

**Mission** - Arkansas Tech University, a state-supported institution of higher education, is dedicated to nurturing scholastic development, integrity and professionalism. The university offers a wide range of traditional and innovative programs which provide a solid educational foundation for life-long learning to a diverse community of learners.

**Ozark Campus Mission Statement**

Arkansas Tech University Ozark Campus, in partnership with the community, will provide a quality educational environment which will enable all students to learn the skills and acquire the knowledge necessary for them to become contributing members in the workforce and in society.

**Arkansas Tech University Board of Trustees** - The Arkansas Tech University Board of Trustees reviews the institution's annual plan, approves budgets and guides the educational programs of the institution.

**Access to Campus Facilities** - Most campus buildings and facilities are accessible to members of the campus, community, guests, and visitors during normal hours of business, Monday through Friday, and for designated periods of time on special events and occasions. Buildings may close earlier when classes are not in session (holiday, between terms, or on weekends). All requests for use of school facilities must be submitted to Bev Nehus, Assistant to the Chancellor, bnehus@atu.edu, (479)-508-3304, one week or more prior to the event.

**Crime Reporting Procedures** - When a crime occurs, students should notify the Public Safety Officer so proper action may be taken.

**Selling and Soliciting on School Premises** - Arkansas Tech-Ozark has an institutional policy against salesmen, company representatives, or solicitors contacting students on the main campus or any satellite campuses. Students are requested to report any incident of soliciting to the Office of Student Services at their earliest convenience after a contact has been made. The name of the salesman or solicitor and the company represented should be included in the report. Contracts of other types of sales agreements should be brought to the Business Office.

**Sign and Poster Display Policies -**

*Administrative and Academic Buildings:* Posters and signs should only be placed on the bulletin boards on the inside of buildings. All posters and signs will be removed after two weeks.

*Alvin F. Vest Student Union:* Posters and signs can be placed on any bulletin board designated for student use. All posters and signs will be removed after two weeks.

*Bulletin Boards:* All signs placed on bulletin boards and doors must be limited in size to 14 in. by 18 in. All posters or signs must be identified as to the person or organization responsible for their display. All signs will be removed after two weeks.

Bulletin boards exist for the use of persons and organizations within the Arkansas Tech-Ozark community. Commercial announcements are not to be placed on or in any campus location without the approval of the Office of Public Relations.

*Handbills and Flyers:* Placing handbills and fliers on automobiles parked on campus is prohibited. No handbills or fliers may be distributed on campus without approval from the Director of Public Relations.

**Academic Policy** - The catalog covers regulations and procedures regarding academic policies at Arkansas Tech-Ozark. Each student should be familiar with the catalog and the departmental policies.

**Inclement Weather Policy** - In the event of inclement weather, Arkansas Tech-Ozark may be unable to operate our normal schedule. When campus is closed for inclement weather, the following television and radio stations will be notified by 6 a.m.:

KTCS Fort Smith

KDYN 96.7 Ozark

KHBS 40/29 Fort Smith

KFSM Channel 5 Fort Smith

KNWA Fayetteville

KARK Little Rock

KISR 93.7 Radio

B98 Radio 97.9

KMAG 99.1 Radio

Big Dog 95.9 Radio

KWHN AM 1320 Radio

*When daytime classes are cancelled, night classes also are cancelled.* The outlying areas sometimes experience inclement weather (snow, ice, etc.). Even though the campus is not closed in these events, all faculty, staff and students are advised to use their judgment in determining if the roads are safe to travel. Remember, your safety is our utmost concern.

**Fundraisers** - Fundraiser requests must be approved by the Office of Student Services, which will review requests and notify the organization of its request status.

**Food Sales** - All food sales events must be approved by the Office of Student Services. The organizations responsible for selling food must accept responsibility for any illness that may occur from consumption of the food sold.

**Social Functions/Activities** - Any committee or officers representing a group of students or an organization wishing to plan or host an event must have it approved and placed on the school calendar by the Chief Student Officer. The Chief Student Officer approves the fundraising events.

All Arkansas Tech-Ozark activities must be properly monitored by an advisor or sponsor. The advisor or sponsor of the organization, or his/her designate, should be present throughout the entire time of the activity.

**Off-Campus Events** - Arkansas Tech-Ozark assumes no responsibility for non-students, the conduct of participants or for the financial and/or contractual obligations associated with off-campus events. Off-campus events, which are publicized on campus, must be approved by the appropriate advisor and the administration.

**Financial Responsibility** - Arkansas Tech-Ozark expects each organization to anticipate, and meet promptly, its financial obligations. Financial aspects of all events sponsored by recognized organizations shall have the approval of the faculty sponsor/advisor.

In the event of disbanding or inactivation of an organization, the primary responsibility for properly providing for close-out of organization accounts and disposition of remaining monies rests with the organization itself with the aid of the Office of Fiscal Affairs.

**Scheduling Student Organizational Activities** - An application for each date of an activity should be filed with the Chief Student Officer in the Office of Student Services.

**Speech and Demonstration Regulations** - Arkansas Tech-Ozark 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, security and order, to insure the orderly scheduling of campus facilities and to preclude conflicts with academic and curricular activities, Arkansas Tech-Ozark reserves the reasonable right to limit such activities by the following regulations regarding time, place and manner of such activities. Definitions: "Speech," as used in this document, is the oral presentation of ideas in an open forum. "Demonstration" is any process of showing individual or group cause by speech, example, group action or other form of public expression. Exterior: Arkansas Tech-Ozark requires that speakers, scheduled and unscheduled, sponsored and unsponsored, university affiliated or visitors to the campus, use designated locations in order to avoid unreasonable conflict with the normal functions and requirements of the university and to assure that the flow of vehicular and pedestrian traffic will not be impeded. The designated free speech and demonstration area for the campus of Arkansas Tech-Ozark is the patio east of the Alvin F. Vest Student Union. Use of the university facilities will be scheduled by the Office Student Services and will be scheduled in blocks of time between 9 a.m. to 5 p.m. Monday through Friday so as to best accommodate all users and to avoid monopolization by any person, agency or organization.

- No musical instrument or sound amplification equipment of any kind, stationary or mobile public address systems is allowed;
- No structures may be erected;
- There must be no obstruction of entrances or exits to buildings;
- Overnight stays or camping is prohibited;
- 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 guests of the university is prohibited. Persons or organizations causing such damage may be held financially responsible;
- Persons or organizations responsible for a demonstration or other freedom of Expression event must remove all signs and litter from the area at the end of the event. If this is not accomplished, persons or organizations responsible for the event may be held financially responsible;
- There must be compliance with all applicable state and federal laws and university policies, rules and regulations.

Administration, enforcement and appeals: These regulations shall be administered and enforced by the Office of Student Services and such other University officials as shall be designated. Any individual violating these regulations regarding time, place and manner of speech and demonstration will be subject to immediate eviction or removal from the campus, without further warning, by appropriate University agents or officials and may be subject to appropriate legal action. Individual students or student organizations violating these regulations may, upon written complaint to the Office of Student Services, be subject to the 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-Ozark of any speech or demonstration, an 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.

For more information, contact the Office of Student Services at 667-2117.

### **Disability Services for Students**

Arkansas Tech University Ozark Campus is committed to providing equal opportunities for higher education to academically qualified individuals who are disabled. Students with disabilities attending Arkansas Tech University Ozark Campus will be integrated as completely as possible into the university community. Arkansas Tech University Ozark Campus does not offer a specialized curriculum for students with disabilities nor does it assume the role of a rehabilitation center. Tech does assume responsibility for modifying campus facilities and procedures to accommodate individual needs where reasonable and without posing an undue hardship on the institution.

Services arranged through the Disabilities Coordinator include consideration of classroom and building accessibility, planning for adequate travel time between classes, notetaking assistance, alternative testing, and similar types of accommodations. Per individual needs, students who may require academic support are encouraged to utilize the Student Success Lab for tutoring services.

Arkansas Tech University Ozark Campus 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 Technology and Academic Support Building, Arkansas Tech University Ozark Campus, Ozark, AR 72949, and may be contacted through the Office of Student Services at (479) 6672117.

### **Academic Advising and Selecting a Program of Study**

Arkansas Tech University-Ozark Campus encourages students to meet with an academic advisor for help in selecting a major field of study. The Ozark Campus Academic Advisor works closely with faculty in order to provide assistance to our students. The Academic Advisor is available to discuss major areas of interest, assist in planning for registration, and maintain a degree checklist of requirements to complete for graduation. While an academic advisor can guide the student, it is the student's responsibility to take an active role in their educational process by knowing what courses are required; complying with requirements for graduation application and degree audit; and gaining a general knowledge of requirements to complete their program successfully. Academic Advisors are located Office of Student Services in the Student Services and Conference Center.

Students who are pursuing a program of study where admission is limited (Cardiovascular Technology, Cosmetology, Medical Assisting, Occupational Therapy Assistant, Paramedic/Emergency Medical Services, Physical Therapist Assistant, Practical Nursing and Registered Nursing), will be assigned a major of Associate of General Studies until admitted into their selected program

### **Student Records**

Student academic records are maintained in Office of Student Services located in the Office of Student Services in the Student Services and Conference Center. Unofficial copies of academic records are available for guidance purposes to students and their advisors. All student records are maintained in compliance with the standards and guidelines of The Family Educational Rights and Privacy Act of 1974, Federal Law 93380.

### **Student Financial Aid**

The Financial Aid is located in the Office of Student Services. The primary purpose of student financial aid at Arkansas Tech University Ozark Campus is to provide assistance to students who, without aid, would be unable to attend college. Financial assistance consists of scholarships, grants, loans, and part-time employment, which may be offered to students singularly or in various combinations, depending upon the degree of need. In determining the extent of a student's need, the University must consider the financial support which may be expected from the income, assets, and other resources of the parents and the student. Aid awards by the University are considered supplementary to the efforts of the student's family in assisting their children with educational expenses. All awards are administered by the Financial Aid Office in accordance with the University's equal educational opportunity policy. The University does not participate in individual financial aid agreements with other institutions. Application forms for all types of aid may be obtained from the Financial Aid Office.

### **Fitness Center**

The fitness center is located in the Health Sciences and Wellness Building and is open from 7 am to 9 pm to Arkansas Tech Students possessing a current Student ID.

### **Ozark Campus Students and On-Campus Residency**

Ozark campus students, may live on campus at the Russellville campus. However, Ozark campus students are not required to live on campus.

To be eligible for on campus housing, Ozark campus students must meet unconditional admission requirements to the Arkansas Tech University or be accepted into the technical phase of the Occupational Therapy Assistant or Medical Assisting programs. Students under the age of 18 between August 22, 2016 and December 31, 2016 must sign the Arkansas Tech University waiver and Release of Liability for a Minor Living on Campus prior to being allowed to sign a housing contract and live in On-Campus housing. The Arkansas Tech University Waiver and Release of Liability for a Minor Living on Campus is available through the Office of Residence Life at <http://www.atu.edu/reslife/>. Students age 17 or under on or after January 1, 2017 are not permitted to live in University owned housing facilities.

Additional Residence Life regulations are available at <https://www.atu.edu/reslife/handbook.php>

Ozark campus student who meet the aforementioned requirements will be assessed the following additional fees because they are optioning into living on-campus.

1. Health and Wellness (\$6.00 per credit hours)
2. Student Support Fees (\$2.00) per credit hour)
3. Orientation (\$100.00 flat fee) New Students Only

## **RECORDS**

### **Family Educational Rights and Privacy Act**

The Family Educational Rights and Privacy Act of 1974 (FERPA) assures confidentiality of education records containing information directly related to a presently enrolled student, a former student, or alumni. Absent certain specific exceptions, in order for Arkansas Tech University to honor a verbal or written request for information from a student's education records by anyone other than the student, a signed authorization form from the student must be on file. Authorization forms can be found by visiting [www.atu.edu/ucounsel/](http://www.atu.edu/ucounsel/). If a student wishes to authorize the release of information to a parent or guardian, he or she may complete the Disclosure to Parent form at [http://www.atu.edu/ucounsel/documents/FERPA\\_Disclosure\\_Parent.pdf](http://www.atu.edu/ucounsel/documents/FERPA_Disclosure_Parent.pdf). Completed forms should be returned to the Office of Student Services. If the student wishes to authorize the release of information to someone other than a parent or legal guardian, he or she may complete the General Release Form at

[http://www.atu.edu/ucounsel/documents/FERPA\\_General\\_Release.pdf](http://www.atu.edu/ucounsel/documents/FERPA_General_Release.pdf). Completed forms should be returned to the Office of Student Services

**Family Compliance Office**  
**U.S. Department of Education**  
**600 Independence Avenue, SW**  
**Washington, D.C. 20202-4605**

*Directory Information:* "Directory information" at Arkansas Tech-Ozark consists of the student's name, hometown, e mail address, dates of attendance, major field of study, enrollment status (e.g. undergraduate or graduate), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received.

This information may be made available upon request to members of the general public. If a student at Arkansas Tech-Ozark wishes for this information to be regarded as confidential, according to the provisions of the Family Educational Rights and Privacy Act of 1974, he/she should notify the Chief Student Officer at (479) 508-3310.

**Affirmative Action- Affirmative Action Policy**

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, 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, 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, nation origin, sex, 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 Affirmative Action officer, Mr. Bob Freeman, Director of Human Resources, AA/EEO Officer, rfreeman18@atu.edu.

**Complaints**

Complaints from students, faculty, staff, alumni, and others may be filed with the Office of Student Services. When appropriate, a complaint will be referred to the department involved. Complaints are not considered official unless they are written.

Contact the Office of Student Services for further information.

For grades, course work, and other academic program related issues, students should follow the Student Academic Grievance Procedure in this handbook. For other conditions affecting a student's academic performance or learning environment, students should follow the Student Non-academic Grievance Procedure.

**Student Non-Academic Grievance Procedure**

Any alleged non-academic grievance (hereinafter referred to as "grievance") which a student may have regarding a University employee, an institutional regulation and/or the interpretation and application of such regulation may be considered under this procedure. Grievance procedures are of both an informal and formal nature and the informal means should be exhausted before filing a formal grievance. A non-academic grievance may include instances of discrimination which create conditions affecting a student's academic performance or learning environment.

**Informal Grievance Procedure**

1. The procedure for an informal grievance is as follows:
2. The person should first discuss his or her grievance with the person responsible for the action, interpretation, or application leading to the problem.

3. If the grievance remains unresolved, the complainant may discuss it with the appropriate supervisory official.
4. If the circumstances of the grievance prevent the use of the above listed steps, or if the appropriate official does not resolve the grievance within five (5) business days, the complainant may discuss the grievance with the administrative head of that portion of the institution out of which the problem arose. In all cases, this should be one of the Chief Officers.
5. If the grievance resulted from a violation of stated student regulations, federal law, or the Arkansas Tech University affirmative action plan, the administrative head shall take immediate steps to enforce the stated regulation, law, or plan and resolve the grievance.
6. If the grievance involves questions of opinion not covered in stated policies, the administrative head shall counsel with the complainant and departmental official(s) to resolve the grievance if possible.

### **Formal Grievance Procedure**

When a grievance has not been resolved by informal means, the student may submit a written request to the appropriate administrative head to have the grievance considered by a formal grievance committee. In no case will such a request be granted prior to five (5) business days after an informal grievance has been initiated and the appropriate administrative head notified.

1. A request for a formal grievance hearing should include the written nomination of one member of the Student Services staff and one employee from the administrative area involved. (The second nomination may come from any administrative area by mutual agreement of the student and the administrative head.)
2. The administrative head will select two (2) of the three (3) students from the Student Government Association to complete the committee, which will be chaired by the administrative head, who will not vote, but only coordinate the hearing.
3. The Chief Student Officer, or designee, shall serve as secretary and advisor to the committee, but will not vote. In matters concerning civil rights and equal opportunity, the affirmative action officer shall also serve as advisor, but shall have no vote.
4. The grievance committee will hear the grievance with such witnesses and evidence as it deems germane and shall present its recommendations in writing to the administrative head within three (3) business days of the hearing. The administrative head will render a decision within three (3) business days. Copies of the findings, recommendation, and decision will be made available to all parties.
5. The decision of the administrative head may be appealed in writing to the Chancellor, with a copy to the administrative head, within ten (10) business days of receipt of the decision.
6. The decision of the Chancellor shall be final and binding.

ADHE requires the certified institution to make a decision on the student grievance following the institution's public policy.

Inquiries into student grievances must be limited to AHECB certified (under Arkansas Code §6-61-301) courses/degree programs and institutions and to matters related to the criteria for certification.

Within 20 days of completing the institution's grievance procedures, the student may file the complaint in writing with the ICAC Coordinator, Arkansas Department of Higher Education, 114 East Capitol, Little Rock, AR 72201.

The grievant must provide a statement from the institution verifying that the institution's appeal process has been followed. ADHE will notify the institution of the grievance within 15 days of the filing. Within 10 days after ADHE notification, the institution must submit a written response to ADHE. Other action may be taken by ADHE as needed.

**Traffic Regulations** - By authority of the Board of Trustees and in accordance with Act 328 of 1967, Arkansas Tech University requires all members of the faculty, staff, student body and classified personnel to register motor vehicles which they own or operate on the Ozark Campus or on lands controlled by the University. All registrants shall abide by all traffic and parking regulations.

Registration of vehicles shall be accomplished at the time of regular registration for the fall, spring or summer semesters at the Office of Student Accounts. All faculty, staff and students must present a current Arkansas Tech University ID card

before a parking permit will be issued. All vehicles on campus are required to register and display a current parking permit. Vehicles are defined as any self-propelled vehicle having two or more wheels.

Parking permits are valid from August 15th one year through August 15th of the next year. After securing a parking permit at the Office of Student Accounts, charges are assessed to the student's account. Parking permits must be displayed by hanging on the rear view mirror so the number can be read through the front windshield from the outside; they may not be taped on the vehicle or laid on the dash or seat. These permits can be moved from vehicle to vehicle. Parking permits are the responsibility of the purchaser and must be removed prior to sale or transfer of the vehicle, upon termination of employment, or withdrawal from the school. If a hangtag is lost or stolen it will be the responsibility of the student or school employee to purchase a replacement permit. There is no refund for permit cost. Parking violations may result in a fine being charged to a student's account.

The Arkansas Tech University-Ozark Campus will enforce the following violations on campus property and will collect fines as stated in the list below.

## **SAFETY, SECURITY, AND TRAFFIC**

**Department of Public Safety (479) 508-3359**

**David Spicer, Public Safety Officer**

[dspicer1@atu.edu](mailto:dspicer1@atu.edu)

### **Law Enforcement Authority**

Department of Public Safety (DPS) officers are law enforcement officers of the State of Arkansas and are professionally trained and certified by the Arkansas Commission on Law Enforcement Standards and Training. DPS law enforcement authority comes from Arkansas State Statute 25-17-304 which confers upon the president of a state institution of higher education the right to create a university agency with the same powers and authority as any municipal, county, or state police agency in Arkansas. DPS officers have complete police authority to apprehend and arrest anyone involved in illegal acts on campus and areas immediately adjacent to the campus. If any minor offenses involving a violation of Arkansas Tech University rules and regulations are committed by a university student, DPS officers may also refer the individual to the Department of Student Conduct.

### **Law Enforcement Jurisdiction**

All service drives, alleyways, parking lots, any real or personal property owned or controlled by Arkansas Tech University and which is physically located within the Ozark city limits or elsewhere, shall fall under the jurisdiction of DPS. DPS works closely with other federal, state, and local law enforcement agencies including the Russellville Police Department, Pope County Sheriff's Office, Arkansas State Police, Fifth Judicial Task Force, Ozark Police Department, and Franklin County Sheriff's Office. DPS also maintains Mutual Aid Agreements, under the laws of Arkansas, with the Pope County Office of Emergency Management, Russellville Police Department, Pope County Sheriff's Office, and surrounding agencies. This agreement allows each department to provide assistance when necessary, for the purpose of investigating alleged criminal incidents. All members of the campus community are encouraged to cooperate fully with police personnel for their safety and convenience of everyone.

### **Reporting Emergencies and Crimes**

To maximize safety on campus, DPS strongly encourages anyone with knowledge about any crime, suspicious activity, or unsafe actions or conditions on campus to make an immediate and accurate report to DPS in person or by telephone. Reporting does not mean you must take legal action; however, it may help law enforcement stop further incidents as well as help keep the community informed about criminal activity. All crimes should be reported to DPS to aid in providing timely warnings or emergency notifications to the community when appropriate and for inclusion in the annual crime statistics disclosure.

Call 911 in an emergency if you are the victim of or witness to a crime and need police, fire, or medical assistance. In non-emergency incidents reports can be made in person at the Department of Public Safety, located at 1508 N. Boulder Avenue, Russellville, AR, 72801 or call (479) 968-0222.

### **Emergency Alerts**

The University is committed to the safety and well-being of its faculty, staff, students, and visitors to the campus. Upon the confirmation of a significant emergency or dangerous situation that poses an immediate threat to the **health or**

safety of students or staff occurring on the campus, a notification will be made without delay to the University community. The University initiates the notification to the community using the ATU Alert system. Emergency messages will be sent out via text messaging, email, phone calls, desktop notification, digital signage, ALERTUS notification system for large gathering areas, and RSS feed on the university website at [www.atu.edu](http://www.atu.edu).

