared Governance Arkansas Tech University – Ozark Campus

Arkansas Tech University is governed by a five-member Board of Trustees. The Trustees are appointed by the Governor and serve five-year terms. The President of Arkansas Tech University reports to the Board of Trustees, and the Chancellor of the Ozark Campus reports to the President. Reporting to the Chancellor are the Chief Academic Officer, Chief Fiscal Officer, Chief Students Officer, Chief Business and Community Outreach Officer, and the Director of the Arkansas Tech Career Center. The program chairs for each academic program on the Ozark Campus report to the Chief Academic Officer. Faculty members report to their designated program chair. Programs are divided into six areas on campus: Allied Health, Adult & Continuing Education, Business Technology, General Education and Industry/Technology, and Career Center.

The Ozark Campus is dedicated to a shared governance system. Shared governance requires that all university entities work together toward the common goal of fulfilling the mission of the campus. The Board of Trustees sets university policies, the administration of the campus carries out these policies, and the faculty is responsible for academic matters concerning curriculum and instruction.

The Faculty Senate and the Ozark Campus's standing committees are the primary bodies through which recommendations for curriculum and instructional issues on campus are made. Recommendations from each committee are sent by the committee chair to the Chief Academic Officer, and, in the case of Academic Appeals and Admission, jointly to the Chief Academic Officer and Chief Student Officer.

After the recommendation is sent to the appropriate chief officer(s), the chief officer(s) forwards a recommendation to the Chancellor. If approved, the item is then forwarded to the appropriate personnel on campus for implementation. If a change in policy is recommended, the Chancellor forwards the recommendation to the President and then the Board of Trustees, if applicable.

Standing and Elected Committees on the Ozark Campus:

<https://www.atu.edu/ozark/standingcommittees/index.php>

Faculty Senate

Members: Chancellor appoints Chief Academic Officer and one Senator and one Senator from each of the six areas

Length of Terms: Staggered one, two, and three year terms

Elected or Appointed: Elected

Recommendations made to: Chief Academic Officer

Academic Appeals and Admissions

Members: One faculty from each of the six areas and one representative from SGA

Length of Terms: Staggered one, two and three year terms

Elected or Appointed: Elected

Recommendations made to: Chief Academic Officer and Chief Student Officer

Assessment

Members: Appointed by the Chief Academic Officer

Length of Terms: Staggered one, two and three year terms

Elected or Appointed: Appointed

Recommendations made to: Chief Academic Officer

Curriculum

Members: Registrar and one Faculty from each of the six areas

Length of Terms: Staggered one, two and three year terms

Elected or Appointed: Elected

Recommendations made to: Chief Academic Officer

Appointment to Committees on the Russellville Campus:

One member from the Ozark Campus will be a representative to the University Assessment Committee.

One faculty member from the Ozark Campus will serve as a representative to the General Education Committee.

Deliverance systems for various curricula are immediately dependent upon workable administrative procedures. Accordingly, the following policies and procedures have evolved as effective ways and means of achieving instructional ends.

POLICIES AND PROCEDURES FOR SCHEDULING COURSES

Procedures for registering and enrolling in classes are included with the list of course offerings that is published for the semester/term.

Course offerings have four-digit numbers which identify courses within each department. The first digit of the number denotes the level at which the course is given, the second and third digits differentiate the course from others in the department, and the fourth digit shows the number of credit hours given.

The courses offered are determined to some extent by the desires of the students, the teaching capabilities of the faculty, and by the judgment of the faculty and administration as to what constitutes a well-rounded course of study in each department. The general education program was devised by the faculty and administration after considerable study as to what constitutes the basic knowledge and concepts that every college graduate should have.

SELECTION OF TEXTBOOKS

The primary consideration in the selection of textbooks is the contribution to the effectiveness of instruction. However, some consideration should be given to the student in not requiring multiple

textbooks which would involve an undue cost. Since the Bookstore buys used textbooks for resale, the Program Chairs, and other faculty members share with the manager of the Bookstore responsibility for avoiding waste and loss in the stocking of textbooks. Required and optional textbooks must be consolidated by the Program Chair and listed on "The Adoption Form" and then submitted through the Chief Academic Officer to the Bookstore for adoption. Furthermore, bookstore adoptions are regulated by the State of Arkansas and the language of the law passed during the 86th General Assembly, Regular Session, 2007 is as follows:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 60 is amended to add an additional subchapter to read as follows:

SUBCHAPTER 6 – TEXTBOOKS AND COURSE MATERIALS 6-60-601.