### **Security of and Access to Campus Facilities**

The ATU campus is made up of a variety of facilities and academic/administrative buildings. Academic/administrative facilities are open during normal business hours (8 AM to 5 PM) to faculty, staff, students, and University guests. After-hours access to locked academic and administrative buildings is restricted to authorized persons holding keys for the facilities. After-hours access is limited to those who have authorization through their status as students, faculty, staff, or visitors in connection with special events or invitation. Public Safety Officers conduct routine patrols of campus buildings to evaluate and monitor security related matters.

### **Security Awareness and Crime Prevention Programming**

The safety awareness programs and crime prevention programs at ATU are based upon the dual concepts of eliminating or minimizing criminal opportunities whenever possible and encouraging students and employees to be responsible for their own security and the security of others.

DPS in cooperation with other University organizations and departments, is responsible for presenting security awareness and crime prevention programs to the campus community annually and more often depending on the program type. The Department of Public Safety in collaboration with other University departments offer crime prevention programs throughout the year to raise awareness for a variety of topics including, but not limited to, suicide prevention, sexual assault, dating violence, harassment, and hazing prevention.

DPS conducts the following security awareness and/or crime prevention programs for students each year. CRASE (Civilian Response to Active Shooter Events), Emergency Preparedness Month, which includes CPR/AED certification course, weather spotting course, First 15 Minutes course, and Emergency Preparedness Expo, and New employee orientation. Through programs such as these, students and employees are reminded to follow these preventative procedures:

- Report all crimes and/or suspicious activities to the Department of Public Safety.
- Protect personal property such as cell phones, iPads, laptop computers, and other valuable belongings by marking them with an identification number. Record all serial #'s and brand names.
- Lock residence hall room doors and car doors at all times.
- Do not prop doors open for any reason.
- Walk in well-lighted areas at night.
- Contact the Tech Safety Transport after hours for transportation on campus by calling (479) 968-0222 instead of walking alone at night.
- Do not leave books, jewelry, purses, wallets, cell phones, textbooks, backpacks, or other valuables unattended.

### **The Annual Security and Fire Safety Report**

This report includes statistics for the previous three years (2014, 2015, and 2016) containing reported Clery reportable crimes and fires that occurred: (1) on-campus; (2) in certain off-campus buildings or property owned or controlled by Arkansas Tech University; and (3) on public property within, or immediately adjacent to and accessible from, the campus. The report also includes institutional policies about campus security and policies addressing domestic violence, dating violence, sexual assault, and stalking. In accordance with the Clery Act, the Arkansas Tech University Russellville Campus (ATU Russellville) and the Arkansas Tech University Ozark Campus (ATU Ozark) are each defined as separate campuses and the 2017 Annual Security and Fire Safety Report contains information for both campuses (Russellville and Ozark). The complete 2017 Annual Security and Fire Safety Report, can be found as a digital version at [www.atu.edu/securityact/](http://www.atu.edu/securityact/).

**Moving Violations - Reckless Driving:** A.C.A. § 27-50-308 states that any person who drives a vehicle in such a manner as to indicate a wanton disregard for the safety of persons or property is guilty of reckless driving.

*Careless Driving:* A.C.A. § 27-51-104 states that it is unlawful to operate any vehicle in a careless manner as to evidence a failure to keep a proper lookout for other traffic, vehicular or otherwise, or in a manner as to evidence a failure to maintain proper control. Careless driving may also include, but is not limited to the following:

- Driving onto or across private property to avoid intersections, signs, or other traffic control devices.
- Driving in such a manner, or at such speed, as to cause skidding, spinning, or sliding of tires or vehicle.
- Driving too close to, or colliding with, parked or stopped vehicles, fixtures, persons, or objects adjacent to road.
- Driving of vehicle with any part or object extended, in such fashion as to endanger persons or property.
- To operate a vehicle wherein or whereon passengers are located in such manner to be a danger to themselves.
- To operate a vehicle in any manner, when the driver is inattentive, and such inattention is not reasonable and prudent in maintaining vehicular control.

**Campus Parking** - All vehicles should have a parking permit, which can be obtained from the Office of Student Accounts.

*Parking for the Handicapped:* Any vehicle found to be parked in an area designated for exclusive use of disabled persons (as defined in Section 75, 266-22 of Act 772) shall be subject to impoundment by the appropriate law enforcement agency according to Section 12 of Act 772, and the owner will be subject to a fine not less than \$25 or not more than \$100 for each offense plus applicable towing, impounding and related fees.

*Handicapped Parking Decals:* Handicapped parking decals may be obtained at the Arkansas State Revenue Office. Decals may be used by persons who are temporarily or permanently disabled, and are good for the duration of the disability, and may be used anywhere in the State of Arkansas. A statement from a physician is necessary to obtain the decal.

#### **Accessible Parking**

Arkansas Traffic Law Manual section 27-15-304 states, "Any vehicle found to be parked in an area designated for the exclusive use of any person with a disability, including the access aisle, on which is not displayed a special license plate, a special certificate, or an official designation of another state as authorized or which is found to be parked in an area designated for the exclusive use of any person with a disability, if operated by a person who is not a person with a disability while not being used for the actual transporting of a person with a disability shall be subject to impoundment by the appropriate law enforcement agency." If found in violation of the law the person may be subject to a fine plus applicable towing, impoundment, and related fees as well as court costs. Disabled parking decals can be obtained at the Student Accounts, located in the Office of Student Services. Decals can be used by persons who are temporarily or permanently disabled and can be used anywhere in the state of Arkansas. A statement from a physician is necessary to obtain the decal.

#### **Traffic and Parking Committee**

The Traffic and Parking Committee reviews and conducts hearings on all appeals concerning traffic tickets, informs students of changes in policies and regulations, and recommends methods of improving traffic and parking conditions on campus.

The committee is composed of the following members:

1. One (1) Student Services staff member.
2. One (1) Department of Public Safety advisor (non-voting member).
3. Seven (7) representatives Student Government Association.

The Traffic and Parking Committee will meet regularly at announced times to hear appeals on tickets. Appeals of tickets must be filed within three (3) business days of receipt of the ticket with the Office of Public Safety located in the Room 100 C in the Collegiate Center. Appeal Forms are located in the Office of Student Services.

Students can appear in person before the Traffic and Parking Committee to speak on their own behalf or their written appeal will be read if they are not present. The decisions of the Traffic and Parking Committee are final. Students may also go before the Traffic and Parking Committee with materials concerning any other traffic and parking-related problems.

#### **Traffic Regulations**

Traffic regulations are available online [http://www.atu.edu/ozark/public\\_safety](http://www.atu.edu/ozark/public_safety)

#### **Annual Crime Statistics**

Crime statistics for the three (3) most recent years can be found in the Annual Safety and Security Report at

### **Alcohol and other Drugs Prevention Program and Policy**

This policy is mandated by and complies with the provisions of the Drug-Free Schools and Communities Act Amendments of 1989 (Public Law 101-226). A copy of the biennial review may be obtained by contacting Craig Witcher, Counselor, [cwitcher@atu.edu](mailto:cwitcher@atu.edu), 479-968-0329.

**Standards of Conduct** Arkansas Tech University is committed to the maintenance of a drug and alcohol free work place and to a standard of conduct for employees and students that discourages the unlawful or unauthorized use, possession, storage, manufacture, distribution, or sale of alcoholic beverages, and any illicit drugs or drug paraphernalia in University buildings, any public campus area, in University housing units, in University vehicles, or at any University affiliated events held on or off-campus, which are sponsored by students, employees, and their respective campus organizations (including all fraternities and sororities). For Arkansas Tech University employees, compliance with this policy is a term and condition of employment. For Arkansas Tech University students and student organizations, compliance with this policy is a term and condition of continued enrollment/organizational registration.

### **Legal Sanctions**

**Federal Penalties and Sanctions for Illegal Possession of a Controlled Substance** – 1st conviction: Up to 1 year imprisonment and a fine of at least \$1,000 but not more than \$100,000, or both. After 1 prior drug conviction: At least 15 days in prison, not to exceed 2 years and a fine of at least \$2,500 but not more than \$250,000 or both. After 2 or more prior drug convictions: At least 90 days in prison, not to exceed 3 years and a fine of at least \$5,000 but not more than \$250,000 or both. Special sentencing provisions for possession of crack cocaine are mandatory 5 to 20 years in prison and a fine of up to \$250,000; both if (a) 1st conviction and the amount of crack possessed exceeds 5 grams, (b) 2nd crack conviction and the amount of crack possessed exceeds 3 grams (c) 3rd or subsequent crack conviction and the amount of crack possessed exceeds 1 gram. Personal and real property used to possess or to facilitate possession of a controlled substance may be forfeited if that offense is punishable by more than 1 year imprisonment. Vehicles, boats, aircraft, or any other conveyance used to transport or conceal a controlled substance may also be forfeited. Additional sanctions include civil fines of up to \$10,000; denial of federal benefits, such as student loans, grants, contracts, and professional commercial licenses, up to 1 year for first offense, up to 5 years for second and subsequent offenses; and ineligibility to receive or purchase a firearm. Other sanctions vested within the authorities of individual federal agencies are revocation of certain federal licenses and benefits such as pilot licenses and public housing.

### **State of Arkansas Sanctions and Penalties**

**Underage DUI Law** – The State of Arkansas' "Underage DUI (Driving Under the Influence) Law" (863) makes it an offense for a person under the age of 21 with a blood alcohol content of .02 or higher (approximately one can of beer, one glass of wine, or one drink of hard liquor) to operate a motorized vehicle. Penalties for a first offense can result in (1) suspension of driver's license for not less than 90 days; (2) a fine of no less than \$100 nor more than \$500; (3) assignment to public service work; and/or (4) completion of an alcohol and driving education program.

**Driving While Intoxicated** – A person who drives a motorized vehicle while influenced or affected by the ingestion of alcohol, a controlled substance, or any intoxicant commits the offense of driving while intoxicated. Penalties for such an offense may include (1) suspension of license for 6 months for the first offense with a blood alcohol content of at least .08; suspension of 180 days for the first offense with a blood alcohol content of .15 or more; suspension for 6 months for first offense if intoxicated by use of a controlled substance; (2) imprisonment for no less than 24 hours and no more than one year for the first offense (with additional imprisonment for subsequent offense); (3) fines of no less than \$150 and no more than \$1,000 for the first offense (with stiffer fines for subsequent offenses); (4) as an inability to pay fines will result in court-ordered public service work ; and (5) a requirement to complete an alcohol education program as prescribed and approved by a contractor with the Division of Behavioral Health Services, or an alcoholism treatment program licensed by the Division of Behavioral Health Services. A blood alcohol level in excess of .04 may be considered with other competent evidence in determining guilt or innocence. A blood alcohol level of .08 or more shall give rise to a presumption of intoxication.

**Public Intoxication** – A person commits the offense of "Public Intoxication" if (1) he appears in a public place manifestly under the influence of alcohol or a controlled substance to the degree that he is likely to endanger himself or other

persons or property, or (2) he unreasonable annoys persons in his vicinity. Public intoxication is a Class A misdemeanor, and can result in a fine of up to \$2,500, and/or imprisonment in the county jail (or other authorized institution) for up to 30 days.

**Drinking in Public** – A person commits the offense of “Drinking in Public” if that person consumes alcohol in any public place. This includes consumption while in a vehicle on a street or highway. Penalties include a fine of up to \$2,500, and/or imprisonment for up to 30 days. Possession of any alcoholic beverages in Tech residence halls or on any other University property is prohibited.

**Possession of or Purchasing Alcohol by a Minor** – It is illegal for a person under the age of 21 to possess/purchase alcohol. Penalties include a fine of up to \$500, probation under the direction of the court, driver’s license suspensions for a period of up to one year, and writing themes or essays on intoxicating liquors, wine, or beer.

**Knowingly Furnishing to a Minor** – A person commits the offense of “Knowingly Furnishing to a Minor” if, being an adult, he or she knowingly gives, procures, or otherwise furnishes alcoholic beverage to a minor. Such an offense is a Class A misdemeanor, and can result in (1) a fine of up to \$2,500 and/or (2) imprisonment in the county jail (or other authorized institution) for up to one full year.

**Manufacture or Delivery of a Controlled Substance** – It is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance. Penalties for the manufacture or delivery of a controlled substance can range from three (3) years to life in prison, and fines up to \$250,000, depending on the quantity and type of drug. In addition, real and personal property used in the manufacture, delivery, or importing of controlled substances may be forfeited to the government.

**Manufacture or Delivery of a Counterfeit Substance** – It is unlawful for any person to create, deliver, or possess with intent to deliver a counterfeit substance purporting to be a controlled substance. Penalties for the creating and/or delivery of a counterfeit substance can range from 1 to 20 years in prison, and fines up to \$15,000 depending on the type of drug being counterfeited.

**Possession of a Controlled or Counterfeit Substance** – It is unlawful for any person to possess a controlled substance or counterfeit substance. Penalties for possession of a controlled or counterfeit substance can range from 1 to 10 years in prison and fines up to \$10,000, depending on the type of drug (or counterfeit) possessed.

## **Health Risks**

**Alcohol** – Can cause short term effects such as loss of concentration and judgment; slowed reflexes; disorientation leading to higher risk of accidents and problem behavior; long term effects include risk of liver and heart damage, malnutrition, cancer, and other illnesses; can be highly addictive to some persons.

**Amphetamines** – Can cause short term effects such as rushed, careless behavior and pushing beyond your physical capacity, leading to exhaustion; tolerance increases rapidly; long term effects include physical and psychological dependence and withdrawal can result in depression and suicide; continued high doses can cause heart problems, infections, malnutrition, and death.

**Cannabis (Marijuana)** – Can cause short term effects such as slow reflexes; increases forgetfulness; alters judgment of space and distance; aggravates pre-existing heart and/or mental health problems; long term health effects include permanent damage to lungs, reproductive organs, and brain function; can interfere with physical, psychological, social development of young users.

**Cocaine (Crack)** – Can cause short term effects such as impaired judgment; increased breathing, heart rate, heart palpitations; anxiety, restlessness, hostility, paranoia, confusion; long term effects may include damage to respiratory and immune systems; malnutrition, seizures, and loss of brain function; highly addictive.

**Designer Drugs/Synthetic Cannabinoids (bath salts, K2, spice)** – Can cause short term effects such as elevated heart rate, blood pressure, and chest pain; hallucinations, seizures, violent behavior, and paranoia; may lead to lack of appetite, vomiting, and tremor; long-term use may result in kidney/liver failure; increased risk of suicide and death.

**Hallucinogens (PCP, LSD, ecstasy, dextromethorphan)** – Can cause extreme distortions of what’s seen and heard induces sudden changes in behavior, loss of concentration, and memory; increases risk of birth defects in user’s children; overdose can cause psychosis, convulsions, coma, and death; frequent and long-term use can cause permanent loss of mental function.

**Inhalants (nitrous oxide, amyl nitrite, butyl nitrite, chlorohydrocarbons, hydrocarbons)** – Can cause short term effects such as nausea, dizziness, fatigue, slurred speech, hallucinations, or delusions; may lead to rapid and irregular heart

rhythms, heart failure, and death; long-term use may result in loss of feeling, hearing, and vision; can result in permanent damage to the brain, heart, lungs, liver, and kidneys.

**Opiates/Narcotics (heroin, morphine, opium, codeine, oxycodone, china white)** – Can cause physical and psychological dependence; overdose can cause coma, convulsions, respiratory arrest, and death; long term use leads to malnutrition, infection, and hepatitis; sharing needles is a leading cause of the spread of HIV and hepatitis; highly addictive, tolerance increases rapidly.

**Sedatives** – Can cause reduced reaction time and confusion; overdose can cause coma, respiratory arrest, Convulsions, and death; withdrawal can be dangerous; in combination with other controlled substances, can quickly cause coma, and death; long term use can produce physical and psychological dependence; tolerance increases rapidly.

**Tobacco (cigarettes, cigars, chewing tobacco)** – Smoking increases the risk for myocardial infarction (heart attack) and can cause cancer, particularly lung cancer and cancers of the larynx and mouth; can cause diseases of the respiratory tract such as COPD and emphysema as well as diseases of the cardiovascular system; nicotine is highly addictive.

### **Drug and Alcohol Programs**

Arkansas Tech University utilizes evidenced-based strategic interventions, collaboration, innovation, and the incorporation of the wellness dimensions to reduce harmful consequences of alcohol and other drug use. Drug and alcohol programming includes, but is not limited to:

- Providing education and awareness activities.
- Offering substance-free social, extracurricular, and public service options.
- Creating a health-promoting normative environment.
- Restricting the marketing and promotion of alcohol and other drugs.
- Limiting availability of alcohol and other drugs.
- Developing and enforcing campus policies to address high-risk and illegal alcohol and other drug use, including the tobacco free campus policy.
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### **Drug and Alcohol Programs**

Arkansas Tech University utilizes evidenced-based strategic interventions, collaboration, innovation, and the incorporation of the wellness dimensions to reduce harmful consequences of alcohol and other drug use. Drug and alcohol programming includes, but is not limited to:

- All new undergraduate students on the Russellville Campus are required to complete AlcoholEdu® for College, an online alcohol education program.
- Administering and utilizing results from the Core Survey to determine problematic drinking behaviors specific to our campus to help inform programming and prevention efforts.
- Providing education and awareness activities.
- Offering substance-free social, extracurricular, and public service options.
- Creating a health-promoting normative environment.
- Restricting the marketing and promotion of alcohol and other drugs.
- Limiting availability of alcohol and other drugs.
- Developing and enforcing campus policies to address high-risk and illegal alcohol and other drug use, including the tobacco free campus policy.
- Providing early intervention and referral for treatment.

### **Disciplinary Sanctions**

Students violating the University policy on alcohol or other drugs are subject to sanctions up to and including expulsion from the University and referral for prosecution. Any employee violating any criminal drug statute while in the work place will be subject to discipline up to and including termination. The University may notify parents or guardians of students under age 21 who are found to be in violation of the drug or alcohol policies as set forth in the Student Code of Conduct.

### **Sexual Misconduct Prevention Program and Policy Information**

Sexual misconduct is specifically prohibited on the Arkansas Tech University campus or in connection with any of the programs and activities it sponsors. Students committing sexual misconduct, whether on or off campus, are subject to University disciplinary action as well as possible criminal action. Sexual misconduct is any sexual act which violates the criminal laws of the State of Arkansas or laws of the United States including, but not limited to, sexual assault (non-consensual sexual contact or intercourse), domestic violence, dating violence, stalking, sexual exploitation, and sexual harassment. The complete Sexual Misconduct Policy and Procedures are located in Article III, Section F of the Student Code of Conduct in this document.

### **Awareness and Prevention Programs**

Sexual misconduct awareness and prevention programming is presented regularly each academic year through the collaborative efforts of the Office of Affirmative Action, Human Resources, and Student Services including the departments of Residence Life, the Health and Wellness Center, and Public Safety. Examples of educational and informational programming related to sexual misconduct and assault include but is not limited to the following:

- New Student Orientation
- Guest speakers with related expertise are hosted by Registered Student Organizations
- Counseling Services provides a variety of related educational and informational media for campus community use
- The Department of Public Safety will walk with students to their vehicles after dark
- The Jerry Cares campaign sponsored by Student Services raises awareness of a variety of safety initiatives, including sexual misconduct

### **Reporting a Sex Offense**

If you or someone you know may have been a victim of sexual assault, you are strongly encouraged to seek immediate assistance. Assistance can be obtained 24 hours a day, 7 days a week from the Arkansas Tech Department of Public Safety by dialing 911 or calling (479) 968-0222. If you are off-campus, assistance can be obtained 24 hours a day, 7 days a week from the Russellville Police Department by dialing 911.

Medical assistance can be requested by dialing 911 or going directly to the hospital. St. Mary's Regional Medical Center is located at 1808 West Main Street, Russellville, AR 72801, or Mercy Hospital located at 801 West River Street, Ozark, AR 72949. Nurses on staff in the emergency room are trained and equipped with the supplies necessary to perform a rape kit to preserve evidence. Treatment of injuries, preventative treatment for sexually transmitted diseases, and other health services are provided. If you decide to take this action, try not to shower, change clothes, eat or go to the bathroom before seeking medical attention so as to preserve any evidence.

During business hours (8 a.m. - 5 p.m., Monday through Friday), you are also strongly encouraged to contact Amy Pennington [apennington@atu.edu](mailto:apennington@atu.edu), Arkansas Tech University's Title IX Coordinator by telephone at (479) 968-0407, by email at [apennington@atu.edu](mailto:apennington@atu.edu). On the Ozark campus, during business hours (8 a.m. to 5 p.m., Monday through Friday), contact Tanya Martin, Arkansas Tech University-Ozark Campus Title IX Coordinator by telephone at (479)-508-3307, by e-mail at [tmartin31@atu.edu](mailto:tmartin31@atu.edu), or in person at Room 154 of the Technology and Academic Support Building located at 1700 Helberg Lane.

The University encourages victims of sexual misconduct to talk to somebody about what happened so that victims can get the support they need, and so that the University can respond appropriately. Different employees on campus have different abilities to maintain a victim's confidentiality. Some employees are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication." At Arkansas Tech, the following employees are the licensed counselors staffed in the Health and Wellness Center (<http://www.atu.edu/hwc/index.php>) located in Dean Hall:

- Kristy Davis, [kdavis51@atu.edu](mailto:kdavis51@atu.edu), (479) 968-0329
- Craig Witcher, [cwitcher@atu.edu](mailto:cwitcher@atu.edu), (479) 968-0329

- Hunter Bramlitt, jbramlitt@atu.edu, (479) 968-0329
- Janis Taylor, jtaylor78@atu.edu, (479) 968-0329

For additional and more detailed information related to options for ongoing assistance and reporting, please see the Sexual Misconduct Policy and Procedures located in Article III, Section F of the Student Code of Conduct in this document.

### **Disciplinary Sanctions**

The disciplinary process is outlined in the Sexual Misconduct Policy and Procedures located in Article III, Section F of the Student Code of Conduct. Sanctions imposed for disciplinary purposes by the University against those found responsible for sexual misconduct may include suspension or expulsion from the University. A list of all possible sanctions can be found in Article IV, Section D of the Student Code of Conduct.

## **Student Code of Conduct**

### **Preface**

Arkansas Tech University is dedicated to learning, the advancement of knowledge, and the development of ethically sensitive and responsible persons. Achieving these goals through a sound educational program and by implementing student conduct policies that encourage independence and maturity is a priority. Each member of the Arkansas Tech University community assumes an obligation to obey all rules and regulations made by properly constituted authorities, preserve faithfully all property provided for his or her education, and fulfill his or her duties as a student with diligence, fidelity, and honor.

Arkansas Tech University students are responsible for understanding all rules, regulations, and policies that shape the structure of our campus community. Students should read, understand, and follow the rules and regulations outlined in the Student Handbook and the Student Code of Conduct as well as those outlined in the Undergraduate or Graduate Catalogs.

In compliance with the Constitution of the State of Arkansas, the Arkansas Tech University Board of Trustees is vested with authority to make regulations and policies, consistent with the laws of the land, for Arkansas Tech University. Students seeking interpretations of provisions within the Student Code of Conduct may contact Richard Harris, Chief Student Officer

### **Article I: Definitions**

- The term "**University**" refers to Arkansas Tech University. Arkansas Tech University is herein referred to as "Tech."
- The term "**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 disciplinary purposes, under the Student Code of Conduct, a student is also defined as any individual who:
  - attends post-secondary educational institutions other than Tech;
  - was enrolled within the last twelve months, but is not enrolled during a current term;
  - has been notified of acceptance for admission but has yet to be enrolled for study;
  - withdraws after allegedly violating the Student Code of Conduct;
  - is a non-temporary guest having continuous residence at any University housing property, even if not enrolled at the University.
- The term "**faculty member**" refers to any person hired by the University to conduct classroom activities.
- The term "**University official**" refers to any person employed by the University, performing assigned administrative or professional responsibilities.
- The term "**member of the University community**" includes any person who is a student, faculty member, University official, or any other person employed by the University. The status of a person in a particular situation shall be determined by the conduct advisor in conjunction with the Student Conduct Administrator.
- The term "**University premises**" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the University. This includes adjacent streets and sidewalks.

- G. The term "**organization**" refers to any number of persons who have complied with the formal registration requirements for University recognition including, but not limited to, Registered Student Organizations.
- H. The term "**Student Conduct Administrator**" refers to the person designated by the Chancellor, to be responsible for the administration of the Student Code of Conduct.
- I. The term "**conduct body**" refers to any persons authorized by the Student Conduct Administrator to determine whether a student has violated the Student Code of Conduct and impose sanctions.
- J. The term "**conduct advisor**" refers to a University official authorized on a case-by-case basis, by the Student Conduct Administrator, to investigate possible violations of the Student Code of Conduct and impose sanctions upon students found to have violated the Student Code of Conduct.
- K. The term "**appellate authority**" refers to any person or persons authorized to consider an appeal of a decision by a conduct body.
- L. The term "**shall**" is used in the imperative tense.
- M. The term "**may**" is used in the permissive tense.
- N. The term "**policy**" is defined as the written regulations of the University as found in, but not limited to, the Student Handbook, Housing Contract, Guide to Residence Hall Living, Parking and Traffic Regulations, and Graduate or Undergraduate Catalogs.
- O. The term "**complainant**" refers to any person(s) who submits a charge alleging a violation of a University policy.
- P. The term "**respondent**" refers to any student(s) accused of violating a University policy.

## **Article II: Student Code of Conduct Authority**

While enrolled at the University, students are subject to delegated University authority. The Chancellor shall designate a Student Conduct Administrator, who shall, when necessary, identify other conduct advisors to assist with the administration of the conduct process. The Student Conduct Administrator will train the conduct advisors and members of the conduct body who are responsible for the discipline of students and may, through the disciplinary procedures specified herein, impose sanctions for violations of the Student Code of Conduct. University disciplinary action will not be stayed or suspended even if a case(s) is pending, in process, or determined in the civil or criminal courts.

- A. The Chief Student Officer is designated by the Chancellor to be responsible for overseeing the administration of the Student Code of Conduct.
- B. The Student Conduct Administrator shall ensure that the composition of the conduct body follows the criteria set forth in this document. The Student Conduct Administrator shall also determine which conduct advisor(s) shall be authorized to hear each case.
- C. The Chief Student Officer shall develop policies for the administration of the conduct program and procedural rules for the conduct body, including hearings.
- D. Decisions made by a conduct body and/or conduct advisor shall be final. Appeal of a conduct body and/or conduct advisor decision must follow the process outlined in the Student Code of Conduct.

## **Article III: General Conduct Expectations**

### **A. Jurisdiction of the University**

The Student Code of Conduct applies to the conduct of any University student that occurs 1) on University premises, or 2) at any University sponsored event or activity. In addition, the University may take action under the Student Code of Conduct based upon the off-campus behavior of a student if that behavior constitutes a safety or security threat to the campus and 1) directly affects any other University student, 2) substantially affects the University community or its objectives or 3) violates local, state, or federal law.

Each student is responsible under the Student Code of Conduct for his or her conduct occurring at any time prior to being awarded an applicable degree, even if the University does not discover the conduct until after awarding the degree. The Student Code of Conduct also applies to any student conduct that occurs during any interim period:

- 1. before classes have begun or after classes have ended;
- 2. during which the student's enrollment temporarily ceases.

The Student Code of Conduct also applies to the student's conduct:

3. if the student withdraws from the University, or leaves its premises, while a disciplinary matter is pending;
4. retroactively as of the student's first admission application date if the student at any time has enrolled at the university

## **B. Conduct Rules and Regulations**

Any student found to have committed or attempted to commit the following misconduct is subject to the disciplinary sanctions outlined in Article IV, Section D and Article III, Section B, 9.

1. Acts of dishonesty including, but not limited to:
  - a. Furnishing false information or false reports to any University official, faculty member, or office;
  - b. Forgery, alteration, unauthorized use or misuse of any University document, record, or instrument of identification;
  - c. Tampering with the election of any University RSO or campus vote;
  - d. Possible violations of the Academic Dishonesty Policy or the Academic Misconduct Policy are administered separately through academic channels as outlined in Article V of the Student Code of Conduct. Certain behaviors may violate both the Academic Dishonesty/Misconduct Policies and the Student Code of Conduct. In these cases, one process or both processes may be utilized.
2. Material disruption or obstruction of teaching, research, administration, disciplinary proceedings, other University activities, including its public service functions on or off campus, or other authorized non-University activities, when the conduct occurs on University premises.
3. Attempted or actual theft of and/or damage to property of the University, services of the University, property of a member of the University community or other personal or public property.
4. Unauthorized possession, duplication or use of keys to any University premises, or unauthorized entry to or use of University premises. Failure to report a lost key issued by the University to proper officials.
5. Sexual harassment between students or from a student to another member of the University community. Please see Sexual Harassment Policy located in Article III, Section E.

If you feel that you have been a victim of sexual harassment, please contact Tanya Martin, Deputy Coordinator of Affirmative Action and Title IX, Technology and Academic Support, 479-508-3307, [tmartin31@atu.edu](mailto:tmartin31@atu.edu) or [affirmative.action@atu.edu](mailto:affirmative.action@atu.edu).

6. Physical abuse, defined as intentional physical contact with any person when such conduct threatens or endangers the health and safety of that person(s).
7. Threats defined as making statements, verbal or written, that communicate a clear and serious expression of intent to commit an act of unlawful violence upon a particular person or group of people.
8. Intimidation, defined as spoken or unspoken threats made with the intent to harass or alarm any individual or group, placing a person or group in fear of retaliation, bodily harm, or death.
9. Stalking, defined as behavior with the intent to harass or alarm any individual or group, subjecting an individual or group to uninvited interaction or the threat of uninvited interaction. Willfully, maliciously, and repeatedly following or harassing another person in a manner that would cause a reasonable person to feel frightened, intimidated, threatened, or harassed.
10. Harassment, defined as unwelcome conduct that is severe and pervasive and substantially interferes with the learning, working, or living environment, and which would detrimentally affect a reasonable person under the circumstances. Harassment is extreme, outrageous, or persistent acts or communications that are intended or reasonably likely to harass, intimidate, or humiliate another. Whether the alleged conduct constitutes prohibited harassment depends on the entire circumstances, including the nature, frequency, type, and duration of the conduct.

11. Hazing, defined in Arkansas law in § 6-5-201 and § 6-5-204, and as further defined in University policy as: Any willful act on or off the property of any school, college, university, or other educational institution in Arkansas by one (1) student alone or acting with others which is directed against any other student and done for the purpose of intimidating the student attacked by threatening him or her with social or other ostracism or of submitting such student to ignominy, shame, or disgrace among his or her fellow students, and acts calculated to produce such results;
  - a. The playing of abusive or truculent tricks on or off the property of any school, college, university, or other educational institution in Arkansas by one (1) student alone or acting with others, upon another student to frighten or scare him or her;
  - b. Any willful act on or off the property of any school, college, university, or other educational institution in Arkansas by one (1) student alone or acting with others which is directed against any other student done for the purpose of humbling the pride, stifling the ambition, or impairing the courage of the student attacked or to discourage him or her from remaining in that school, college, university, or other educational institution, or reasonably to cause him or her to leave the institution rather than submit to such acts; or
  - c. Any willful act on or off the property of any school, college, university, or other educational institution in Arkansas by one (1) student alone or acting with others in striking, beating, bruising, or maiming; or seriously offering, threatening, or attempting to strike, beat, bruise, or maim; or to do or seriously offer, threaten, or attempt to do physical violence to any student of any such educational institution; or any assault upon any such student made for the purpose of committing any of the acts, or producing any of the results, to such student as defined in this section.
  - d. The term "hazing" as defined in this section does not include customary athletic events or similar contests or competitions and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization. The University hazing prevention policy can be found in the Arkansas Tech University Student Handbook.. Failure to follow this policy is prohibited.
  - e. Failure to comply with a request by an authorized university official, including resident assistants, or law enforcement officers acting in performance of their duties including failure to identify oneself and/or present his/her university identification card upon request.
12. Cyberbullying, defined as using an electronic device, such as a computer or cell phone, to send an electronic communication to harass, threaten, humiliate, defame, or intimidate a person or group of people.
13. False notification of an emergency, defined as providing a false report to 911, the Office of Public Safety or false activation of an emergency call station, panic button, or fire alarm.
14. Violation of University policies, rules or regulations including, but not limited to, Office of Residence Life regulations, may be considered a violation of the Student Code of Conduct.
15. Violation of local, state, or federal law on University premises or at University sponsored or supervised activities.
16. Illegal drugs, including the use, possession, manufacturing, distribution, or being found under the influence of marijuana, inhalants, narcotics, or other controlled substances and paraphernalia, except as expressly permitted by law. The University may notify parents or guardians of students under age 21 who are found to be in violation of this policy. Use or possession of marijuana, including medical marijuana used or prescribed under the Arkansas Medical Marijuana Amendment of 2016, is strictly prohibited on campus. Any such use or possession is a violation of the Student Code of Conduct. Specifically, Act 740 of 2017 provides that the Arkansas Medical Marijuana Amendment of 2016 does not permit a person to possess, smoke, or otherwise engage in the medical use of marijuana on the grounds of a college or university.
17. Use of any tobacco product including, but not limited to, smoking, use of electronic cigarettes, vapor pens (with or without tobacco products), dipping, or chewing tobacco. See Tobacco-Free Policy located in this handbook for more details and definitions.
18. Improper use, possession, or distribution of legal drugs and/or prescription drugs without a prescription.
19. Alcohol, including use, possession, distribution, public intoxication, or being found under the influence of alcohol. The University may notify parents or guardians of students under age 21 who are found to be in violation of this policy.
20. Use, possession, storage, or distribution of firearms, rifles, shotguns, pistols, explosive materials (including fireworks), archery equipment, ammunition/bullets, or any other weapons or dangerous instrumentality on the

campus is prohibited and can result in immediate interim suspension of the student. This includes, but is not limited to, knives (with blades larger than 3 inches in length), blow guns, sling shots, BB guns, paintball guns, airsoft guns, swords, pellet guns, toy guns, water guns, Nerf guns, and any object used or threatened to be used as a weapon in which serious injury does or could result. Students owning firearms and/or other prohibited hunting materials should make arrangements for storage of these weapons off campus.

21. Unless otherwise permitted by law, use, possession, storage, or distribution of firearms, rifles, shotguns, pistols, explosive materials (including fireworks), archery equipment, ammunition/bullets, or any other weapons or dangerous instrumentality on the campus is prohibited and can result in immediate interim suspension of the student. This includes, but is not limited to, knives (with blades larger than 3 inches in length), blow guns, sling shots, BB guns, paintball guns, airsoft guns, swords, pellet guns, toy guns, water guns, Nerf guns, and any other object used or threatened to be used as a weapon in which serious injury does or could result. Students owning firearms and/or other prohibited hunting materials should make arrangements for storage of these weapons off campus.
22. Effective September 1, 2017, provided that the concealed carry licensee has the enhanced carry endorsement/training required by Act 562 of 2017, and subject to the limitations in Act 859 of 2017 (i.e. designated collegiate athletic events and/or discipline or grievance meetings or hearings), carrying a concealed handgun in the buildings or on the grounds owned or leased by Arkansas Tech University is permitted.
23. Pursuant to A.C.A. 5-73-322(d), the storage of a handgun by any person, concealed carry licensee or not, in a university-operated student dormitory or residence hall is prohibited under A.C.A. 5-73-119(c).
24. Pursuant to A.C.A. 5-73-306, a concealed carry licensee may have a concealed handgun in a locked and unattended vehicle when the vehicle is in a university parking lot.
25. Destruction, vandalism, damage, or misuse of University or private property including, but not limited to, buildings, furniture, library materials, computer hardware, software and network, trees, shrubbery, or University files and records; violation of University rules for use of campus facilities; tampering with safety equipment including, but not limited to, fire alarms, fire equipment, or escape mechanisms and elevators.
26. Participation in a campus demonstration that infringes on the rights of other members of the University community; leading or inciting others to disrupt scheduled and/or normal activities within any campus building or area; intentional obstruction that unreasonably interferes with freedom of movement, either pedestrian or vehicular, on campus.
27. Obstruction of the free flow of pedestrian or vehicular traffic on University premises or at University sponsored or supervised functions.
28. Disorderly conduct; breach of peace; or aiding, abetting, or procuring another person to breach the peace on University premises or at functions sponsored by, or participated in by, the University. Disorderly conduct includes, but is not limited to, any unauthorized use of electronic or other devices to make an audio or video recording of any person while on University premises without his/her prior knowledge, or without his/her effective consent when such a recording is likely to cause injury or distress. This includes, but is not limited to, surreptitiously taking pictures of another person in a gym, locker room, residence hall room, or restroom.
29. Use of bicycles, skateboards, longboards, scooters, or in-line and roller skates in restricted areas at the University. The possession, use, or storage of self-balancing scooters/hoverboards inside Arkansas Tech University buildings (Russellville campus, Ozark campus, and all auxiliary locations) is prohibited. For more information, please refer to the Bicycles, Skates, Skateboards, and Hoverboard policies located in the Campus Facilities section of this handbook.
30. Misuse of technology, theft or other abuse of computer time including, but not limited to: Unauthorized entry into a file to use, read, or change the contents or for any other unauthorized transfer of a file;
  - a. Unauthorized use of another individual's identification and password;
  - b. Use of computing facilities and resources to interfere with the work of another student, faculty member, or University official;
  - c. Use of computing facilities and resources to send messages that adversely affect the University community and/ or the pursuit of its objectives, including obscene or abusive messages;

- d. Use of computing facilities and resources to interfere with normal operation of the University computing system;
- e. Use of computing facilities and resources in violation of copyright law, including illegal file-sharing and downloading. Please see DMCA Violation Policy in Article III, Section D.

A complete list of Tech's computer use policies can be found at:<https://support.atu.edu/link/portal/16084/16101/ArticleFolder/60/Policies>.

31. Abuse of the judicial system including, but not limited to: Failure to obey the directions of a conduct body or University official;
  - a. Falsification, distortion, or misrepresentation of information before a conduct body;
  - b. Disruption or interference with a conduct proceeding;
  - c. Knowingly filing false charges that result in a conduct proceeding;
  - d. Attempting to discourage an individual's proper participation in, or use of, the conduct system;
  - e. Attempting to influence the impartiality of a member of a conduct body prior to and/or during the course of the conduct proceeding;
  - f. Harassment (verbal or physical) and/or intimidation of a member of a conduct body prior to, during, and/or after a conduct proceeding;
  - g. Failure to comply with the sanction(s) imposed under the Student Code of Conduct;
  - h. Influencing or attempting to influence another person to commit an abuse of the conduct system.
32. Knowingly being present at the commission of a violation and/or exhibiting passive approval and participation.
33. Misconduct abroad by any student, who in any foreign country undertakes study or represents the University otherwise, remains subject to the Student Code of Conduct.
34. Endangerment or any action that unnecessarily places oneself or others in danger or physical harm.
35. Discrimination, defined as actions that deprive other members of the University community of educational or employment access, benefits, or opportunities on the basis of any protected category.
36. Bullying, defined as repeated or severe aggressive behavior likely to intimidate or intentionally hurt, control, or diminish another person, physically or mentally (that is not speech or conduct that is otherwise protected by the First Amendment.)
37. Residence hall violations as outlined in the Guide to Residence Hall Living located in the On-Campus Living section of this handbook.
38. Violation of the Tech Sexual Misconduct Policy. The Sexual Misconduct Policy and Procedures are located in the Student Code of Conduct Article III, Section F.

If you feel that you have been a victim of sexual misconduct, please contact Tanya Martin, Deputy Coordinator of Affirmative Action and Title IX, Technology and Academic Support Room 154, 479-508-3307, [tmartin31@atu.edu](mailto:tmartin31@atu.edu) or [affirmative.action@atu.edu](mailto:affirmative.action@atu.edu).

### **C. Digital Millennium Copyright Act (DMCA) Violation, Procedures and Policy**

Arkansas Tech University recognizes that downloading and sharing copyrighted material online without permission is both illegal and unethical. In compliance with the Digital Millennium Copyright Act of 1998, Arkansas Tech is obligated, based on federal regulations, to address and resolve any cases of copyright infringement brought to our attention via the procedures listed below:

1. The Office of Information Systems is made aware of copyright infringement through use of file sharing or peer-to-peer (P2P) software or through a Notice of Claimed Infringement, which includes the violation type, IP address, and IP port number. The port is turned off immediately when notification is made to Office of Information Systems personnel.
2. Office of Information Systems personnel links the IP information to a user.
3. In cases involving student users, Office of Information Systems personnel sends the student name, T#, residence hall room location or alternate location of activity (if applicable), email address, "material in question" (Notice of Claimed Infringement), and date of activity to the Student Conduct Administrator.

4. A student conduct case is created and assigned to a conduct advisor. The case is adjudicated in accordance with Article IV of the Student Code of Conduct, during which the student acknowledges policies on copyright infringement and illegal downloading by signing a Notice of Illegal Downloading of Copyrighted Material form. Internet access provided by Arkansas Tech is deactivated until the student completes the conduct process.
5. If found responsible for violating the policy, the student may receive sanctions including, but not limited to:
  - a. 1st Offense: Loss of Internet access from Arkansas Tech University for a minimum of 10 weeks or until the end of the semester, whichever is longer; Educational sanctions; \$75 monetary fine.
  - b. 2nd Offense: Loss of scholarship eligibility; Loss of student employment eligibility; Loss of Internet access from Arkansas Tech University for the remainder of the semester.
  - c. 3rd Offense: University suspension for 1 (one) full semester.
6. The student is responsible for the removal of any illegally downloaded material. If Arkansas Tech University officials receive notification of another violation, the student will be held accountable for the second offense, even if the same material from the original violation is detected due to the student's failure to remove the illegally downloaded material.
7. The conduct advisor notifies Office of Information Systems personnel of the date when the student's Internet access can be reactivated. Permission for re-activation will not be granted until the student signs the Notice of Illegal Downloading of Copyrighted Material form and completes all assigned sanctions.

#### **D. Sexual Harassment Policy**

It is the policy of Tech to maintain the University community as a place of work and study for staff, faculty, and students free of harassment, including sexual and gender harassment and all forms of sexual intimidation and exploitation. All students, staff, and faculty should be aware both that the University is concerned and prepared to take action to prevent and correct such behavior.

Sexual harassment by any faculty, staff, or student is a violation of both law and University policy and will not be tolerated at Tech. The University considers sexual harassment to be a very serious issue and shall subject the offender to dismissal or other sanctions following the University's investigation and substantiation of the complaint and compliance with due process requirements.

The determination of what constitutes sexual harassment will vary with the particular circumstances, but it may be generally described as repeated and unwanted sexual behavior, such as physical contact and verbal comments or suggestions that adversely affect the working or learning environments of others.