Adoption of textbooks and course materials.

- (a)(1) For each full semester and collectively for summer sessions, a state-supported *institution of higher education* in this state shall distribute a list of all textbooks and course materials required or assigned for an undergraduate course by:
 - (A) Publication on its website; and**
 - (B) Posting at its bookstore.****
- (2) The list shall be distributed no later than noon on:
 - (A) April 1 for the following fall semester;**
 - (B) November 1 for the following spring semester; and**
 - (C) April 1 for all following summer sessions.****
- (b) For each textbook or course material the list shall include:
 - (1) A brief description of the textbook or course material;**
 - (2) The author or authors;**
 - (3) The title and edition; and**
 - (4) Any special instructions or circumstances for the purchase or use of the textbook or course material.****
- (c) A textbook or course material for an undergraduate course may be adopted after the time specified in subsection (a) of this section for distributing the list if:
 - (1) The adoption is approved by the department chair and the dean or division head of the affected college; and**
 - (2) The dean or division head of the college forwards to the Chief Academic Officer of the affected state-supported institution of higher education the following information:
 - (A) A list of each late adoption;**
 - (B) The names of the person or persons responsible for each late adoption; and**
 - (C) A written statement explaining why each adoption was late.******

The University does not furnish textbooks to the instructor. Publishers may provide teachers copies of textbooks if these are requested either by the instructor or by the Program Chair. If necessary, the Bookstore is authorized to issue a desk copy to any faculty member upon the presentation of a "Bookstore requisition" approved by the particular department concerned and coded to that department. Upon receipt of the new copy from the publisher, proper credit will be issued the department concerned provided the new copy is not marked "Complimentary."

Replacement desk copies must be forwarded to the Bookstore within thirty days so the book can be sold or returned to the publisher for credit to the University.

FACULTY-PRODUCED INSTRUCTIONAL MATERIALS

When adequate instructional materials (print and non-print) are unavailable to support course curriculum requirements, appropriate instructional material may be developed to fulfill this need. Such proposals must include a needs assessment, including courses affected and approximate number of students in those courses; an explanation of why available material will not satisfy the need; and an outline of the proposed material.

The proposal is then considered by the department, and the recommendation of the Program Chair is submitted to the Chief Academic Officer. Upon the Chief Academic Officer's approval, the proposal is forwarded to the Chancellor for consideration.

Following approval by the Chief Academic Officer and the Chancellor, adequate release time is made available to the faculty member(s)/author(s) to develop the instructional material. The Chancellor and the Chief Academic Officer determine an appropriate departmental royalty not to exceed two (2) dollars per copy. (Institutional policy prohibits payments of royalties to employees.) The Chief Academic Officer informs the CFO that the publication/duplication has been approved and the departmental royalty has been determined.

The Program Chair arranges for the production of the material with the Chief Fiscal Officer. The Bookstore Manager, at the direction of the Chief Fiscal Officer, coordinates actual production of the material. The number of copies to be produced is determined by the Program Chair. Obsolete copies may be charged back to the departmental supply and service budget in the current or succeeding year(s) at cost.

Faculty-produced materials are subject to the standard mark-up for new texts. Departmental royalties are paid in the form of bookstore credits to the departmental supply and service budget, upon completion of an inventory of publications sold. (University policy generally provides that monies may be transferred between budget pools upon proper approval.) Such inventory should be completed no later than 30 days after the first day of class in each term.

FACULTY LIBRARY PRIVILEGES

Faculty members enjoy generous circulation privileges for all circulating library materials. New faculty members must activate their library account in person at the Circulation desk to check-out materials or use interlibrary loan services. For the most current version of circulation policies and responsibilities, or to search the library catalog for materials, please see the library website: <http://library.atu.edu>.

It is the responsibility of each faculty member to know and understand the policies for the circulation of library materials.