EEOC Guidelines define sexual harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is either explicitly or implicitly made a condition of an individual's employment with the University or a factor in the educational program of a student; and/or
2. Submission to or a rejection of such conduct by an individual is used as the basis for an employment or academic decision affecting such individuals; and/or
3. Such conduct has the purpose or effect of substantially interfering with an individual's right to achieve an educational objective or to work in an environment free of intimidation, hostility, or threats stemming from acts or language of a sexual nature.

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

Because of the unique situations which exist between students, faculty, supervisors, and staff, relationships in the workplace and on campus should at all times remain professional. In particular, due to the professional power differential between faculty and students, faculty members are encouraged to remain professional in all relationships with students. As teachers, professors encourage the free pursuit of learning by their students. They hold before them the best scholarly standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest

academic conduct and to assure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.

Sexual harassment may create a hostile, abusive, demeaning, offensive, or intimidating environment. It is manifested by verbal or physical actions, including gestures and other symbolic conduct. Sexual harassment is not always obvious and overt; it can also be subtle and covert. A person who is subject to sexual advances may nevertheless be a victim of sexual harassment if those advances were unwelcome.

If a professor's speech or conduct takes place in the teaching context, it must also be persistent, pervasive, and not germane to the subject matter. The academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the appropriate content and presentation of academic material.

Examples of sexual harassment may include, but are not limited to, the following:

- Verbal abuse of a sexual nature, which is considered to include, but is not limited to epithets, derogatory comments, sexual advances, invitations, propositions, comments, or requests for sexual favors;
- Intimate unwelcome physical contact;
- Repeated unwanted discussions of sexual matters;
- Use of sexual jokes, stories, analogies, or images which are not related to the subject of the class or work situation;
- Ogling, leering, or prolonged staring at another person's body;
- Display or use of sexual graffiti or sexually-explicit pictures or objects;
- Sexually suggestive jokes, comments, e-mails, or other written or oral communications;
- Condition, explicitly or implicitly, academic or employment decisions upon an individual's submission to requests for sexual favors or conduct.

Individuals who are aware of or have been subjected to sexual harassment on the Ozark Campus are encouraged to promptly contact the Tanya Martin, Deputy Coordinator of Affirmative Action and Title IX, Technology and Academic Support Room 154, 479-508-3307, [tmartin31@atu.edu](mailto:tmartin31@atu.edu) or [affirmative.action@atu.edu](mailto:affirmative.action@atu.edu).

. Or

**Resolution Options** - The University provides two options for reporting and resolving matters involving sexual harassment: an informal resolution process and a formal complaint process. An individual who believes that he or she has been subjected to sexual harassment and seeks to take action may use the informal resolution process, the formal complaint process, or both. First use of the informal resolution process will, in most cases, be consistent with fairness and correcting an undesired circumstance with a minimum of emotional and professional damage. The informal resolution process and formal complaint resolution process are not mutually exclusive and neither is required as a pre-condition for choosing the other; however, they cannot both be used at the same time.

**Informal Resolution** - An individual who believes that he or she has been subjected to sexual harassment should contact the Affirmative Action 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 sexual harassment. Informal resolution may be appropriate when the conduct complained of is not of a serious or repetitive nature and disciplinary action is not required to remedy the situation. As there is no formal investigation involved in the informal resolution process, there is no imposition of discipline. University methods for resolving complaints informally include, but are not limited to:

- Mediating between the victim and the individual who is engaging in the offensive conduct;
- Aiding in the modification of the situation in which the offensive conduct occurred;
- Assisting a department or division with the resolution of a real or perceived problem; or
- Arranging for a documented meeting between the person allegedly engaged in the offensive conduct and a University official that involves, at a minimum, a discussion of the requirements of the Sexual Harassment policy.

The University will document any informal resolution. The documentation will be retained by the Affirmative Action Officer and, if a faculty member is involved, and so requests, the Faculty Welfare Committee representative. The documentation will be kept confidential to the extent permitted by law. If a complaint is filed in a faculty or staff's permanent record, the faculty or staff member must be notified. An informal resolution meeting is not a precondition for filing a formal written complaint.

**Formal Complaint** - An individual who believes that he or she has been subjected to sexual harassment may submit a written formal complaint setting forth all pertinent facts to the Affirmative Action Officer who will review and investigate the facts presented. The individual, if they are a faculty member, may also request that a copy of the complaint be sent to 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 sexual harassment.

**Investigation** - A formal investigation will be initiated if the complaint articulates sufficient specific facts which, if determined to be true, would support a finding that the University's policy was violated. The Affirmative Action Officer will give the alleged offender a copy of the complaint. The alleged offender is also provided with an opportunity to respond to it within five (5) business days (ten business days if school is not in session) of receipt by the alleged offender. The letter will include a statement advising the alleged offender that retaliation against the individual who filed the complaint is prohibited and will subject the alleged offender to appropriate disciplinary action if retaliation occurs.

Both the individual submitting the complaint and the alleged offender will be individually interviewed as a part of the official investigation as will any witnesses or persons who have information related to the complaint. Documents relevant to the complaint will also be examined. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of an individual. In the course of a complaint investigation, the University will attempt to maintain confidentiality for all parties involved. However, there can be no guarantee of confidentiality and anonymity based upon the course and scope of the complaint investigation. Findings will be based on the totality of the circumstances surrounding the conduct complained of, including, but not limited to:

- the context of the conduct;
- the severity;
- the frequency; or
- whether the conduct was physically threatening, humiliating, or was simply offensive in nature.

**Representation** - During the complaint process, the individual making the complaint and the alleged offender may designate and thereafter be accompanied by an advisor of his or her choosing at meetings and interviews at which he or she is present; however, no representative may examine witnesses or otherwise actively participate in a meeting or interview.

#### **Report of Findings and Recommendation-Complaints Against Non-Students**

The Affirmative Action Officer will provide a proposed statement of findings, copies of relevant documents, and any physical evidence considered to the appropriate chief officer within ten (10) business days (twenty business days if school is not in session) of receipt of the statement from the person whose conduct was complained about.

The appropriate chief officer will promptly notify the individual bringing the complaint and the alleged offender that the investigation has been completed and attach a copy of the proposed statement of findings. A student's identifiable information, if any, which is confidential by law, will be redacted. Within five (5) business days (ten business days if school is not in session) from the date of notification, the individual bringing the complaint and the alleged offender may each submit, for consideration by the appropriate chief officer, such comments and corrections as they may have. Within ten (10) business days (twenty business days if school is not in session) from the date of notification, the chief officer shall take one of the following actions:

- Dismiss the complaint if the result of the completed investigation is inconclusive or there is insufficient reasonable, credible evidence to support the allegation(s); or
- Find that the Sexual Harassment policy was violated.

If the Chief Officer determines that this policy was violated, he or she shall determine a disciplinary action that is appropriate for the severity of the conduct. The Chief Officer shall inform the individual bringing the complaint, the accused individual, and the appropriate dean or department head of his or her decision, and shall attach a copy of the final statement of findings. Copies of the chief officer's letter, the attached statement of findings, and relevant documents shall also be sent to the Affirmative Action Officer.

Disciplinary action may be appealed by the employee who is disciplined. Appeals for faculty shall be made, pursuant to the Faculty Handbook, to the Faculty Welfare Committee. Appeals for non-faculty shall be made, pursuant to the Classified Employee Handbook, in the form of a formal grievance hearing.

#### **Report of Findings and Recommendation - Complaints Against Students**

The Affirmative Action Officer will provide a proposed statement of findings, copies of relevant documents, and any physical evidence considered to the Chief Student Officer for a determination pursuant to Article III of the Arkansas Tech University Student Code of Conduct.

**Filing of a False Complaint** - Individuals whose complaint is found to be both false and have been made with malicious intent will be subject to disciplinary action, which may include, but is not limited to, demotion, transfer, suspension, expulsion, or termination of employment.

### **E. Sexual Misconduct Policy and Procedures**

#### **Options For Immediate Assistance**

If you or someone you know may have been a victim of Sexual Assault, you are strongly encouraged to seek immediate assistance.

#### **Options For Immediate Assistance**

If you or someone you know may have been a victim of Sexual Assault, you are strongly encouraged to seek immediate assistance.

#### **Law Enforcement Assistance**

##### **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 1508 N. Boulder Avenue and available by telephone at (479) 968-0222.

##### **Off Campus - Russellville**

Assistance can be obtained 24 hours a day, 7 days a week, from the Russellville Police Department by dialing 911.

##### **On Campus - Ozark**

Assistance can be obtained from 8 a.m. to 9 p.m., 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.

##### **Off Campus – Ozark**

Assistance can be obtained 24 hours a day, 7 days a week, from the Ozark Police Department by dialing 911.

#### **Medical Assistance**

**Russellville** St. Mary's Regional Medical Center 1808 W. Main Street Russellville, AR 72801

**Ozark** Mercy Hospital Ozark 801 W. River Ozark, AR 72949

Medical assistance can be requested by dialing 911 or going directly to the hospital. Nurses on staff in the emergency room are trained and equipped with the supplies necessary to perform a rape kit to preserve evidence. Treatment of injuries, preventative treatment for sexually transmitted diseases, and other health services are provided.

During business hours (8 a.m. to 5 p.m., Monday through Friday), you are also strongly encouraged to contact Amy Pennington at [apennington@atu.edu](mailto:apennington@atu.edu), Arkansas Tech University's Title IX Coordinator by telephone at (479) 968-0407, by

or Tanya Martin, Deputy Title IX Coordinator for the Ozark Campus, at (479) 508-3307, by email at [tmartin31@atu.edu](mailto:tmartin31@atu.edu), or in person at Room 154 of the Technology & Academic Support Building, 1700 Helberg Lane, Ozark, Arkansas.

For additional information about seeking medical assistance and emotional support, as well as important contact information, including local law enforcement agencies and St. Mary's Hospital in Russellville and Mercy Hospital in Ozark, see Appendix 'A' attached to this policy.

### **Options For Ongoing Assistance**

If you believe you have been involved in an incident of sexual misconduct, you have the right to pursue action through the University conduct system and/or the appropriate law enforcement authorities. Options for reporting sexual misconduct are provided below. Assistance is available upon request for individuals wishing to review these reporting options regardless of whether a formal complaint is filed with the Office of Affirmative Action or to law enforcement officials.

### **On Campus Resources**

The University encourages victims of sexual misconduct to talk to somebody about what happened so that victims can get the support they need, and so that the University can respond appropriately. Different employees on campus have different abilities to maintain a victim's confidentiality. Some employees are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication." At Arkansas Tech, these employees are the licensed counselors staffed in the Health and Wellness Center (<http://www.atu.edu/hwc/index.php>):

- Kristy Davis, [kdavis51@atu.edu](mailto:kdavis51@atu.edu), (479) 968-0329
- Craig Witcher, [cwitcher@atu.edu](mailto:cwitcher@atu.edu), (479) 968-0329
- Hunter Bramlitt, [jbramlitt@atu.edu](mailto:jbramlitt@atu.edu), (479) 968-0329
- Janis Taylor, [jtaylor78@atu.edu](mailto:jtaylor78@atu.edu), (479) 968-0329

### **Off Campus Resources**

#### **Victim Assistance Outreach Program**

The 5th Judicial District Prosecuting Attorney's Office has a "Victim Assistance Outreach Program" which 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 contact person for this program is Patricia Andrade. Her telephone number is (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 (800) 977-5776. Additional services include: Free and confidential assistance for all victims of sexual violence; Compassionate accompaniment for victims needing medical help; Comfort and support for victims going through the criminal justice system; Crisis counseling and support groups for victims and families; Information and referrals to available community resources; Community public education on sexual violence issues; Training for volunteers and other professions serving victims.

#### **Ozark Rape Crisis Center**

Sponsored by the Arkansas Coalition Against Sexual Assault, the Ozark Rape Crisis Center, located in Clarksville, Arkansas, provides 24 hour crisis intervention along with many of the services described above. The hotline telephone number is (800) 818-1189 and the website is: <http://www.ozarkrapecrisis.com/>.

## **ARTICLE I. INTRODUCTION**

### **A. Notice of Nondiscrimination.**

- i. As a recipient of federal funds, Arkansas Tech University is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. §1681 et seq. ("Title IX"), which prohibits discrimination on the basis of sex in educational programs or activities, admission, and employment. Under certain circumstances, Sexual Misconduct (defined below) constitutes sexual discrimination prohibited by Title IX. Inquiries concerning the application of Title IX may be referred to Arkansas Tech University's Title IX Coordinator or to the U.S. Department of Education's Office for Civil Rights. Arkansas Tech University's Title IX Coordinator is Amy Pennington [apennington@atu.edu](mailto:apennington@atu.edu), whose office is in Room 212 of the Administration Building located at 1509 N. Boulder Avenue in Russellville, Arkansas. Amy Pennington at [apennington@atu.edu](mailto:apennington@atu.edu) may be contacted by telephone at (479) 969-0407.

### **B. Overview of this Policy.**

Arkansas Tech University ("the University") is committed to providing programs, activities, and an educational environment free from sex discrimination.

**Sexual misconduct, as that term is used in this policy, is any sexual act which violates the criminal laws of the State of Arkansas or laws of the United States including, but not limited to, sexual assault (non-consensual sexual contact or intercourse), domestic violence, dating violence, stalking, and sexual exploitation.**<sup>1</sup> Sexual misconduct can occur between strangers or acquaintances, and even people involved in intimate or sexual relationships. Sexual misconduct can be committed by men or women and can occur between individuals of the same or different gender. Any sexual activity which is entered into without consent of both or all persons involved is a violation of this policy.

The University is committed to fostering a community that promotes prompt reporting of all types of Sexual Misconduct and timely and fair resolution of Sexual Misconduct Complaints, and in furtherance of that commitment, this Policy sets forth available resources (Appendix A), describes prohibited conduct (Article II), and establishes procedures for responding to Complaints of Sexual Misconduct (Articles III-VI).

The University will make this Policy and information about recognizing and preventing Sexual Misconduct readily available to all students and other members of the University community.

### **C. Applicability of this Policy.**

This Policy applies to any allegation of Sexual Misconduct made by or against a student or an employee of the University or a third party, regardless of where the alleged Sexual Misconduct occurred, if the conduct giving rise to the Complaint is related to the University's academic, educational, athletic, or extracurricular programs or activities. The University's disciplinary authority, however, may not extend to third parties who are not students or employees of the University. Additionally, while there is no geographical limitation to invoking this Policy, Sexual Misconduct that is alleged to have occurred at a significant distance from the University and/or outside of University property may be more difficult for the University to investigate. This policy applies to all students, employees, and third parties, regardless of sexual orientation or gender identity.

In the case of allegations of Sexual Misconduct, this Policy supersedes all other procedures and policies set forth in other University documents.

### **D. Period of Limitations.**

A Complaint of Sexual Misconduct may be filed at any time, regardless of the length of time between the alleged Sexual Misconduct and the decision to file the Complaint. However, the University strongly encourages individuals to file Complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding. A delay in filing a Complaint may compromise the subsequent investigation, particularly if neither the Complainant nor the Respondent is employed by the University or enrolled as a student at the time.

**E. Definitions Applicable to this Policy.**

The definitions applicable to this Policy are set forth in Appendix B.

**ARTICLE II. STATEMENTS OF POLICY**

**A. Prohibition on Sexual Misconduct.**

This Policy is designed to protect the rights and needs of alleged victims, Complainants (if not the alleged victim), and Respondents. Creating a safe environment is the responsibility of all members of the University community.

The University strongly encourages accurate and prompt reporting of all types of Sexual Misconduct and is committed to fostering a community that promotes a prompt, fair, and impartial resolution of Sexual Misconduct cases.

*1 Sexual misconduct also constitutes sexual harassment. The Sexual Misconduct policy shall govern in cases involving sexual assault, domestic violence, stalking, and sexual exploitation. The University's Sexual Harassment policy shall be applicable in all other sexual harassment cases not involving sexual misconduct.*

**B. Prohibition on Retaliation.**

Retaliation against any person for filing, supporting, providing information in good faith, or otherwise participating in the investigative and/or disciplinary process in connection with a Complaint of Sexual Misconduct is strictly prohibited. Violations of this prohibition will be addressed through this Policy and/or other University disciplinary procedures and will result in strong responsive action by the University. Any person who feels that he or she has been subject to retaliation should notify the Title IX Coordinator, Amy Pennington [apennington@atu.edu](mailto:apennington@atu.edu), or the Deputy Title IX Coordinator, Will Cooper, or the Deputy Title IX Coordinator for the Ozark Campus, Tanya Martin.

**C. Prohibition on Providing False Information.**

Any individual who knowingly files a false Complaint under this Policy, or knowingly provides false information to University officials, or who intentionally misleads University officials who are involved in the investigation or resolution of a Complaint may be subject to disciplinary action.

**D. Confidentiality.**

Generally, a person may report an incident of Sexual Misconduct confidentially to the professional counselors located in the Arkansas Tech University Health and Wellness Center.

Reports of sexual misconduct made to "responsible employees" are not confidential.

For more detailed information on whom a victim can and cannot speak to confidentially, please see the full discussion of confidentiality found in attached "Appendix C".

If an alleged victim's request for confidentiality limits the school's ability to investigate a particular matter, the University may take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the alleged victim. Examples include: providing increased monitoring, supervision, or security at locations or activities where the misconduct was alleged to have occurred; providing training and education materials for students and

employees; revising and publicizing the University's policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

**E. Related Misconduct and Limited Immunity/Amnesty.**

The University considers the reporting and adjudication of Sexual Misconduct cases on campus to be of paramount importance. The University does not condone illegal drug use, underage drinking, or other violations of the Student Code of Conduct. However, the University may extend limited immunity from punitive sanctioning in the case of illegal alcohol or drug use to victims, witnesses, and those reporting incidents and/or assisting the victims of Sexual Misconduct, provided that they are acting in good faith in such capacity. Stated another way, the University wishes to encourage all persons to report incidents of sexual misconduct, and therefore reserves the right to waive disciplinary charges against victims, witnesses, and those reporting incidents and/or assisting the victims of Sexual Misconduct, for certain circumstances surrounding the incident. For example, an underage victim who had been drinking alcohol would not typically face charges for violating alcohol policies.

**F. Individuals with Disabilities.**

The University will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in the steps and procedures outlined in this Policy. Requests for accommodations must be made to Disabilities Coordinator located in the Technology and Academic Support Building, or by calling 479-667-2117.

**G. Standard of Evidence.**

In a Formal Resolution on a Complaint alleging Sexual Misconduct, the standard of evidence that will be used by the Hearing Board to determine if the Sexual Misconduct Policy has been violated will be the preponderance of the evidence.

**H. Educational Programming.**

Arkansas Tech University requires educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking. This educational campaign shall also be for on-going prevention and awareness. These education programs shall include primary prevention and awareness programs for all incoming students and new employees which shall include: 1) the statement that the University prohibits domestic violence, dating violence, sexual assault, and stalking; 2) the definitions of domestic violence, dating violence, sexual assault, and stalking as well as the definition of "consent" in reference to sexual activity; 3) Safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene in cases of a risk of domestic violence, dating violence, sexual assault, or stalking; 4) Information on risk reduction and how to recognize warning signs of abusive behavior and how to avoid potential attacks; and 5) ongoing prevention and awareness campaigns for students and faculty on all of the items above.

Educational programming and training is provided to faculty, staff, and students in an effort to create a University community free of sexual harassment, sexual assault (non-consensual sexual contact or intercourse), domestic violence, dating violence, stalking, and sexual exploitation or any other type of sexual misconduct. The Jerry Cares campaign promotes shared responsibility by all members of the University community in an effort to reduce the risk of sexual violence and to equip members with the tools, training, and resources necessary to take action in stopping sexual misconduct. This includes prevention programs and educational training in risk reduction and bystander intervention, equipping members of the University community to play a role in preventing and interrupting incidents of sexual misconduct. Training on campus resources and step-by-step procedures on how to report incidents of sexual misconduct is also provided. For more detailed information, please visit the Jerry Cares website at <http://www.atu.edu/jerrycares/>.

**I. Sexual Misconduct Policy.**

This Sexual Misconduct Policy: 1) sets out the procedures that a victim of Sexual Misconduct should follow; 2) sets out the procedure for University disciplinary action; and 3) provides equal opportunity for both the alleged victim and the Respondent on their choice of advisor at the Formal Resolution hearing.

**J. Annual Training.**

Training for employees conducting investigations and formal resolution hearings will be conducted at least annually.

**K. VAWA/Campus SaVE Act.**

Arkansas Tech University acknowledges that the Violence Against Women Act and the Campus SaVE Act add domestic violence, dating violence, and stalking to "sexual assault" as reportable events in the Annual Security Report required by the Clery Act.

**L. Duty to Report.**

All employees (except those employees statutorily barred from sharing such information, ex. Licensed counselors, medical professionals) have a duty to immediately report to the Title IX Coordinator or the Deputy Title IX Coordinator information related to sexual misconduct.

**ARTICLE III. HOW AND WHERE TO FILE A COMPLAINT ALLEGING SEXUAL MISCONDUCT**

For information regarding seeking medical assistance and emotional support, as well as important contact information for local law enforcement agencies and hospitals, see Appendix A attached to this Policy.

Because Sexual Misconduct may in some instances constitute both a violation of University policy and criminal activity, and because the University grievance process is not a substitute for instituting legal action, the University encourages individuals to report alleged Sexual Misconduct promptly to campus officials and to law enforcement authorities, where appropriate.

**Individuals may, however, choose not to report alleged Sexual Misconduct to such campus officials and/or law enforcement authorities.** The University respects and supports the individual's decision with respect to reporting; nevertheless, the University may notify appropriate law enforcement authorities if required or warranted by the nature of the allegations at issue.

Individuals may file a Complaint at any time, but the University strongly encourages individuals to file Complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding.

**A. Filing a Complaint with Local Law Enforcement:**

- i. Individuals may file a complaint directly with local law enforcement agencies by dialing 911. Individuals may contact any of the following for assistance in filing a complaint with local law enforcement:
- ii. The Arkansas Tech University Department of Public Safety, 24 hours a day, 7 days a week (available by telephone at (479) 968-0222) and located at 1508 N. Boulder Avenue on the Russellville campus.
- iii. Arkansas Tech University's Title IX Coordinator, Amy Pennington at [apennington@atu.edu](mailto:apennington@atu.edu), from 8 a.m. to 5 p.m., Monday through Friday (available by telephone at (479) 968-0407)
- iv. Arkansas Tech University's Deputy Title IX Coordinator, Will Cooper, from 8 a.m. to 5 p.m., Monday through Friday (available by telephone at (479)968-0334 or by email at [wcooper@atu.edu](mailto:wcooper@atu.edu)).
- v. Arkansas Tech University's Deputy Title IX Coordinator for the Ozark Campus, Tanya Martin, from 8 a.m. to 5 p.m., Monday through Friday (available by telephone at (479) 508-3307) or by email at [tmartin31@atu.edu](mailto:tmartin31@atu.edu), or in Room 154 of the Technology & Academic Support Building, located at 1700 Helberg Lane, Ozark, Arkansas, 72949.

Individuals may inform law enforcement authorities about Sexual Misconduct and discuss the matter with a law enforcement officer without making a formal criminal complaint (or a University Complaint). Individuals who make a criminal complaint may also choose to pursue a University Complaint simultaneously.

A criminal investigation into the matter does not preclude the University from conducting its own investigation (nor is a criminal investigation determinative of whether Sexual Misconduct, for purposes of this Policy, has occurred). However, the University's fact-finding aspect of the investigation may be delayed temporarily while the criminal investigators are gathering evidence. The University will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process. In the event of such a delay, the University may take interim measures when necessary to protect the alleged victim and/or the University community.

Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate the matter is determinative of whether Sexual Misconduct, for the purposes of this Policy, has occurred.

#### **Filing a Complaint with the University:**

Individuals may choose not to report alleged Sexual Misconduct to campus officials. The University respects and supports the individual's decision with respect to reporting; however, if information about Sexual Misconduct comes to the attention of the University, the University may (1) start an investigation even in the absence of a filed Complaint and/or (2) notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware.

Anyone wishing to make a Complaint under this policy should contact one of the following individuals or offices:

- i. **Title IX Coordinator.** Arkansas Tech University's Title IX Coordinator is Amy Pennington. Ms. Pennington may be contacted during business hours (8 a.m. to 5 p.m., Monday through Friday) by telephone at (479) 968-0407 or by email at [apennington@atu.edu](mailto:apennington@atu.edu). As the Title IX Coordinator for Arkansas Tech University, Ms. Pennington receives and investigates reports of discrimination, including sexual misconduct. The Title IX Coordinator has ultimate oversight responsibility for handling Title IX-related complaints and for identifying and addressing any patterns or systematic problems involving Sexual Misconduct. The Title IX Coordinator is available to meet with individuals who are involved with or concerned about issues or University processes, incidents, patterns, or problems related to Sexual Misconduct on campus or in University programs. All allegations involving Sexual Misconduct should be directed to the Title IX Coordinator or other designated University individuals or offices as outlined herein. More information about the investigation process can be found in Article IV below. The Title IX Coordinator may designate the Deputy Title IX Coordinator to serve in her stead for any requirements contained in this policy.
- ii. **Deputy Title IX Coordinator.** Arkansas Tech University's Deputy Title IX Coordinator is Will Cooper at [wcooper@atu.edu](mailto:wcooper@atu.edu), whose telephone number is (479) 968-0334.
- iii. **Deputy Title IX Coordinator.** Arkansas Tech University Ozark Campus' Deputy Title IX Coordinator is Tanya Martin, whose telephone number is (479) 508-3307, her email address is [tmartin31@atu.edu](mailto:tmartin31@atu.edu), or she may be contacted in person at Room 154 of the Technology & Academic Support Building, 1700 Helberg Lane, Ozark, Arkansas.
- iv. **Public Safety.** The Arkansas Tech University Public Safety Department is located at 1508 N. Boulder Avenue on the Russellville campus. The Public Safety Department is also available by telephone at (479) 968-0222. Public Safety officers are available 24 hours a day, 7 days a week.

- v. **Public Safety – Ozark Campus.** The Arkansas Tech University Public Safety Department for the Ozark Campus is located at 1700 Helberg Lane, Collegiate Center, Room 100C. Public Safety Officers are available by telephone at (479) 508-3359, Monday through Friday, 8 a.m. to 9 p.m.
- vi. **Human Resources Office.** The Human Resources Office is located in Browning Hall. The Human Resources Office is available during business hours (8 a.m. to 5 p.m., Monday through Friday) by telephone at (479) 968-0396.

*If one of the parties designated above is the Respondent or is otherwise at issue in a Complaint, or if an individual is otherwise uncomfortable making a complaint to one of the parties listed above, the individual may report alleged Sexual Misconduct to any other party or office in the above list.*

- B. If an employee of the University Public Safety Department, or the Human Resources Office receives a report of alleged Sexual Misconduct, that employee must notify the University's Title IX Coordinator.
- C. **Confidential Disclosure.** The University encourages victims of sexual misconduct to talk to somebody about what happened so that victims can get the support they need, and so that the University can respond appropriately. Different employees on campus have different abilities to maintain a victim's confidentiality. Some employees are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication." At Arkansas Tech, the following employees are the licensed counselors staffed in the Health and Wellness Center (<http://www.atu.edu/hwc/index.php>) located in Dean Hall:
- D. At Arkansas Tech, the following employees are the licensed counselors staffed in the Health and Wellness Center (<http://www.atu.edu/hwc/index.php>) located in Dean Hall:
- E. **Kristy Davis**, [kdavis51@atu.edu](mailto:kdavis51@atu.edu), (479) 968-0329
- F. **Craig Witcher**, [cwitcher@atu.edu](mailto:cwitcher@atu.edu), (479) 968-0329
- G. **Hunter Bramlitt**, [jbramlitt@atu.edu](mailto:jbramlitt@atu.edu), (479) 968-0329
- H. **Janis Taylor**, [jtaylor78@atu.edu](mailto:jtaylor78@atu.edu), (479) 968-0329
- I. **Nikki Templeton** [nearles@atu.edu](mailto:nearles@atu.edu), (479)968-0329
- J. Disclosures made to the counseling staff at the Health and Wellness Center will be held in strict confidence and will not serve as notice to the Office of Affirmative Action requiring an initiation of a review of the disclosed conduct. Please note that all University employees, except for the counseling staff and the medical professionals, serve as mandatory reporters who are required to share immediately all reports of sexual misconduct that they receive with the Title IX Coordinator or the Deputy Title IX Coordinators.
- K. If the counseling staff member determines that the alleged perpetrator(s) pose a serious and immediate threat to the University community, the Department of Public Safety may be called upon to issue a timely warning via the CEON system. Any such warning will not include any information that identifies the victim.
- L. **All other University employees who are not barred by statute have a duty to immediately report all the details of an incident of sexual misconduct** (including the identities of both the victim and alleged perpetrator, any witnesses, and other relevant facts, including date, time, and specific location of alleged incident) to the Title IX Coordinator or the Deputy Title IX Coordinators. A report to these employees constitutes a report to the University and generally obligates the University to investigate the incident and take appropriate steps to address the situation. When a victim reports an incident of sexual misconduct, the victim has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.
- M. To the extent possible, information reported to an employee will be shared only with people responsible for handling the University's response to the report and will not be shared with law enforcement without the

victim's consent or unless the victim has also reported the incident to law enforcement. If the victim requests confidentiality, the employee will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the employee will inform the Title IX Coordinator of the victim's request for confidentiality.

- N. An individual may report alleged Sexual Misconduct to a faculty or staff member other than those referenced above. No member of the University community may discourage an individual from reporting alleged incidents of Sexual Misconduct. A faculty or staff member with any knowledge (including firsthand observation) about a known or suspected incident of Sexual Misconduct (other than health-care professionals and others who are statutorily barred from reporting) must immediately report the incident to the Arkansas Tech University Public Safety Department or the University's Title IX Coordinator. No employee is authorized to investigate or resolve Complaints without the involvement of the University's Title IX Coordinator or Deputy Title IX Coordinators.

**Anonymous Reporting.** Although the University encourages victims to talk to someone, Arkansas Tech provides an online form for anonymous reporting. The system will notify the user that entering personally identifying information may serve as notice to the University for the purpose of triggering an investigation. The form can be found at this link: <http://www.atu.edu/psafe/psafe-report-sexassault.php>. Individuals who choose to file anonymous reports are advised that it may be very difficult for the University to follow up or take action on anonymous reports, where corroborating information is limited. Anonymous reports may be used for Clery Act data collection purposes.

#### **ARTICLE IV. PROCEDURES APPLICABLE TO COMPLAINTS OF SEXUAL MISCONDUCT**

##### **A. Overview**

- i. **Oversight.** The Title IX Coordinator and/or deputy Title IX Coordinator will be responsible for conducting the prompt, fair, and impartial investigation of Complaints filed with the University.
- ii. **Conflicts.** If any administrator or employee that is designated by this Policy to participate in the investigation or resolution of a Complaint is the Respondent (including, but not limited to, the Title IX Coordinator), then the President will appoint another University administrator to perform such person's duties under this Policy. (If the President is the Respondent, then the Title IX Coordinator will appoint another University administrator to perform her duties under this Policy.)
- iii. **Timing.** The University will make every reasonable effort to ensure that the investigation and resolution of a Complaint occurs in as timely and efficient a manner as possible. The University's investigation and resolution of a Complaint (not including an appeal, if applicable) will generally be completed within 60 calendar days of the receipt of the Complaint, absent extenuating circumstances. Hearings, if any, will take place after the conclusion of the investigation. If hearings have taken place, both the Complainant and the Respondent generally will receive a Final Outcome Letter within seven (7) business days of the conclusion of the hearings.

Any party may request an extension of any deadline by providing the Title IX Coordinator with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Title IX Coordinator may modify any deadlines contained in this Policy as necessary and for good cause. Both parties will be notified if and when a modification is made with a brief explanation of the need for the modification.

- iv. **Request Not to Pursue Complaint.** A Complainant (or alleged victim, if not the Complainant) may determine after filing a Complaint that he or she does not wish to pursue resolution of the Complaint through the University. The University takes such requests seriously. However, such individuals are advised that such requests may limit the University's ability to take action in response to a Complaint. Title IX requires the

University to evaluate the request(s) that a Complaint not be adjudicated in the context of the University's commitment to provide a reasonably safe and non-discriminatory environment. In order to make such an evaluation, the Title IX Coordinator may conduct a preliminary investigation into the alleged Sexual Misconduct and may weigh the request(s) against the following factors:

1. The seriousness of the alleged Sexual Misconduct;
2. The Complainant's and/or alleged victim's age;
3. Whether there have been other Complaints of Sexual Misconduct against the Respondent;
4. The Respondent's right to receive information about the allegations if the information is maintained by the University as an "education record" under FERPA, and
5. The applicability of any laws mandating disclosure.

Even when the University is in receipt of a request not to pursue an investigation, Title IX requires the University to take reasonable action in response to the information known to it; thus, the University may take such measures and impose such discipline as are deemed necessary by the Title IX Coordinator. The Complaint may also be used as an anonymous report for data collection purposes under the Clery Act.

- v. **Interim Measures.** If at any point during the complaint, investigative or disciplinary processes, the Title IX Coordinator reasonably believes that a Respondent who is a member of the University community poses a substantial threat of harm to any member of the campus community; threatens or endangers University property; or disrupts the stability and continuance of normal University operations and functions, the Title IX Coordinator may take actions such as the following:

1. For student Respondents:
  - a. Request that Student Services:
    - i. summarily suspend the Respondent from campus housing on an interim basis and/or restrict his or her movement on campus; or
    - ii. suspend the Respondent from campus.
2. For employee Respondents' request that the individual authorized to make personnel decisions regarding the employee at issue:
  - a. take such steps as are reasonable, appropriate, and necessary to restrict the Respondent's movement on campus; or
  - b. reassign the Respondent or place him or her on administrative leave.

These actions may be appealed by student Respondents to the Chief Student Officer and by employees to the respective Chief Officer over their division

#### **B. Initial Meetings with the Title IX Investigator.**

- i. **Complainant's Initial Meeting with the Title IX Investigator.** As soon as is practicable after receiving notice of a Complaint, the Title IX Investigator will contact the Complainant to schedule an initial meeting. If the Complainant is not the alleged victim, the Title IX Investigator also will contact the alleged victim as soon as possible to schedule an initial meeting and will discuss item number 5 listed below with the alleged victim rather than the Complainant. All mentions of the "Complainant" in items 1-9 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 Investigator will, as applicable:
  1. Provide the Complainant a copy of this Policy;
  2. Provide the Complainant with a Sexual Misconduct Complaint Form (a copy of which is attached as Appendix D) on 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 Sexual Misconduct (the Complainant may either complete the form him- or herself or he or she may choose to dictate the information to the Title IX Investigator, who will confirm the accuracy of his or her documentation with the Complainant);

3. Explain avenues for formal resolution and informal resolution (mediation) of the Complaint;
4. Explain the steps involved in a Sexual Misconduct investigation;
5. Discuss confidentiality standards and concerns with the Complainant;
6. Determine whether the Complainant wishes to pursue a resolution (formal or informal) through the University, or no resolution of any kind;
7. Refer the Complainant to the Counseling Center or other resources, as appropriate; and
8. Discuss with the Complainant, as appropriate, possible interim measures that can be provided to the Complainant, at no cost, during the pendency of the investigative and resolution processes. The University may implement such measures if requested, appropriate, and reasonably available, whether a formal Complaint has been filed (with either the Title IX Coordinator or law enforcement agencies) or whether an investigation has commenced (by either the Title IX Coordinator or law enforcement agencies). Interim measures may include, but are not limited to:
  - a. issuing no-contact orders 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 University 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 the University;
  - j. providing alternative course completion options without penalty;
  - k. providing counseling services;
  - l. suspension of Respondent's social privileges;
  - m. taking disciplinary action against the Respondent before resolution of the Complaint;
  - n. providing academic support services such as tutoring.
9. A Complainant will receive written notification of the availability of the interim measures set forth in section 8 above whether or not the Complainant chooses to report the incident to the University Public Safety Department or local law enforcement.

Following the initial meeting with the Complainant (and the alleged victim, if not the Complainant), the Title IX Investigator will, if applicable, promptly determine the interim measures to be provided to the Complainant (and to the alleged victim, if not the Complainant). Such determination will be promptly communicated to the Complainant and/or alleged victim, as applicable (and no later than the point at which it is communicated to the Respondent) and the Respondent.

- ii. **Respondent's Initial Meeting with the Title IX Investigator.** If the alleged victim wishes to pursue a formal or informal resolution through the University or if the University otherwise deems that a further investigation is warranted, as soon as is reasonably practicable after the Title IX Investigator's initial

meeting with the Complainant (and if applicable, the alleged victim), the Title IX Investigator will schedule an initial meeting with the Respondent.

During the initial meeting with the Respondent, the Title IX Investigator will, as applicable:

1. Provide Respondent with a copy of the Complaint;
2. Provide Respondent with a copy of this policy;
3. Explain the University's procedures for formal resolution and informal resolution (mediation) of the Complaint;
4. Explain the steps involved in a Sexual Misconduct investigation;
5. Discuss confidentiality standards and concerns with the Respondent;
6. Discuss non-retaliation requirements with the Respondent;
7. Inform the Respondent of any interim measures already determined and being provided to the Complainant and/or the alleged victim (if not the Complainant) that directly affect the Respondent (e.g. changing his or her class schedule, or moving him or her to an alternate residence hall);
8. Refer the Respondent to the Counseling Center or other resources, as appropriate; and
9. Discuss with the Respondent, as appropriate, possible interim measures that can be provided to the Respondent during the pendency of the investigative and resolution processes. The University may implement such measures if requested, appropriate, and reasonably available, whether a formal Complaint has been filed or whether an investigation by either campus administrators or law enforcement agencies has commenced.

### **C. The Investigation.**

i. Upon receipt of the Complaint, the Title IX Investigator will promptly begin his or her investigation, taking steps such as:

1. Conducting interviews with the Complainant, the alleged victim (if not the Complaint), the Respondent, and third-party witnesses and summarizing such interviews in written form;
2. Visiting, inspecting, and taking photographs at relevant sites; and
3. Where applicable, collecting and preserving relevant evidence (in cases of corresponding criminal complaints, this step may be coordinated with law enforcement agencies pursuant to a Memorandum of Understanding).

Through the investigation, the Title IX Investigator will remain neutral. The Title IX Coordinator and Deputy Title IX Coordinators will receive annual training on issues related to sexual harassment, sexual assault, intimate partner violence, and stalking.

The Title IX Coordinator and Deputy Title IX Coordinators should obtain, where applicable, and where possible, the written consent of any third-party witnesses to the disclosure, as contemplated by this Policy, of any Personally Identifiable Information contained in the Complaint, the Investigative Report, and/or any other documents the disclosure of which is contemplated by this Policy in order to further the resolution of this Complaint.<sup>1</sup>

The Title IX Investigator will complete a written investigative report that includes items such as summaries of all interviews conducted, photographs, and descriptions of relevant evidence, summaries of relevant electronic records, and a detailed report of the events in question ("the Investigative Report"). The Title IX Investigator will distribute the Investigative Report, concurrently, to the alleged

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<sup>1</sup> If the Title IX Investigator is unable to obtain the consent of such third-party witnesses, he or she will react the Investigative Report to the extent necessary to avoid inappropriate disclosure of such witness's personally identifiable information, while ensuring that such redaction does not prevent resolution of the Complaint.

victim and the Respondent. The Title IX Investigator will also provide a copy to the Dean of Students who shall serve as the Chair of the Hearing Board. All parties to whom the Investigative Report is distributed pursuant to this Policy must maintain it in confidence; the Investigative Report may only be disclosed as contemplated by this Policy.

#### **D. Formal Versus Informal Resolution.**

At any time before the Hearing Board provides the Notice of Appointment in accordance with Section V(b)(ii)(2), the alleged victim may elect to resolve his or her Complaint through the informal resolution (mediation) process in accordance with Article VI of this Policy, provided that:

- i. The Respondent agrees to such resolution;
- ii. The alleged victim and the Respondent are both students or are both employees of the University;
- iii. The Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving the complaint; and
- iv. The Complaint does not involve Sexual Assault.

Otherwise, a Complaint will proceed to formal resolution in accordance with Article V of this Policy.

### **ARTICLE V. FORMAL RESOLUTION**

#### **A. Respondent's Acknowledgment of Responsibility Prior to Hearing.**

At any time prior to the date of his or her designated hearing, the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged Sexual Misconduct. In such a situation, the Title IX Coordinator will propose sanction(s). If the victim 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 victim or the Respondent objects to such proposed sanction(s), then the Sexual Misconduct Hearing Board will convene for the exclusive purpose of determining a sanction, which determination may be subject to appeal pursuant to Section V(b)(v) of this Policy.

#### **B. The Formal Resolution Process.**

In the case of formal resolution, the Sexual Misconduct Hearing Board will conduct a hearing in which it will question the Complainant, the alleged victim (if not the Complainant), the Respondent, and any witnesses or other third parties whose testimony the hearing board deems relevant. The Sexual Misconduct Hearing Board will determine whether there has been a violation of the Sexual Misconduct Policy, and if there has been, will determine the sanction to be imposed on the Respondent.

- I. **The Sexual Misconduct Hearing Board.** The Sexual Misconduct Hearing Board shall have three members. The composition of the Hearing Board will be one faculty member and one staff member, and will be chaired by the Dean of Students. By August 15th of each year, the President of the University shall appoint two faculty members and two staff members to serve as Sexual Misconduct Hearing Board members for a period of one year. Each member of the Hearing Board will receive training annually.
- II. **Notice of Appointment.** Upon receipt of the Investigative Report from the Title IX Coordinator, the Dean of Students will appoint one faculty member and one staff member from the group of Sexual Misconduct Hearing Board members. Promptly after appointing the members of the Hearing Board, the Dean of Students will provide concurrent written Notice of Appointment of the Hearing Board to the alleged victim and the Respondent, setting forth the names of the individuals selected to serve on and chair the Sexual Misconduct Hearing Board, as well as the alleged policy violation along with information related to the formal conduct hearing.

The parties may challenge the participation of any member of the Hearing Board by submitting a written objection to the Title IX Coordinator within three (3) business days of receipt of the Notice of Appointment. Such objection must state the specific reason(s) for the objection. The Title IX Coordinator will evaluate the objection and determine whether to alter the composition of the Hearing Board. Failure to submit a timely and proper objection will constitute a waiver of any right of objection to the composition of the Hearing Board. Any changes in the composition of the Hearing Board will be provided in writing to both parties prior to the date of the hearing.