Should a title charged to a faculty member be needed by someone else, the library will send a recall notice requesting the return of the item. Because these materials may be essential to a student's or another faculty member's academic success, these requests should be honored promptly. The library may enlist the aid of Deans and administration in recovering needed materials.

While fines and fees are not currently charged to faculty members, upon termination of employment at Arkansas Tech University, any outstanding materials must be returned. Otherwise, the costs of replacing those materials will be deducted from the employee's final paycheck.

Interlibrary loans are requested for faculty members at no additional charge. However, any surcharges passed on by lending libraries are the responsibility of the borrowing faculty member.

Inquiries about library policy should be directed to the library director. Recommendations for policy changes should be submitted to the director, your departmental library liaison, or to a member of the Library, Instructional Materials and Equipment Committee.

USE OF COMPUTER

Policies regarding computer use and electronic communication can be found at <http://cservices.atu.edu/policies.htm>.

COURSE OWNERSHIP POLICY

Work Made for Hire

Arkansas Tech University may enter into a contract with an employee of the University to develop a specific on-line course or other distance learning product. Pursuant to the terms of the contract, the employee will be paid for the development of the course. The University will also provide all resources for the work and the work is to be carried out totally as a part of the faculty or staff member's assigned time.

When the University contracts with an employee for the development of a specific on-line course or other distance learning product, it will be considered a work made for hire for a period of two years from the date the course is first offered (e.g., August 23, 2002 to August 23, 2004). However, two years after the course has been developed, and upon approval of the Chancellor, the course can also be used by the employee who developed it, for other teaching, research and scholarly purposes.

Totally Faculty or Staff Generated

Arkansas Tech University faculty or staff may create an on-line course or other distance learning product as the result of their own individual efforts on his or her own personal time without any direct support from or through Arkansas Tech and without the use of any Arkansas Tech University resources beyond those normally provided by the University.

Courses and distance learning products developed without University funds will remain the property of the course developer. The individual will own all the resulting intellectual property, may receive compensation for the work and retain distribution rights.

However, in the event that the course is taught at Arkansas Tech University, the University will have the right to use the course material for one semester after the final semester that the course is offered. This retention of rights is to protect the student in the event that an instructor becomes ill or is otherwise unable to complete his or her teaching assignment. This will also allow the University to complete its obligation to the student when a grade of "I" is assigned by an instructor who then leaves the University or by an instructor who is otherwise unable to assist the student in completing the course.

All Arkansas Tech University logos are registered trademarks belonging to Arkansas Tech University. With Faculty/Staff generated on-line courses or other distance learning products, Arkansas Tech University reserves the right to control whether and in what manner the institution's name or logos are displayed in association with the work. Please refer to the University Style Guide for additional logo information.

STUDENT LABOR

Arkansas Tech University provides part-time work for a large number of students each year. In many instances faculty members are assigned students to help them with their general office work. Others are assigned to the library, laboratories, and other places on the campus.

The basic purposes of the student work program are to provide financial assistance to students who need this aid and to provide the University with needed services which the students can render. A faculty member responsible for the supervision of student workers should see that the student develops good work habits and a sincere sense of responsibility. This work experience on the part of the student should be a good training opportunity. Information concerning student assistance programs may be obtained from the Student Financial Aid office.

USE OF UNIVERSITY VEHICLES AND REIMBURSEMENT FOR TRAVEL

Reimbursement for expenses incurred while traveling on official business (University transportation or private vehicle) shall be in accordance with the "Travel Policies and Procedures" section of the current Manual of Business Office Policies and Procedures. Detailed information concerning the preparation of travel and reimbursement request forms, maximum travel allowances, and insurance coverage is provided in the manual which is available in departmental and school offices and on the Tech Website at:

<http://admin.atu.edu/manuals/Travel/travel%20manual%202003.pdf>

PROCUREMENT PROCEDURES

All purchases are made by Procurement Services. Prior planning must be exercised to submit requisitions in time to allow for obtaining quotes, awards, reporting and obtaining delivery. In case of an emergency, contact Procurement Services for instructions.

Procurement and Risk Management Services operate under the State of Arkansas Procurement Law and Rules set forth by the Office of State Procurement.

Only the Purchasing Department has the authority to issue purchase orders. Requisitions are "requests" for commodities or services, and do NOT constitute a legal order. *Orders placed by an individual without a purchase order are the financial responsibility of that individual.*

For more information please visit the Procurement and Risk Management Services website at www.atu.edu/purchasing.