### III. Hearing Policies and Procedures.

- 1. Submission of Written Material by the Parties.** Within five (5) business days of receipt of the Notice of Appointment of the Hearing Board, the alleged victim and the Respondent may provide the Chair of the Hearing Board with (1) a list of witnesses, if any, that they propose that the Hearing Board call and a brief description of each proposed witness's connection to and/or knowledge of the issues in dispute, (2) a written statement of position, and (3) copies of all documents to be presented at the hearing. Failure to provide this information in a timely manner may result in the loss of the ability to provide this information. The Title IX Coordinator and/or the Deputy Title IX Coordinator will present the Investigative Report at the hearing.
- 2. Notice of Hearing.** Not less than five (5) business days but not more than ten (10) business days after delivery of Notice of Appointment of the Hearing Board to the parties, the Hearing Board will provide a separate notice to the alleged victim, the Respondent, and any witnesses or other third parties whose testimony the Hearing Board deems relevant, requesting such individuals to appear before the Hearing Board. The notice should set forth, as applicable, the date, time, and location of the hearing. In this Notice of Hearing, the Hearing Board will provide the names of witnesses or other third parties that the Hearing Board plans to call.
- 3. Failure to Appear.** If the alleged victim or the Respondent fails to appear before the Hearing Board if requested to do so, and such party was provided with proper notice of the hearing as set forth above, then absent extenuating circumstances, the Hearing Board will proceed to determine the resolution of the Complaint.
- 4. Support Persons.** The alleged victim and the Respondent each have the right to be assisted by one advisor of their choice, and at their expense. The alleged victim and the Respondent are each responsible for presenting his or her own information. An Advisor may communicate with his or her advisee privately, but he or she may not address the Hearing Board, cross-examine witnesses, or have any other speaking role. The alleged victim and the Respondent must notify the Dean of Students who they are bringing at least two (2) business days prior to the hearing. Failure to meet this deadline may result in the loss of the ability to have the advisor present. The alleged victim and Respondent should select an advisor whose schedule allows attendance at the scheduled date and time of the hearing; delays will not normally be allowed due to the scheduling conflicts of an advisor. The advisor must maintain confidentiality regarding any and all communications exchanged pursuant to this Policy.
- 5. Other Advisors.** Absent accommodation for disability and except as set forth in this Section V(b)(iii)(4), the parties may not be accompanied by any other individual during the hearing process.
- 6. Evidentiary Matters.** The alleged victim and the Respondent will have an equal opportunity to present evidence during their respective hearings. Formal rules of evidence will not be observed during the hearings. Evidence of past sexual histories of the alleged victim or the Respondent will not be permitted at the hearing, with the following exception:
  - a. The alleged victim's prior sexual conduct with the Respondent.The Hearing Board shall clarify that evidence of a prior consensual dating or sexual relationship between the parties does not imply consent or preclude a finding of sexual misconduct in the instant case.

#### 7. Conduct of the Hearings.

- a. Generally.** The hearings will be conducted in an inquisitorial manner, which means that the Hearing Board will be responsible for asking questions of the parties and the witnesses and developing evidence through testimony. The Dean of Students, as Chair of the Hearing Board, will resolve any questions concerning procedure or the admission of evidence or testimony (including the relevancy and reliability of the evidence and testimony). Members of the University community are expected to provide truthful testimony. Any falsification of information or false testimony by any party or witness may subject that party or witness to disciplinary action.
- b. Testimony of the Respondent. The Respondent may choose not to testify or appear before the Hearing Board; however, his or her exercise of that option will not preclude the Hearing Board from making a determination regarding the Complaint filed against the Respondent.**
- c. Private.** Hearing shall normally be conducted in private. In order to comply with FERPA and Title IX and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public. Accordingly, documents prepared in anticipation of the hearings (including the Complaint, the Investigative Report, the notices of hearing, and the pre-hearing submissions referenced above) and documents, testimony, or other

information introduced at the hearings may not be disclosed outside the hearing proceedings, except as may be required or authorized by law.

**d. Separate Hearings.** In hearings involving more than one respondent, the Dean of Students, as chairperson, may at his or her discretion, permit the hearings concerning each Respondent to be conducted separately or jointly.

**e. Cross examination.** The alleged victim and Respondent will not be allowed to directly cross-examine each other or witnesses.

**f. Witnesses.** Witnesses other than the alleged victim and Respondent will be excluded from the hearing except during their specific witness testimony.

**g. Record.** There shall be a single verbatim record, such as a digital recording, of all hearings before the Hearing Board, not including deliberations. The recording shall be the property of the University.

**h. Separation of parties.** The Hearing Board may accommodate concerns for the personal safety, wellbeing, retaliation, and/or fears of the confrontation of the alleged victim, Respondent, and/or other witnesses during the hearing by providing a visual screen, or permitting participation by telephone, video conferencing or by other means.

iv. **Outcome.**

1. **The Decision of the Hearing Board.** Following the conclusion of the hearing, the Hearing Board will confer and by majority vote determine whether the evidence (including the information provided in and by the Investigative Report, the parties written statements, if any, the evidence presented at the hearings, and the testimony of the parties and witnesses) establishes that it is more likely than not<sup>3</sup> that the Respondent violated the Sexual Misconduct Policy. The deliberation portion of the hearing is closed to all but the Hearing Board members.

2. **Sanctions.**

a. **Generally.** Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct. Sanctions may include, without limitation, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, expulsion or suspension from the University, disciplinary probation, expulsion from campus housing, mandated counseling, and/or educational sanctions deemed appropriate by the Hearing Board. A full list of possible sanctions for students is attached as 'Appendix E'.

The Hearing Board will determine sanctions, giving consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the discriminatory effects of the violation of the Complainant, and if applicable, the University community at large.

b. **Implementation of Sanctions.** Sanctions imposed are not effective until the resolution of any timely appeal pursuant to Article V(B)(v), below. However, if it is advisable that in order to protect the welfare of the victim or the University Community, the Hearing Board may recommend that any sanctions be effective immediately and continue in effect until such time as the appeal process is exhausted.

3. **Final Outcome Letter.** Within seven (7) business days following the conclusion of the hearing, the Hearing Board will issue a written decision letter (the "Final Outcome Letter") concurrently to the Respondent, the Complainant and the alleged victim (if not the Complainant), the Title IX Coordinator, the Chief Student Officer if the Respondent is a student, and the appropriate Chief Officer if the Respondent is an employee. The Final Outcome Letter will set forth (1) the name of the Respondent, (2) the violation(s) of this Policy for which the Respondent was found responsible, if any; (3) sanctions imposed on the Respondent, if any; and (4) the option to appeal by either party. The University will not require either party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the re-disclosure of information related to the outcome of the proceeding.

v. **Appeals.**

1. **Respondent is a student or non-faculty employee.**

The alleged victim or the Respondent may appeal, in writing, the decision of the Hearing Board and/or the sanction imposed on the Respondent within seven (7) business days from the date of the Final Outcome Letter. The decision of the Hearing Board and the sanction imposed on the Respondent may, if desired, be appealed simultaneously. The only basis for appeal shall be:

- a. Alleged failure of the Hearing Board to follow the procedures set forth in the Sexual Misconduct Policy; or
- b. Consideration of new evidence that was not reasonably available at the time of the hearing before the Hearing Board.

Students should appeal to Richard Harris, Chief Student Officer, located in the Student Services Conference Center, Room 104 , (479) 508-3310, rharris1@atu.edu. Employees should appeal to the appropriate Chief Officer. Typically a decision on the appeal will be issued within seven (7) business days of receipt of the appeal.

2. **Respondent is a faculty member.**

The alleged victim may appeal following the process set forth in Section 1 above. If the Respondent is a faculty member with tenure or with a special or probationary appointment and the sanction issued by the Hearing Board is dismissal before the end of a specified term, the procedures set forth Chapter II, Section E of the Faculty Handbook shall govern the Respondent's appeal. If the Hearing Board issues a sanction which imposes a penalty other than dismissal, the procedures set forth in Chapter II, Section G of the Faculty Handbook shall govern the Respondent's appeal.

**ARTICLE VI. INFORMAL RESOLUTION (MEDIATION)**

Informal resolution is only appropriate if (1) the alleged victim requests it, (2) the Respondent agrees to such resolution, (3) the alleged victim and the Respondent are both students or are both employees of the University, (4) the Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving the Complaint, and (5) the Complaint does not involve sexual assault. Informal Resolution is not a prerequisite to pursuit of a formal resolution.

Informal resolution may not be selected for less than all of the misconduct alleged in the Complaint (for example the parties may not choose to resolve a claim of Sexual Assault according to the formal resolution process but mediate all other claims). If the parties agree to informal resolution (and informal resolution is appropriate for all of the claims at issue), then all of the claims must be resolved according to the informal resolution process

The alleged victim has the right to terminate the informal resolution process at any time and proceed with formal resolution. Furthermore, the Title IX Coordinator may, where appropriate, terminate or decline to initiate informal resolution, and proceed with formal resolution instead. In such cases, statements or disclosure made by the parties in the course of the informal resolution process may be considered in the subsequent formal resolution proceeding.

**A. Respondent's Acknowledgment of Responsibility.**

At any time prior to the imposition of sanctions, the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged Sexual Misconduct. In such a situation, the Title IX Coordinator will propose sanction(s) for the Respondent. If both the alleged victim and the Respondent agree to such proposed sanction(s), then the Complaint will be resolved without any further rights of appeal by either party.

If either the alleged victim or the Respondent objects to the proposed sanction(s), then the Hearing Board will convene for the exclusive purpose of determining sanctions, which determination may be subject to appeal by either party pursuant to Section V(b)(v) of this Policy. For purposes of this sanction hearing, all of the other provisions of this Policy relating to the imposition of a sanction for Sexual Misconduct shall apply.

**B. The Informal Resolution Process.**

- i. **The Mediation.** The Presiding Officer. When the Complaint is to be resolved according to the informal resolution process, there will be a mediation overseen by the Title IX Coordinator or a Deputy Title IX Coordinator.

- ii. **Notice of the Mediation.** The Title IX Coordinator will provide concurrent written notice to the alleged victim and the Respondent, setting forth the date, time, and location of the mediation.
- iii. **No Contact Prior to Mediation.** The parties may not contact each other outside of the mediation, even to discuss the mediation.
- iv. **Attendance.** Both the alleged victim and the Respondent are expected to attend the mediation. If either party fails to appear at the mediation, and such party was provided proper notice of the mediation as set forth above, then absent extenuating circumstances, the Title IX Coordinator may either direct that resolution of the Complaint be determined according to the formal resolution process set forth above, or if the alleged victim fails to appear without good cause, dismiss the Complaint.
- v. **The Mediation.**
  - 1. **The Alleged Victim's Rights.** During the mediation, the alleged victim may:
    - a. Confront the Respondent in the presence of, and facilitated by, the Presiding Officer.
    - b. Communicate his or her feelings and perceptions regarding the incident and the impact of the incident (either by communicating directly with the Respondent or by communicating indirectly with the Respondent through the Presiding Officer), and/or
    - c. Relay his or her wishes and expectations regarding protection in the future.
  - 2. **Resolution.** During the mediation, the Presiding Officer will attempt to facilitate the parties' resolution of the Complaint. If the mediation results in a resolution between the parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances (giving consideration to the extent to which the resolution will protect the safety of the alleged victim and the entire University community), the informal disciplinary procedure will be concluded and the Complaint will be closed. If the parties are unable to reach a resolution, the formal resolution process outlined in Article V of this Policy will promptly commence.
- vi. **Privacy and Disclosure.** In order to comply with FERPA and Title IX and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the informal resolution process is not open to the general public. Accordingly, documents prepared in anticipation of the mediation (including the Investigative Report and the Notice of Mediation) and other information introduced at the mediation may not be disclosed outside of the mediation, except as may be required or authorized by law.

## **Appendix A to SEXUAL MISCONDUCT POLICY AND PROCEDURES**

### **Suggested Actions for Victims of Sexual Assault**

While all types of Sexual Misconduct are inappropriate and taken seriously by the University, actions involving Sexual Assault (as defined in Appendix B) are particularly concerning. Thus, if you are the victim of a Sexual Assault, the University'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 criminal or University disciplinary charges.

1. **Ensure Your Physical Safety.**

You may seek help from local **law enforcement agencies** or by contacting the **Arkansas Tech University Department of Public Safety**. The Department of Public Safety can assist you and are on duty at the University Police Department 24 hours a day, 7 days a week.

2. **Seek Medical Assistance and Treatment.**

Local options for medical care include the **University Health and Wellness Center** on the Russellville campus, **Saint Mary's Regional Medical Center** in Russellville, and **Mercy Hospital** in Ozark. It is crucial that you obtain medical attention as soon as possible after a Sexual Assault to determine the possibilities of physical injury and to prevent or treat sexually transmitted diseases (such as HIV). Medical facilities can also screen for the presence of sedative drugs such as Rohypnol or GHB (date-rape drugs).

Employees at the University Health and Wellness Center can help you contact a support person, such as a family member, a friend, or roommate.

If you choose to have an evidence collection kit (or "rape kit") completed, it is important to do so within 72 hours. Even if you have not decided to file charges, it is advisable to have the evidence collection kit completed so that you can preserve the options of obtaining a protective order and/or filing criminal charges at a later date. Saint Mary's Regional Medical Center administers evidence collection kits. Individuals in Russellville may go directly to Saint Mary's Regional Medical Center or may be referred to the hospital by the University Health and Wellness Center. Those in Ozark may go directly to Mercy Hospital Ozark.

In order to best preserve evidence for an evidence collection kit, it may be advisable to avoid showering, bathing, going to the bathroom, or brushing your teeth before the kit is collected. You should also wear (or take with you in a paper, not plastic, bag) to the hospital the same clothing that you were wearing during the assault. An evidence collection kit can still be completed even if you have showered or bathed.

**3. Obtain Emotional Support.**

The **Arkansas Tech University Health and Wellness Center** can help victims 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 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' University records, and will not be reported to other University personnel.

**4. Obtain Information/Report Misconduct.**

You are encouraged to report incidents of Sexual Assault to the University's Title IX Coordinator or other designated University individuals or offices as outlined in the Sexual Misconduct 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 body of the Arkansas Tech University Sexual Misconduct Policy and Procedures. University personnel can help you access resources and can provide you with support and information, including information on the University's procedures for investigating and addressing instances of Sexual Assault.

## **IMPORTANT CONTACT INFORMATION**

### **University Resources**

Arkansas Tech University's **Title IX Coordinator** is Amy Pennington. Ms. Pennington may be contacted from 8 a.m. to 5 p.m., Monday through Friday by telephone at (479) 968-0407 or by email at [apennington@atu.edu](mailto:apennington@atu.edu).

Arkansas Tech University's **Deputy Title IX Coordinator** is Will Cooper. Mr. Cooper may be contacted from 8 a.m. to 5 p.m., Monday through Friday by telephone at (479) 968-0334 or by email at [wcooper@atu.edu](mailto:wcooper@atu.edu).

Arkansas Tech University's **Deputy Title IX Coordinator for the Ozark Campus** is Tanya Martin, whose office is located in the Technology & Academic Support Building. Ms. Martin may be contacted from 8 a.m. to 5 p.m., Monday through Friday by telephone at (479) 508-3307 or by email at [tmartin31@atu.edu](mailto:tmartin31@atu.edu).

The **Arkansas Tech University Department of Public Safety** is located at 1508 North Boulder Avenue on the main campus in Russellville, Arkansas, and is available by telephone at (479) 968-0222. University Police Officers are available 24/7.

The **Arkansas Tech University Department of Public Safety for the Ozark Campus** is located in the Collegiate Center, Room 100C on the Ozark Campus, and is available by telephone at (479) 508-3359, Monday through Friday from 8 a.m. to 5 p.m. or by email to Officer David Spicer at [dspicer1@atu.edu](mailto:dspicer1@atu.edu).

The **Office of Human Resources** is located in Browning Hall and is available by telephone at (479) 968-0396. The office is staffed from 8 a.m. to 5 p.m. Monday through Friday.

The **Arkansas Tech University Health and Wellness Center** is located in Dean Hall 126 and is available by telephone at (479) 968-0329. The Center is staffed from 8 a.m. to 5 p.m. Monday through Friday, <http://www.atu.edu/hwc/index.php>

### **Community Resources**

**Russellville Police Department** and the **Ozark Police Department** can be reached by calling 911.

**Saint Mary's Regional Medical Center** is located at 1808 West Main Street, Russellville, Arkansas. The Emergency Department can be reached at 479-968-6211.

**Mercy Hospital** in Ozark is located at 801 W. River, Ozark Arkansas, 72949 and can be reached at (479) 667-4138.

**Ozark Rape Crisis Center** is located at 715 W. Main Street, Clarksville, AR, 72830 and can be reached at (479) 754-6869. More information can be found at <http://www.ozarkrapecrisis.com/>.

5th Judicial District Prosecuting Attorney's Office **"Victim Assistance Outreach Program"** can be reached at (479) 705-0579.

**Arkansas Coalition Against Sexual Assault** can be reached at (800) 977-5776. More information can be found at [www.acasa.us](http://www.acasa.us).

## **APPENDIX B TO SEXUAL MISCONDUCT POLICY AND PROCEDURES**

### **Definitions**

**Clery Act.** The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("the Clery Act") is a federal statute codified at 20 U.S.C. § 1092(f), with implementing regulations in the U.S. Code of Federal Regulations at 34 F.R. 668.46. The Clery Act requires all colleges and universities that participate in federal financial aid programs to keep and disclose information about crime on and near their respective campuses as well as to give timely warning of dangers on campus.

**Complainant.** A "Complainant" is an individual who reports or files a Complaint. A Complainant may be someone other than the person who may have been subjected to the Sexual Misconduct.

**Complaint.** A "Complaint" is an allegation of Sexual Misconduct asserted against another party and reported to or filed with the University.

**Consent.** "Consent" is informed, freely and actively given and mutually understandable words or actions that indicate a willingness to participate in a mutually agreed-upon sexual activity. Consent is mutually understandable when a reasonable person would consider the words or actions of the parties to have manifested a mutually understandable agreement between them to engage in certain conduct with each other. Consent cannot be gained by ignoring or acting in spite of the objections of another. Consent can be withdrawn at any time. Coercion, force, or threat of either invalidates consent.

Consent cannot be inferred from:

1. Silence, passivity, or lack of resistance alone;
2. A current or previous dating or sexual relationship alone (or the existence of such a relationship with anyone else);
3. Attire;
4. The buying of dinner or the spending of money on a date; or
5. Consent previously given (i.e. consenting to one sexual act does not imply consent to another sexual act.)

Consent is not effective if it is obtained through the use of physical force, violence, duress, intimidation, coercion, or the threat, expressed or implied, of bodily injury. Whether a party used intimidation or coercion to obtain consent will be determined by reference to the perception of a reasonable person found in the same or similar circumstances.

Consent may never be given by:

1. A person in Arkansas under the age of 14.
2. A mentally disabled person, if their disability was reasonably knowable to a sexual partner who is not mentally disabled.
3. Persons who are incapacitated (whether as a result of drugs, alcohol, or otherwise), unconscious, asleep, or otherwise physically helpless or mentally or physically unable to make informed, rational judgments. The use of alcohol or drugs does not excuse conduct that constitutes Sexual Misconduct under this Policy.

**Dating Violence.** "Dating Violence" means violence committed by a person:

1. Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- a. The length of the relationship,
- b. The type of relationship, and;
- c. The frequency of interaction between the persons involved in the relationship.

**Domestic Violence.** "Domestic Violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the State of Arkansas, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the State of Arkansas.

**FERPA.** The Family Educational Rights and Privacy Act ("FERPA") is a federal statute codified at 20 U.S.C. § 1232g, with implementing regulations at 34 CFR Part 99. FERPA protects the privacy of student education records. FERPA grants to parents or eligible students the right to access, inspect, and review education records, the right to challenge the content of education records, and the right to consent to the disclosure of education records.

**Rape.** "Rape" is the act of sexual intercourse or penetration (anal, oral, or vaginal), however slight, with any body part or any object, by a man or a woman upon a man or a woman, without Consent, including vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue or finger; and oral copulation (mouth to genital contact or genital to mouth contact).

**Respondent.** A "Respondent" is an individual who has been accused of committing Sexual Misconduct by the report or filing of a formal or informal Complaint.

**Retaliation.** "Retaliation" means any adverse action threatened or taken against a person because he or she has filed, supported, or provided information in connection with a Complaint of Sexual Misconduct, including, but not limited to, direct and indirect intimidation, threats, and harassment.

**Sexual Assault.** "Sexual Assault" means any actual, attempted, or threatened sexual act with another person without that person's Consent. Sexual Assault includes, but is not limited to:

1. Rape and attempted Rape;
2. Intentional and unwelcome sexual touching (including disrobing or exposure), however slight, with any body part or any object, by a man or a woman upon a man or a woman, with effective Consent, or a person's breasts, buttocks, groin, or genitals (or clothing covering such areas), or coercing, forcing, or attempting to coerce or force another to touch you, themselves, or a third party with any of these body parts or areas when such touching would be reasonably and objectively offensive.
3. Any sexual act in which there is force, violence, or use of duress or deception upon the victim;
4. Any sexual act perpetrated when the victim is unable to give Consent; and
5. Sexual intimidation, which includes, but is not limited to:
  - a. Threatening, expressly or impliedly, to commit a sexual act upon another person without his or her Consent,
  - b. Stalking or cyber-stalking, and
  - c. Engaging in indecent exposure.

**Sexual Exploitation.** "Sexual Exploitation" means any act of taking non-Consensual, unjust, or abusive sexual advantage of another person for one's own advantage or benefit or to benefit or advantage anyone other than the person being exploited. Sexual Exploitation includes, but is not limited to:

1. Causing or attempting to cause the incapacitation of another person in order to gain a sexual advantage over such person;
2. Prostituting another person (i.e. personally gaining money, privilege or power from the sexual activities of another);
3. Non-Consensual videotaping, photographing, or audio-taping of sexual activity and/or distribution of these materials via media such as, but not limited to, the Internet;
4. Exceeding the boundaries of Consent (e.g., allowing another person to observe Consensual sex without the knowledge of or Consent from all participants);
5. Voyeurism; and
6. Knowingly or recklessly transmitting a sexually transmitted disease (including HIV) to another individual.

**Sexual Harassment.** "Sexual Harassment" is defined as unwelcome conduct that is severe and pervasive, which substantially interferes with the learning, working, or living environment, and which would detrimentally affect a reasonable person under the circumstances. Harassment is extreme, outrageous or persistent acts or communications that are intended or reasonably likely to harass, intimidate or humiliate another. Whether the alleged conduct constitutes prohibited harassment depends on the entire circumstances, including the nature, frequency, type, and duration of the conduct. Examples of sexual harassment may include, but are not limited to, the following:

- i. Verbal abuse of a sexual nature, which is considered to include, but is not limited to, epithets, derogatory comments, sexual advances, invitations, propositions, comments, or requests for sexual favors;
- ii. Intimate unwelcome physical contact;
- iii. Repeated unwanted discussions of sexual matters;
- iv. Use of sexual jokes, stories, analogies, or images which are not related to the subject of the class or work situation;
- v. Ogling, leering, or prolonged staring at another person's body;
- vi. Display or use of sexual graffiti or sexually-explicit pictures or objects;
- vii. Sexually suggestive jokes, comments, e-mails, or other written or oral communications;
- viii. Condition, explicitly or implicitly, academic or employment decisions upon an individual's submission to requests for sexual favors or conduct.

Sexual harassment by any faculty, staff, or student is a violation of both federal regulatory law and University policy and will not be tolerated at Tech. The University considers sexual harassment to be a very serious issue and shall subject the offender to dismissal or other sanctions following the University's investigation and substantiation of the complaint and compliance with due process requirements.

The determination of what constitutes sexual harassment will vary with the particular circumstances, but it may be generally described as repeated and unwanted sexual behavior, such as physical contact and verbal comments or suggestions that adversely affect the working or learning environments of others.

EEOC Guidelines define sexual harassment as unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when:

- a. Submission to such conduct is either explicitly or implicitly made a condition of an individual's employment with the University or a factor in the educational program of a student, and/or;
- b. Submission to or a rejection of such conduct by an individual is used as the basis for an employment or academic decision affecting such individuals, and/or;
- c. Such conduct has the purpose or effect of substantially interfering with an individual's right to achieve an educational objective or to work in an environment free of intimidation, hostility, or threats stemming from acts or language of a sexual nature.

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

Because of the unique situations which exist between students, faculty, supervisors, and staff, relationships in the workplace and on campus should at all times remain professional. In particular, due to the professional power differential between faculty and students, faculty members are encouraged to remain professional in all relationships with students. As teachers, professors encourage the free pursuit of learning by their students. They hold before them the best scholarly standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to assure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or

discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.

Sexual harassment may create a hostile, abusive, demeaning, offensive, or intimidating environment. It is manifested by verbal or physical actions, including gestures and other symbolic conduct. Sexual harassment is not always obvious and overt; it can also be subtle and covert. A person who is subject to sexual advances may nevertheless be a victim of sexual harassment if those advances were unwelcome.

If a professor's speech or conduct takes place in the teaching context, it must also be persistent, pervasive, and not germane to the subject matter. The academic setting is distinct from the workplace in that wide latitude is required for professional judgment in determining the appropriate content and presentation of academic material.

**Sexual Misconduct.** "Sexual Misconduct" means any unwelcome conduct of a sexual nature, including any conduct or act of a sexual nature perpetrated against an individual without Consent. Sexual Misconduct can occur between strangers or acquaintances, including people involved in an intimate or sexual relationship. Sexual Misconduct can be committed by men or by women, and it can occur between people of the same or different sex. The University encourages reporting of all Sexual Misconduct. Sexual Misconduct includes, but is not limited to:

1. Dating violence;
2. Domestic violence;
3. Non-forcible sex acts, which are unlawful sexual acts where Consent is not relevant, such as sexual contact with an individual under the statutory age of Consent, as defined by State law, or between persons who are related to each other within degrees wherein marriage is prohibited by law.
4. Sexual Assault;
5. Sexual Exploitation;
6. Sexual Harassment; and
7. Stalking.

**Stalking.** "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

1. Fear for his or her safety or the safety of others; or
2. Suffer substantial emotional distress.

**Student.** A "student" is any student who is registered at the University or enrolled at the University (a) at the time of the alleged Sexual Misconduct and (b) at the time a Complaint is filed.

## **Appendix C to SEXUAL MISCONDUCT POLICIES AND PROCEDURES**

### **Reporting and Confidentially Disclosing Sexual Violence:**

#### **Know the Options**

Arkansas Tech University encourages victims of sexual violence to talk to somebody about what happened - so victims can get the support they need, and so the University can respond appropriately.

Different employees on campus have different abilities to maintain a victim's confidentiality.

- Some are required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication."
- Other employees may talk to a victim in confidence, and generally only report to the University that an incident occurred without revealing any personally identifying information. Disclosures to these employees will not trigger a University investigation into an incident against the victim's wishes.
- Thirdly, some employees are required to report all the details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator. A report to these employees (called "responsible employees") constitutes a report to the University - and generally obligates the University to investigate the incident and take appropriate steps to address the situation.

This policy is intended to make students aware of the various reporting and confidential disclosure options available to them - so they can make informed choices about where to turn should they become a victim of sexual violence. The University encourages victims to talk to someone identified in one or more of these groups.

## THE OPTIONS

### A. Privileged and Confidential Communications.

#### Professional Counselors

Professional, licensed counselors who provide mental-health counseling to members of the school community (and including those who act in that role under the supervision of a licensed counselor) are generally not required to report any information about an incident to the Title IX Coordinator without a victim's permission.

The following is the contact information for these individuals who are all located in the Health and Wellness Center (<http://www.atu.edu/hwc/index.php>) in Dean Hall:

**Kristy Davis**, [kdavis51@atu.edu](mailto:kdavis51@atu.edu), (479) 968-0329

**Craig Witcher**, [cwitcher@atu.edu](mailto:cwitcher@atu.edu), (479) 968-0329

**Janis Taylor**, [jtaylor78@atu.edu](mailto:jtaylor78@atu.edu), (479) 968-0329

**Hunter Bramlitt**, [jbramlitt@atu.edu](mailto:jbramlitt@atu.edu), (479) 968-0329

A victim who speaks to a professional counselor must understand that, if the victim wants to maintain confidentiality, the University will be unable to conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator.

Even so, these counselors will still assist the victim in receiving other necessary protection and support, such as victim advocacy, academic support or accommodations, disability, health or mental health services, and changes to living, working, or course schedules.

A victim who at first requests confidentiality may later decide to file a complaint with the University or report the incident to local law enforcement, and thus have the incident fully investigated. These counselors will provide the victim with assistance if the victim wishes to do so.

#### Medical Professionals

The medical professionals who work in the campus health center can generally talk to a victim without revealing any personally identifying information about an incident to the University. A victim can seek assistance and support from these individuals without triggering a University investigation that could reveal the victim's identity or that the victim has disclosed the incident.

While maintaining a victim's confidentiality, these individuals or their office should report the nature, date, time, and general location of an incident to the Title IX Coordinator. This limited report, which includes no information that would directly or indirectly identify the victim, helps keep the Title IX Coordinator informed of the general extent and nature of sexual violence on and off campus so the coordinator can track patterns, evaluate the scope of the problem, and formulate appropriate campus-wide responses. Before reporting any information to the Title IX Coordinator, these individuals will consult with the victim to ensure that no personally identifying details are shared with the Title IX Coordinator.

Following is contact information for these Medical Professionals:

**Rebecca Gray, Advanced Practice Registered Nurse** [rgrayl2@atu.edu](mailto:rgrayl2@atu.edu)

**Robin Koontz, Advanced Practice Registered Nurse** [rkoontz@atu.edu](mailto:rkoontz@atu.edu)

**Heather Stout, Registered Nurse** [hstoutl@atu.edu](mailto:hstoutl@atu.edu)

**Health and Wellness Center, Dean Hall 126** (<http://www.atu.edu/hwc/index.php>), (479) 968-0329

**NOTE:** While the professional counselors and medical professionals may maintain a victim's confidentiality vis-a-vis the University, they may have reporting or other obligations under state law. For example, mandatory reporting to law enforcement in case of minors; instances of imminent harm to self or to others; or being subpoenaed to testify in a criminal case

**ALSO NOTE:** If the University determines that the alleged perpetrator(s) pose a serious and immediate threat to the University community, those individuals who serve as Campus Security Authorities under the Cleary Act may be called upon to issue a timely warning to the community. Any such warning should not include any information that identifies the victim.

## **B. Reporting to "Responsible Employees."**

A "responsible employee" is a University employee who has the authority to redress sexual violence, who has the duty to report incidents of sexual violence or other student misconduct, or who a student could reasonably believe has this authority or duty. When a victim tells a responsible employee about an incident of sexual violence, the victim has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

A responsible employee **must report** to the Title IX Coordinator all relevant details about the alleged sexual violence shared by the victim and that the University will need to determine what happened, including the names of the victim and alleged perpetrator(s), any witnesses, and any other relevant facts, including the date, time, and specific location of the alleged incident.

To the extent possible, information reported to a responsible employee will be shared only with people responsible for handling the University's response to the report. A responsible employee should not share information with law enforcement without the victim's consent or unless the victim has also reported the incident to law enforcement.

The following employees (or categories of employees) are the University's responsible employees: Resident Directors, **Resident Assistants, Area Coordinators, Associate Deans, Dean of Students, President, Chancellor, Vice Presidents, Vice Chancellors, Chief Officers, Assistant Vice Presidents, Academic Department Heads, Academic Deans, Athletic Director, Assistant Coaches, Head Coaches, Faculty Advisors for Student Groups, employees in the Department of Public Safety.**

Before a victim reveals any information to a responsible employee, the employee should ensure that the victim understands the employee's reporting obligations and, if the victim wants to maintain confidentiality, direct the victim to confidential resources.

If the victim wants to tell the responsible employee what happened but also maintain confidentiality, the employee should tell the victim that the University will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the responsible employee will also inform the Coordinator of the victim's request for confidentiality.

Responsible employees will not pressure a victim to request confidentiality, but will honor and support the victim's wishes, including for the University to fully investigate an incident. By the same token, responsible employees will not pressure a victim to make a full report if the victim is not ready to.

### **Requesting Confidentiality From the University: How the University Will Weigh the Request and Respond.**

If a victim discloses an incident to a responsible employee but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University must weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all students, including the victim.

If the University honors the request for confidentiality, a victim must understand that the University's ability to meaningfully investigate the incident and pursue disciplinary action against the alleged perpetrator(s) may be limited.

Although rare, there are times when the University may not be able to honor a victim's request in order to provide a safe, non-discriminatory environment for all students.

The University has designated the following individual(s) to evaluate requests for confidentiality once a responsible employee is on notice of alleged sexual violence:

**Ms. Amy Pennington apennington@atu.edu, Title IX Coordinator**

When weighing a victim's request for confidentiality or that no investigation or discipline be pursued, the Title IX Coordinator will consider a range of factors, including the following:

- The increased risk that the alleged perpetrator will commit additional acts of sexual or other violence, such as:
  - whether there have been other sexual violence complaints about the same alleged perpetrator;
  - whether the alleged perpetrator has a history of arrests or records from a prior school indicating a history of violence;
  - whether the alleged perpetrator threatened further sexual violence or other violence against the victim or others;
  - whether the sexual violence was committed by multiple perpetrators;
  - whether the sexual violence was perpetrated with a weapon;
  - whether the victim is a minor;
- whether the University possesses other means to obtain relevant evidence of the sexual violence (e.g., security cameras or personnel, physical evidence);
- whether the victim's report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of these factors could lead the University to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the University will likely respect the victim's request for confidentiality.

**If the University determines that it cannot maintain a victim's confidentiality**, the University will inform the victim prior to starting an investigation and will, to the extent possible, only share information with people responsible for handling the University's response.

The University will remain ever mindful of the victim's well-being, and will take ongoing steps to protect the victim from retaliation or harm and work with the victim to create a safety plan. Retaliation against the victim, whether by students or University employees, will not be tolerated. The University will also:

- assist the victim in accessing other available victim advocacy, academic support, counseling, disability, health or mental health services, and legal assistance both on and off campus (see portion of policy identifying these);
- provide other security and support, which could include issuing a no-contact order, helping arrange a change of living or working arrangements or course schedules (including for the alleged perpetrator pending the outcome of an investigation) or adjustments for assignments or tests; and
- inform the victim of the right to report a crime to campus or local law enforcement - and provide the victim with assistance if the victim wishes to do so.

The University may not require a victim to participate in any investigation or disciplinary proceeding. Because the University is under a continuing obligation to address the issue of sexual violence campus-wide, reports of sexual violence (including non-identifying reports) will also prompt the University to consider broader remedial action, such as increased monitoring, supervision, or security at locations where the reported sexual violence occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

If the University determines that it can respect a victim's request for confidentiality, the University will also take immediate action as necessary to protect and assist the victim.

**Miscellaneous.**

**Take Back the Night and other public awareness events**

Public awareness events such as "Take Back the Night," the Clothesline Project, candlelight vigils, protests, "survivor speak outs", or other forums in which students disclose incidents of sexual violence, are not considered notice to the

University of sexual violence for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the University will provide information about students' Title IX rights at these events.

### **Anonymous Reporting**

Although the University encourages victims to talk to someone, the University provides an online system for anonymous reporting. The system will notify the user (before s/he enters information) that entering personally identifying information may serve as notice to the University for the purpose of triggering an investigation. The website is: <http://www.atu.edu/psafe-report-sexassault.php>.

### **Off-campus Counselors and Advocates**

Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the University unless the victim requests the disclosure and signs a consent or waiver form. Following is contact information for these off-campus resources:

### **Victim Assistance Outreach Program**

The 5th Judicial District Prosecuting Attorney's Office has a "Victim Assistance Outreach Program" which 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 contact person for this program is Patricia Andrade. Her telephone number is (479) 705-0579.

### **Ozark Rape Crisis Center**

Located in Clarksville, Arkansas, this entity provides 24 hour crisis intervention. The hotline telephone number is (800) 818- 1189 and the website is: <http://www.ozarkrapecrisis.com/>

### **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 (800) 977-5776. Additional services include: Free and confidential assistance for all victims of sexual violence; Compassionate accompaniment for victims needing medical help; Comfort and support for victims going through the criminal justice system; Crisis counseling and support groups for victims and families; Information and referrals to available community resources; Community public education on sexual violence issues; Training for volunteers and other professions serving victims.

**NOTE:** While these off-campus counselors and advocates may maintain a victim's confidentiality vis-a-vis the University, they may have reporting or other obligations under state law in instances such as mandatory reporting to law enforcement in case of minors; imminent harm to self or others; requirement to testify if subpoenaed in a criminal case.

### **Appendix E to SEXUAL MISCONDUCT POLICY AND PROCEDURES**

The following sanctions may be imposed singularly or in combination upon any student found to have violated the Student Code of Conduct:

- A. Warning.** A notice in writing to the student that the student has violated institutional regulations.
- B. Probation.** A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be violating any institutional regulation(s) during the probationary period.

- C. Loss of Privileges.** Suspension or denial of rights and privileges for a designated period of time, including participation in athletic or extracurricular activities.
- D. Monetary Fines.** A penalty imposed by the conduct body involving the collection of fees from the student.
- E. Restitution.** Compensation for loss, injury, damage to or misappropriation of University property. This may take the form of appropriate service and/or monetary or material replacement.
- F. Educational Sanctions.** The conduct body may also impose educational sanctions that promote learning and understanding. These sanctions may be developed as necessary by a conduct body including, but not limited to:
  - 1. Sponsorship of an education program;
  - 2. Attendance at educational programs;
  - 3. Requirement of members to complete the TIPS for the University training program or other educational training programs;
  - 4. Attendance in conflict management training;
  - 5. Educational service hours;
  - 6. Attendance in ethics workshop/training;
  - 7. Reflective exercises.
- G. Discretionary Sanctions.** Work assignments, service to the University, or other related sanctions. Students who violate the alcohol/drug policies may be subject to completion of alcohol and other drug education programs.
- H. Holds.** Withholding of grades, right to register for classes, official transcript, and/or degree.
- I. Denial of degree.** University degree may be denied, revoked, and/or a diploma may be withdrawn.
- J. Loss of Scholarship.** Scholarships awarded by the University or University-related programs may be partially or fully revoked.
- K. Housing Suspension.** Separation of the student from University housing for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- L. Housing Expulsion.** Permanent separation of the student from University housing.
- M. University Suspension.** Separation of the student from the University for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
- N. University Expulsion.** Permanent separation of the student from the University.
- O. Revocation of Admission and/or Degree.** Admission to or a degree awarded from Tech may be revoked for fraud, misrepresentation, or violations of the Student Code of Conduct committed by a student prior to graduation.

Arkansas Tech may withhold awarding a degree otherwise earned until the completion of the process set forth in this policy, including the completion of all sanctions imposed, if any.

A disciplinary sanction may become part of the student's permanent academic record. A student's permanent academic record includes any disciplinary sanction that comprises:

- 1. Expulsion
- 2. Any revocation of degree

#### *End of Sexual Misconduct Policy and Procedures*

#### **Off-Campus Conduct**

If a student is charged only with an off-campus violation of local, state, or federal laws, but now with any other violation of the Student Code of Conduct, disciplinary action may be take and sanctions imposed if that behavior constitutes a safety or security threat to the campus and, substantially affects the safety or security of the University community.

University disciplinary proceeding may be instituted against a student charged with a violation of a law that is also a violation of the Student Code of Conduct if both violations result from the same factual situation, without regard to the pendency of civil litigation in court or criminal arrest and prosecution. Proceeding under the Student Code of Conduct will be conducted independently of any pending civil or criminal proceedings off-campus.

When a student is charged by local, state, or federal authorities with a violation of law, the University will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense is also the subject of a proceeding before a conduct body under the Student Code of Conduct, however, the University may advise off-campus authorities of the existence of the Student Code of Conduct and how such matters will be handled internally within the University community. The University will cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators. Individual students and faculty members, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate.

#### **Article IV: Adjudication of Student Misconduct and Appeals Process**

##### **A. Filing Complaints**

1. Any member of the University community may file charges against a student for violations of the Student Code of Conduct.
2. Charges alleging a violation of the Student Code of Conduct should be submitted as soon as possible after the incident.
3. Charges shall be prepared in writing and directed to the Student Conduct Administrator. The Student Conduct Administrator is Richard Harris, Chief Student Officer, Student Services Conference Center, Room 104, [rharris1@atu.edu](mailto:rharris1@atu.edu).
4. The Student Conduct Administrator or designee may investigate or may assign the case to a conduct advisor to investigate and initiate the conduct process.

##### **B. Preliminary Conference**

1. The conduct advisor will present all charges, supporting documentation and meeting notification to the respondent in written form sent to the address listed in OneTech, via Tech email, via hand-delivery by university employees to the respondent. This shall constitute full and adequate notice. The failure of a student to provide an address change or forwarding address, or the refusal or inability to accept the mailed notice, shall not constitute good cause for failure to comply with the notification.
2. The respondent shall meet with the conduct advisor in a preliminary conference.
3. The conduct advisor will review the charges and supporting documentation, advise the respondent of due process rights, and explain the Student Code of Conduct adjudication process during the preliminary conference.
4. The conduct advisor shall offer the respondent an opportunity to informally resolve the alleged violation.
  - a. The informal resolution process involves a review of the incident and discussion of the possible sanction(s).
  - b. If the respondent accepts responsibility for the violation and the resolution offered by the conduct advisor, the respondent and the conduct advisor shall complete an informal resolution agreement, which shall include information regarding the violations for which the respondent has been found responsible, the resulting sanctions, and signature (when applicable) of both the respondent and conduct advisor.
  - c. When the respondent agrees to take responsibility for the violation and the sanction recommended by the conduct advisor, the case will be settled and there shall be no subsequent proceedings.
  - d. The respondent has three (3) business days from the date of signing the informal resolution agreement to reconsider the agreement and request a formal hearing.
  - e. If the respondent wishes to request a formal hearing, he or she shall file a request for a formal hearing by notifying the Student Conduct Administrator in writing.
  - f. The outcome of an informal resolution cannot be contested after three (3) business days.
  - g. The outcome of a formal hearing shall replace any agreements made during the informal resolution.
  - h. If the charges cannot be settled by mutual consent of the respondent and the conduct advisor, if the respondent maintains innocence, or the respondent fails to attend the preliminary conference, the case will be forwarded to the Student Conduct Administrator for referral to a conduct body for a formal hearing.