CONTRACT AND AGREEMENTS

Any contract or agreement MUST be reviewed by Procurement and by Legal Counsel before it is executed.

Only individuals with contractual authority for the University may sign these documents.

Russellville Campus:

President
VP for Administration & Finance

Director of Procurement and Risk Management Services

Ozark Campus:

**Chancellor at Ozark Campus
Chief Fiscal Officer at Ozark Campus**

No one else can legally bind the University and guarantee payment.

PROHIBITION AGAINST PURCHASES OF COMMODITIES FROM EMPLOYEES

The following policy was approved by the Board of Trustees on March 21, 1991.

Act 483 of 1979, titled "An Act to Prescribe Ethical Standards for State Employees and Non-employees in State Procurement Activities; and for Other Purposes," section 4, "Employee Conflict of Interest," prohibits payments to employees for purchases of commodities. Commodities mean commodities as defined in the State Purchasing Law.

Questions concerning this policy should be directed to the Purchasing Agent or Chief Fiscal Officer.

CAMPUS SAFETY AND PREPAREDNESS

Arkansas Tech University Ozark Campus places the highest priority on the health and safety of its on-campus population and visitors. In the event of a threatening situation the Ozark Campus will communicate vital information as quickly and efficiently as possible for our students, faculty, staff and visitors using one or more of the following communication tools (some services provided through the city and county):

- Outdoor Warning Sirens
- NOAA Weather Radios
- Tech Emergency Messaging System
- Commercial Television & Radio
- Campus Television & Radio
- Building Alarms
- Phones and cell phones
- E-mail
- Website/internet
- Audible Announcements

Arkansas Tech Ozark Campus has an extensive Emergency Preparedness System in place to ensure a rapid response to any crisis situation. Two important components of this system are the Campus Emergency Procedures and the University Emergency Operations Plan. Both are designed to assist students, faculty, staff, and visitors in timely and effective response to minimize the adverse effects of any threat, as well as to return to normal operations as quickly as possible after an incident.

The Campus Emergency Procedures provide guidance to be followed in the event of threatening situations to which the campus is vulnerable. Students, faculty, and staff should review these procedures and have ready access to them if needed. These guidelines are provided in the Emergency Procedures Guide and a copy of these procedures is available at <http://atu.edu/ozark/emergency>.

The Emergency Operations Plan defines lines of authority and responsibilities, promotes working relationships, and imparts knowledge necessary to protect lives and property and to maintain the operational integrity of the University. A copy of the Emergency Operations Plan can be found at <http://atu.edu/ozark/emergency>.

FACULTY EVALUATION, POLICIES AND PROCEDURES

Criteria for Evaluation

Annual evaluations of faculty are intended to promote better teaching and professional development of the faculty. Evaluations may also be used in reappointment. Faculty will be evaluated in the following three areas:

- A. Teaching (80%)**
- B. Scholarship or Industry-based activities and research (10%)**
- C. University Service (10%)**

A. Teaching will be evaluated on the basis of:

- 1. A university-wide, standard, student evaluation to measure effectiveness of classroom teaching.**
- 2. An annual review of the teaching portfolio (when required) conducted by the Chief Academic Officer or appropriate Program Chair. Classroom visitation, at the request of the faculty member, may also be included in the annual review.**

A teaching portfolio that chronicles teaching performance should be maintained to provide further evidence of effective teaching; portfolios are to include examples of such items as objectives, syllabi, exams, modifications of courses, teaching techniques used, grading procedures, in-class and out-of-class assignments, text used/changes for all courses taught; summaries of student evaluations; a list of advisees; records of student projects; records of special activities with students (clinicals, internships, presentations, etc.); and records of workshops/special sessions developed, taught, attended, etc.

The requirements of a mandatory teaching portfolio are determined by faculty rank:

1. Portfolios will be developed/reviewed the first year of any rank.
2. At the rank of *Workforce Education Instructor*, portfolios will be developed/reviewed annually.
3. At the rank of *Workforce Education Advanced Instructor*, portfolios will be developed/reviewed every other year.
4. At the rank of *Workforce Education Master Instructor*, portfolios should be developed every three years. After the second review (6 years) at this faculty rank, portfolios will be developed/reviewed every five years.