- i. A formal hearing shall be set to occur no less than five (5) business days and no more than ten (10) business days after the Student Conduct Administrator refers the case for a formal hearing. Time limits for scheduling of formal hearings may be adjusted at the discretion of the Student Conduct Administrator.
5. The conduct advisor may later serve in the same matter as a member of the conduct body.
6. The respondent may request one change in the date and time of the preliminary conference by requesting the change 24 hours prior to the scheduled conference by contacting the Conduct Advisor.
7. Failure of the respondent to attend the preliminary conference will result in a formal hearing being scheduled.

### C. Formal Hearing

If the charges cannot be settled by mutual consent of the respondent and the conduct advisor or if the respondent maintains innocence, the Student Conduct Administrator will refer case to the Student Services Conduct Board to adjudicate the case in a formal hearing.

#### Composition of the Student Services Conduct Board

This conduct body is assigned to conduct formal hearings involving alleged violations of the Student Code of Conduct that cannot be settled during a preliminary conference. The conduct board is composed of the following members, appointed by the Student Conduct Administrator: One (1) student representing membership from the following groups: Student Government Association or Chancellor's Leadership Cabinet or if none are available, one (1) Student at-large; Two (2) Ozark Campus staff members. The Student Conduct Administrator or designee will serve as the chairperson. The Student Services Conduct Board will hear the case and determine the appropriate sanction(s). All participants are bound to confidentiality in accordance with the federal Family Educational Rights and Privacy Act (FERPA). Students serving on the Student Services Conduct Board must be full-time, in good academic standing, and demonstrate satisfactory conduct history.

#### Hearing Guidelines

1. Hearings shall normally be conducted in private.
2. The complainant, the respondent, and their advisors (if any), shall be allowed to attend the entire portion of the student conduct hearing at which information is received excluding deliberation. Admission of any person to the hearing who is not a party or potential witness shall be at the discretion of the conduct body and/or the chairperson of the conduct body.
3. In hearings involving more than one respondent, the Student Conduct Administrator or designee may at his or her sole discretion permit the hearings concerning each respondent to be conducted separately or jointly.
4. The complainant and the respondent have the right to be assisted by any advisor they choose, at their own expense. The complainant and/or respondent is responsible for presenting his or her own information. Advisors are not permitted to speak or to participate directly in any student conduct hearing. The complainant and respondent must notify the Student Conduct Administrator who they are bringing at least 72 hours prior to the hearing. A complainant and respondent should select as an advisor, a person whose schedule allows attendance at the scheduled date and time of the student conduct hearing; delays will not normally be allowed due to the scheduling conflicts of an advisor.
5. The complainant, the respondent, and the conduct body shall have the privilege of presenting witnesses, subject to the right of cross examination by the conduct body.
6. The complainant, the respondent, and the conduct body may arrange for witnesses to present pertinent information to the Student Services Conduct Board. Witnesses will provide information to and answer questions from the Student Services Conduct Board. The complainant and respondent will not be allowed to directly cross-examine each other or witnesses.
7. Pertinent records, exhibits, and written statements may be accepted as evidence for consideration by the conduct body at the discretion of the chairperson. This information must be provided to the Student Conduct Administrator at least 72 hours prior to the hearing.
8. All procedural questions are subject to the final decision of the chairperson of the conduct body.
9. After the portion of the hearing concludes in which all pertinent information has been received and the respondent, complainant, and witnesses are dismissed, the conduct body shall determine by majority vote

whether the respondent has violated each section of the Student Code of Conduct in which the respondent is charged and determine the sanction(s), if any.

10. The determination of the conduct body shall be made on the basis of whether it is more likely than not that the respondent violated the Student Code of Conduct.
11. Formal rules of process, procedure, and/or technical rules of evidence, such as applied in criminal or civil court, are not used in the Student Services Conduct Board proceedings.
12. There shall be a single verbatim record, such as a digital recording, of all hearings before the Student Services Conduct Board, not including deliberations. The recording shall be the property of the University.
13. If the respondent does not appear before the conduct body for the formal hearing, the information in support of the charges shall be presented and considered in absentia.
14. The conduct body may accommodate concerns for the personal safety, well-being, retaliation, and/or fears of the confrontation of the complainant, respondent, and/or other witnesses during the formal hearing by providing a visual screen and/or by permitting participation by telephone, video conferencing, or by other means at the discretion of the Student Conduct Administrator or designee.
15. After the formal hearing, the Student Conduct Administrator will advise the respondent in writing of the determination of the conduct body and any imposed sanction. Each record of any disciplinary process or sanction imposed under the Student Code of Conduct involving a respondent and any alleged victim may constitute an educational record the release of which is governed by FERPA.

#### D. Sanctions

1. The following sanctions may be imposed singularly or in combination upon any student found to have violated the Student Code of Conduct:
  - a. **Warning.** A notice in writing to the student that the student has violated institutional regulations.
  - b. **Probation.** A written reprimand for violation of specified regulations. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be violating any institutional regulation(s) during the probationary period. Students on disciplinary probation may not hold offices in RSOs.
  - c. **Loss of Privileges.** Suspension or denial of rights and privileges for a designated period of time, including participation in athletic or extracurricular activities.
  - d. **Monetary Fines.** A penalty imposed by the conduct body involving the collection of fees from the student.
  - e. **Restitution.** Compensation for loss, injury, damage to or misappropriation of University property. This may take the form of appropriate service and/or monetary or material replacement.
  - f. **Educational Sanctions.** The conduct body may also impose educational sanctions that promote learning and understanding. These sanctions may be developed as necessary by a conduct body including, but not limited to:
    - i. Sponsorship of an educational program;
    - ii. Attendance at educational programs;
    - iii. Requirement of members to complete the TIPS for the University training program or other educational training programs;
    - iv. Attendance in conflict management training;
    - v. Educational service hours;
    - vi. Attendance in ethics workshop/training;
    - vii. Reflective exercises;
    - viii. Research exercises.
  - g. **Discretionary Sanctions.** Work assignments, service to the University, or other related sanctions. Students who violate the alcohol/drug policies may be subject to completion of alcohol and other drug education programs.
  - h. **Holds.** Withholding of grades, right to register for classes, official transcript, and/or degree.
  - i. **Denial of degree.** University degree may be denied, revoked, and/or a diploma may be withdrawn.

- j. **Loss of Scholarship.** Scholarships awarded by the University or University-related programs may be partially or fully revoked.
  - k. **Housing Suspension.** Separation of the student from University housing for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
  - l. **Housing Expulsion.** Permanent separation of the student from University housing.
  - m. **University Suspension.** Separation of the student from the University for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified.
  - n. **University Expulsion.** Permanent separation of the student from the University.
  - o. **Revocation of Admission and/or Degree.** Admission to or a degree awarded from Tech may be revoked for fraud, misrepresentation or violations of the Student Code of Conduct committed by a student prior to graduation.
2. Tech may withhold awarding a degree otherwise earned until the completion of the process set forth in the Student Code of Conduct, including the completion of all sanctions imposed, if any. Students who fail to complete the assigned sanction(s) will have a disciplinary hold placed on their student account which may prevent registration activities. The hold is removed when sanctions are complete.
  3. A disciplinary sanction becomes part of the student's permanent academic record as set forth. A student's permanent academic record includes any disciplinary sanction that comprises:
    - a. University Suspension
    - b. Expulsion
    - c. Any revocation of degree
  4. Other than University suspension, University expulsion, and revocation of degree, disciplinary sanctions shall not be made part of the student's permanent academic record, but shall become part of the student's conduct record. Upon graduation and application to the Student Conduct Administrator, the student's confidential record may be expunged of disciplinary actions other than University housing expulsion, University suspension, or University expulsion or revocation of degree. Requests for expungement should be made in writing to the Student Conduct Administrator.
  5. More than one of the sanctions listed above may be imposed for any single violation.

#### **E. Interim Suspension**

In certain circumstances, the Student Conduct Administrator or designee, may impose a University or residence hall suspension prior to the formal hearing before a conduct body.

1. Interim suspension may be imposed only:
  - a. to ensure the safety and well-being of members of the University community or preservation of University property;
  - b. to ensure the student's own physical or emotional safety and well-being; or
  - c. if the student poses a definite threat of disruption of, or interference with, the normal operations of the University.
2. During the interim suspension the respondent shall be denied access to University housing and/or to the campus (including classes) and/or all other University activities or privileges for which the student might otherwise be eligible, as the Student Conduct Administrator or designee may determine to be appropriate.
3. The interim suspension does not replace the outlined conduct process, which shall proceed on the normal schedule, up to and through a formal hearing, if required.

#### **F. Appeals**

Appeal of the decision of the Student Services Conduct Board may be made in writing to the Chief Student Officer, located in the Technology and Academic Support Building, Office within five (5) business days of notification of the decision. The only basis for appeal shall be:

1. Alleged failure of the Student Services Conduct Board to follow procedures set forth in the Student Code of Conduct; or

2. Consideration of new evidence that was not reasonably available at the time of the hearing before the Student Services Conduct Board.

If an appeal is upheld, the review of the case may result in a modified sanction or the case may be remanded to the Student Services Conduct Board for a new hearing. If the appeal is denied, the sanction imposed by the Student Services Conduct Board shall be immediately implemented.

Sanctions issued following the Student Services Conduct Board hearing shall not be implemented until all appeals have been either exhausted or voluntarily waived.

1. If the student has refused to respond or has ignored the instructor's first and second warning, the student will be referred to the Chief Student Officer for violations of the Code of Conduct.

## **Article V: Classroom Provisions**

While Student Services is generally responsible for addressing student conduct, classroom management and behaviors not otherwise in violation of the Student Code of Conduct are under the jurisdiction of the responsible faculty member. This section describes the expectations of Tech and references those procedures related to student conduct in the classroom.

### **A. Academic Policies**

The undergraduate and graduate catalogs address regulations and procedures regarding academic policies at Tech. Each student should read and understand these sections of the catalog.

### **B. Class Absences**

The policy of the University in regard to class absences is that regular class attendance is essential and that students, in their own interest, are therefore responsible for attending all classes in 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 regular terms and to the summer sessions.

Attendance policies are set forth by each individual instructor and will be announced at the beginning of the course. When participation in a University related function requires missing class, the student should, when possible, notify the instructor(s) prior to the absence. Absences due to sickness, accident, or death in the family should be explained to each instructor by the student. For absences of more than five (5) successive days which by their nature, such as an emergency, make it difficult for the student to contact the instructor(s), the student may contact Richard Harris, Chief Student Officer, Office of Student Services, Office 104, (479)-508-3310, [rharris1@atu.edu](mailto:rharris1@atu.edu), for assistance in notifying instructors.

Classroom attendance policy:

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, dropping a student from a course with a grade of "FE" (i.e., F for excessive absences; Formerly F\*), the instructor is obligated to notify the student, in writing, that an additional absence would result in this penalty;
4. A student accumulating an excessive number of unjustifiable absences 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 becomes final when the instructor reports this action in writing to the Chief Academic Officer. The student who chooses to protest such action as unjustified has recourse through the grievance procedure for appeal of an academic grade.

### **C. Student Academic Grievance Procedure**

#### **Appeal of Academic Grades or Academic Program Dismissal**

The following regulations apply to the appeal of academic grades and academic program dismissal (grades having been assigned by an instructor and program dismissal having been made by a departmental committee):

1. Appeal of a grade or program dismissal must be made by the student directly affected.
2. An appeal, in order to be heard, must be made during or immediately following the conclusion of the course involved (appeal of a grade) or immediately following the dismissal decision (appeal of program dismissal). (Immediately, here, means before the beginning of another semester or summer term.)
3. 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. Upon receipt of a program dismissal decision from a departmental committee, the student wishing further consideration must make a written appeal of the decision to the head of the department in which the academic program is administered if applicable. Discussion based upon the written appeals and evidence of attempted resolution in this direct manner must precede any further step.
4. If either appeal is not resolved in Step 3, the student wishing further consideration must take the issue to the head of the department in which the course is taught, or to the Chief Student Officer should the instructor be involved (appeal of a grade); or the student may appeal to the Chief Student Officer if it is an appeal of program dismissal. If the appeal of a grade is not resolved at this level, the student may appeal to the Chief Academic Officer.
5. If either appeal is not resolved in Step 4, the student may appeal to the Chief Academic Officer and ask for a formal hearing. At the time a student asks for a formal hearing, he/she must submit a written formal presentation of the case, with all related supporting documents, to the Chief Academic Officer. The hearing committee can then either reject the grievance on the basis of its content or proceed to investigate further.
6. Each hearing committee will be an ad hoc committee sitting for an individual appeal. The committee will be composed of the academic appeals committee. The committee members will be appointed by the Chief Academic Officer. The committee will select its own chairperson.
7. The committee will have full cooperation of all parties in gathering information and conducting interview and the hearing. Once an issue is before the committee, the committee shall have the authority to recommend a lower grade, a higher grade, or no change (appeal of a grade); or recommend that the student be retained in the program or confirm the original dismissal decision of the departmental committee (appeal of program dismissal).
8. The committee recommendation will be conveyed to the Chief Academic Officer. The Chief Academic Officer will seek resolution based on the recommendation (appeal of the grade). The committee recommendation will be conveyed to the Chief Academic Officer (appeal of program dismissal). In the case of academic program dismissal, the Chief Academic Officer will forward the following to the Chancellor for review and action: (a) the recommendation of the departmental review committee; (b) a narrative of attempts to resolve the appeal; and (c) the committee's recommendation. Appeal of academic dismissal ends here upon final action by the Chancellor.
9. Failing resolution in Step 8 in the case of appeal of a grade, the issue will be reviewed by the Chancellor who will initiate action in accordance with provisions in Step 10.
10. In the case of an instructor who has terminated his/her association with the University, the Chief Academic Officer shall carry out the recommendation of the committee. Otherwise, a grade will be changed only if a majority of the department members in which the course was offered (not including the faculty member involved with the case) agree with the proposed grade change.

### **D. Academic Conduct Policies**

A university exists for the purpose of educating students and granting degrees to all students who complete graduation requirements. Therefore, Arkansas Tech University requires certain standards of academic integrity and conduct from all students. Arkansas Tech University expects an academic atmosphere to be maintained in all classes. This atmosphere is created by both the professor and the class to enable all students enrolled to reach their academic potential. Students are expected to attend class, conduct themselves in a non-disruptive manner in class, and refrain from cheating, plagiarism, or other unfair and dishonest practices. Students should also realize that the classroom is under the control of the instructor who will give students a statement of his or her classroom policies in a syllabus at the beginning of the semester.

### **E. Academic Dishonesty**

Academic dishonesty refers to the various categories of cheating and plagiarism in the classroom.

**Cheating** on an examination, quiz, or homework assignment involves any of several categories of dishonest activity. Examples of this are: a) copying from the examination or quiz of another student; b) bringing into the classroom notes, messages, or crib sheets in any format which gives the student extra help on the exam or quiz, and which were not approved by the instructor of the class; c) obtaining advance copies of exams or quizzes by any means; d) hiring a substitute to take an exam or bribing any other individual to obtain exam or quiz questions; e) buying term papers from the Internet or any other source; and f) using the same paper to fulfill requirements in several classes without the consent of the instructors teaching those classes.

**Plagiarism** is stealing the ideas or writing of another person and using them as one's own. This includes not only passages, but also sentences and phrases that are 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 the sentence or phrase is plagiarized. Acknowledgment of the source of ideas must be made through a recognized footnoting or citation format. 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.

### **Procedure for Charges of Academic Dishonesty**

Since charges of academic dishonesty may have serious consequences, a instructor who suspects a student of any category of academic dishonesty must have facts and/or evidence to support the charge.

1. The instructor will meet with the student and present him or her with a written outline of the alleged academic dishonesty and the evidence supporting the charge. Penalties for various levels of academic dishonesty vary from giving an 'F' on a particular quiz or exam, to giving an 'F' on a term paper or other written work, or giving the student an 'F' or 'W' for the course. The instructor may also have different penalties for particular cases of academic dishonesty.
2. The instructor will notify his or her department head if applicable.
3. If the student accused of academic dishonesty denies the charge or disagrees with the evidence presented by the instructor, the student should make an appointment with the relevant department head. The student may remain in class during the appeal process.
4. If the student is still dissatisfied after meeting with the department head, he or she should make an appointment with the Chief Academic Officer who will seek resolution of the problem.
5. If a resolution is not found, the dean will refer the student to the Academic Appeals Committee.
6. The student should then submit a written appeal to the Chair of the Academic Appeals Committee.
7. If the Academic Appeals Sub-Committee determines academic dishonesty has occurred, it will confirm the recommendation of the instructor concerning the penalty. Such a decision will be given to both the Chief Academic Officer the Chair of the Academic Appeals Committee and the department head dean of the college from which the appeal originated. The student will be notified of the Chief Academic Officer Sub-Committee's decision by the Chair of the Sub-Committee that sat for the appeal. The Chief Academic Officer will review the case and forward the outcome to the Associate Registrar after the three-day appeal period.
8. The student shall have the right to appeal the decision of the Academic Appeals Sub-Committee by filing a Notice of Appeal with the Chief Academic Officer within three (3) business days of receiving notification of the sub-

committee's decision of the Chief Academic Officer Chair of the-Sub-Committee. The decision of the Chief Academic Officer will be final.

9. If the Academic Appeals Sub-Committee determines academic dishonesty has not occurred or evidence is insufficient, the sub-committee will forward all pertinent information to the Chief Academic Officer. The Chief Academic Officer will confer with the dean, department head and the instructor to facilitate the return of the student to class without penalty. The department head will notify the student of the decision.

## **F Academic Misconduct**

Academic misconduct concerns the student's classroom behavior. This includes the manner of interacting with the instructor and other student in the class. For example, students may disrupt the learning environment in a classroom through inappropriate behavior, such as, talking to students, unnecessary interruptions, attempting to monopolize the instructor's attention, or being chronically late to class. Misconduct also covers verbal or nonverbal harassment and/or threats in relation to classes. Student behavior should not infringe on the rights of other students or faculty during a class.

2. The instructor of a class being disrupted by academic misconduct will speak with the disruptive student. Proper behavior and possible consequences for not modifying the behavior will be discussed with the student. Extreme incidents of academic misconduct, in which the student becomes verbally or physically abusive in class will be dealt with immediately by asking the student to leave the class. If the student refuses to leave, Campus security personnel will be called to remove the student, and the Chief Student Officer will be informed of the behavior.
3. If the student has refused to respond or has ignored the instructor's first and second warning of the academic conduct or disruptive behavior, the student will be suspended for a period not longer than three days from the class where the warnings were given. Within 24 hours of the initial suspension a notification will be sent to the Chief Student Officer who will adjudicate charges of misconduct.
4. The student may appeal the Chief Student officer's decision through the appeals process as outlined below.
5. The Academic Appeals Sub-Committee will be appointed, and a hearing conducted by the Academic Appeals Sub-committee will be conducted within three working days after the date of the adjudication.
6. On the same date of adjudication, the student will be advised by the Chief Student Officer that he or she has the right to submit a written appeal to the Academic Appeals Sub-Committee addressing the alleged incident of academic misconduct. The student's written appeal as well as the instructor's written statement shall be delivered to the Chair of the Academic Appeals and Admissions Committee at least 24 prior to the hearing.
7. The Academic Appeals Sub-Committee will consider the written statements of the instructor and the student involved in the incident of academic misconduct. The Program Chair will provide a statement that the warning procedure has been followed and that the student has been suspended from attending the particular class pending the decision of the Academic Appeals Sub-Committee. The Sub Committee has the right to pursue further information from the instructor, Program Chair and student.
8. If the Academic Appeals Sub-Committee determines that academic misconduct has occurred, it will confirm the recommendation of the Chief Student Officer concerning the penalty. Such a decision will be given both to the Chair of the Academic Appeals and Admissions Committee and the Program Chair. The student will be notified of the Sub-Committee's decision by the Chair of the Sub Committee that sat for the appeal. The Chair shall notify the Chief Academic Officer of the decision. The Chief Academic Officer will review the case and forward the outcome to the Registrar after the three-day appeal period.
9. The student shall have the right to appeal the decision of the Academic Appeals Sub-Committee by filing a Notice of Appeal with the Office of the Chancellor within three working days of receiving notification of the sub-committee's decision from the Chair of the Sub-Committee. The Chancellor's decision will be final.

## **G. Student Rights**

If a student feels unfairly treated in regard to grades, grading, or treatment by the instructor or other students within the classroom, the student should address these concerns in the following manner.

### **Informal Process**

1. Make an appointment to speak with the instructor of the class to discuss the problem. Students must begin with the instructor of the class, as many problems can be worked out satisfactorily with a simple discussion.
2. If the student is still dissatisfied after discussing his or her problem with the instructor of the class, an appointment should be made with the head of the department in which the course is taught. The Program Chair will seek satisfactory resolution of the problem with both the student and instructor.
3. If the student is still dissatisfied, an appointment should be made with the Chief Academic Officer. The CAO will again seek resolution, and failing satisfactory resolution, will point out to the student the appropriate appeals process for the student's complaint.

### **Formal Process**

1. If the student complaint involves an assigned grade, the student will follow the Appeal of Academic Grade procedure as outlined in Article V, Section C
2. If the student wished to pursue an appeal based on a grade associated with a charge of academic dishonesty further than the Chief Academic Officer of the school, the student may file an appeal within three working days according to the outlined procedure for the Academic Appeals and Admissions Committee.
3. Final appeals, whether informal or formal, will be referred to the Chief Student Officer of the school for final decision, if necessary.