It should be understood that circumstances may arise in which the faculty member may need to develop a portfolio in a non-required year (i.e. Faculty Excellence Award, grant application, or at the request of the CAO).

B. Scholarship/Industry-based Activities be evaluated by, but is not limited to:

- 1. Presentations at professional meetings;**
- 2. Development of Advisory Board**
- 3. Development of courses, programs or curricula**
- 4. Taking courses for degree attainment and/or continuing education.**

5. Conducting workshops, short courses, forums or seminars in addition to normal teaching load.
6. Securing student internship opportunities

C. University Service will be evaluated by, but is not limited to:

1. Service to the institution
 - a. quality of student advising
 - b. membership on university committees
 - c. membership on departmental committees
 - d. participation in academic program development
 - e. sponsoring/advising student organizations
 - f. participation in student recruitment
 - g. serving as an official representative of the University
 - h. grant writing (non-research types of grants)
 - i. faculty level administrative duties (without release time)
 - j. teaching overloads when appropriate
 - k. other (to be discussed and decided by faculty member and Program Chair/CAO)
2. Service to the profession
 - a. membership in professional organizations
 - b. attendance at professional meetings
 - c. holding office in professional organizations
 - d. serving on committees of professional organizations
 - e. organizing, conducting, or assisting with professional meetings
 - f. serving on committees for accreditation
 - g. service to public schools
 - h. other (to be discussed and decided by faculty member and Program Chair/CAO)
3. Service to the community
 - a. participating in a community project
 - b. holding public office
 - c. assisting public organizations
 - d. public activity in organizations outside faculty member's area of expertise
 - e. service to public schools
 - f. other (to be discussed and decided by faculty member and Program Chair/CAO)

The faculty member is expected to conduct himself/herself in a professional manner. This includes, but is not limited to, working collaboratively and collegially with colleagues, program chairs, staff and administration. Academic standards are to be upheld, not only in the classroom, but in all segments of the faculty member's professional life.

The following five descriptive ratings will be used to rate each of the three evaluation categories:

5. Excellent
4. Good
3. Satisfactory
2. Needs Improvement
1. Unacceptable

Annual SUMMATIVE EVALUATIONS will be performed by:

1. The Chief Academic Officer (CAO) or appropriate Program Chair
2. The faculty member

Evaluation Procedures

1. A written self-evaluation of each of the three areas will be prepared annually by each faculty member.
2. The CAO or appropriate Program Chair will annually review and rate the overall quality of teaching, scholarship, and university service through the use of student evaluations, evaluation of materials contained in portfolios, following the review, the faculty member should consult with the CAO or appropriate Program Chair to formulate a plan for professional improvement for the coming year. The faculty member may provide an addendum to accompany the summative review.
3. CAO/Program Chair evaluations, student evaluation summaries, portfolio materials, and self-improvement plans become part of the faculty-maintained documentation filed in the Chief Academic Officer's office. A signed copy of the instructor's summative evaluation will be given to the instructor.

SUMMATIVE EVALUATIONS: EVALUATION CONDUCTED TO ARRIVE AT BROAD JUDGEMENTS OF TEACHING EFFECTIVENESS AND MAY BE USED TO MAKE PERSONNEL DECISIONS.

FACULTY EXCELLENCE AWARDS

The Faculty Excellence Awards support faculty and provide a mechanism to recognize faculty excellence each year as determined by their peers. Ozark Campus Full Time Faculty who have completed three (3) years of service with the campus will be eligible for nomination for excellence in teaching and service by their peers. Nominees will have an opportunity to submit portfolios as required and to be eligible to be evaluated by an ad hoc committee of the Faculty Senate. Faculty selected to receive the award for

Excellence in Teaching and Excellence in Service will receive recognition at the Ozark Campus Graduation Ceremony held in the spring and will also receive a one-time stipend of \$500.00, less benefits.

Revision Dates

April 21, 2011
May 17, 2012
October 18, 2012
August, 2013
December, 2013
September, 2014
August, 2015
August, 2016
September 2017
May, 2018
May, 2019
August, 2019
July 2022
December 2022