



**Arkansas Tech University  
Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination  
Policy and Procedures**

ATIXA 2020 ONE POLICY, TWO PROCEDURES MODEL  
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The following Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy and Procedures (herein after "Policy") were adopted by Arkansas Tech University (herein after "ATU") following the release of new Title IX regulations by the U.S. Department of Education. Officially published on May 19, 2020, the new Title IX regulations are effective and enforceable on August 14, 2020.

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

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

### **1. Glossary**

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

### **2. Rationale for Policy**

ATU is committed to providing a workplace and educational environment, as well as other benefits, programs, and activities that are free from discrimination, harassment, and retaliation. To ensure compliance with federal and state civil rights laws and regulations, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, ATU has developed policies and procedures that provide a process for those involved in an allegation of discrimination or harassment on the basis of protected class status, and also for allegations of retaliation.

### **3. Applicable Scope**

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

When the Respondent is a member of the ATU community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the ATU

community. This community includes, but is not limited to, students,<sup>1</sup> student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this Policy.

#### **4. Title IX Coordinator and Affirmative Action/Equal Opportunity Officer**

At ATU, multiple individuals work together to oversee implementation of best-practice policies and procedures to support students, staff, and faculty.

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

#### **5. Independence and Conflict-of-Interest**

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

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

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<sup>1</sup> For the purpose of this Policy, ATU defines "student" as any individual who is currently enrolled, full-time or part-time, in any non-credit or credit courses pursuing undergraduate, graduate, post-graduate/professional studies, or concurrent high school. This includes an individual who has been notified of acceptance for admission but has yet to be enrolled for study.

Reports of misconduct or discrimination committed by the Title IX Coordinator, Amy Pennington, or the AA/EEO Officer, Christina Stolarz, should be reported to Dr. Robin Bowen, ATU President, or designee. Reports of misconduct or discrimination committed by any other Title IX Team member should be reported to Amy Pennington.

**6. Complaints of Discrimination, Harassment, and/or Retaliation and Administrative Contact Information**

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

1) File a written complaint with:

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

You may also contact any of the individuals below:

Christina Stolarz  
Director of Human Resources and AA/EEO Officer/Deputy Title IX Coordinator  
Human Resources  
[Focus-All types of protected class discrimination]  
Brown Hall, Suite 434  
Russellville, AR 72801  
479-968-0396  
[cstolarz@atu.edu](mailto:cstolarz@atu.edu)

Mitzi Reano  
Project/Program Specialist and Deputy Title IX Coordinator/Investigator  
Human Resources  
[Focus-All types of protected class discrimination]  
Technology and Academic Support Building, Room 154  
Ozark, AR 72949

479-667-2117 ext. 6532

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

Stacy Galbo

Deputy Title IX Coordinator for Educational Outreach and Training/Investigator

Title IX Office

[Focus-Gender discrimination, including sexual misconduct]

Doc Bryan Student Services Center, Suite 233

Russellville, AR 72801

479-964-0583 ext. 4714

[sgalbo2@atu.edu](mailto:sgalbo2@atu.edu)

Susie Nicholson

Director of Compliance and Deputy Title IX Coordinator/Investigator

Athletics

[Focus-Gender discrimination, including sexual misconduct and athletics]

Tucker Coliseum

Russellville, AR 72801

479-964-3230

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

Ashlee Leavell

Assistant Dean for Student Wellness and Deputy Title IX Coordinator

[Focus-Discrimination based upon pregnancy]

Disability and Testing Services

Doc Bryan Student Services Center, Suite 141

Russellville, AR 72801

479-968-0302

[sleavell8@atu.edu](mailto:sleavell8@atu.edu)

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

Kristy Davis

Associate Dean for Student Wellness and ADA/504 Coordinator

[Focus-Discrimination and/or harassment based upon disability]

Health and Wellness Center

Doc Bryan Student Services Center, Suite 119

Russellville, AR 72801

479-968-0329  
[kdavis51@atu.edu](mailto:kdavis51@atu.edu)

Will Cooper  
Associate Dean for Student Conduct  
Student Conduct  
Doc Bryan Student Services Center, Suite 233  
Russellville, AR 72801  
479-968-0334  
[wcooper@atu.edu](mailto:wcooper@atu.edu)

William Titsworth  
Assistant Dean for Student Conduct/Lead Investigator  
Student Conduct and Title IX Office  
Doc Bryan Student Services Center, Suite 233  
Russellville, AR 72801  
479-498-6083  
[wtitsworth@atu.edu](mailto:wtitsworth@atu.edu)

Josh McMillian  
Associate Dean for Public Safety/Chief of Public Safety  
Public Safety  
716 North El Paso Avenue  
Russellville, AR 72801  
479-968-0222  
[jmcmillian1@atu.edu](mailto:jmcmillian1@atu.edu)

These employees typically work Monday-Friday from 8:00 am until 5:00 pm. Reports may be made (including leaving messages during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator or any other official listed. In case of emergency or for immediate assistance, please dial 911.

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

2) Report online, using the reporting form posted at [https://cm.maxient.com/reportingform.php?ArkansasTechUniv&layout\\_id=2](https://cm.maxient.com/reportingform.php?ArkansasTechUniv&layout_id=2). Anonymous reports are accepted via this reporting mechanism but can give rise to a need to investigate. ATU tries to provide supportive measures to all Complainants, which is impossible with an anonymous report. Reporting carries no obligation to initiate a formal response. ATU respects Complainant requests to dismiss complaints unless there is a compelling threat to health and/or safety.

A formal complaint means a document submitted or signed by the Complainant or signed by the Title IX Coordinator alleging a policy violation by a Respondent and requesting that ATU investigate the allegation(s). A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section. As used in this paragraph, the phrase “document filed by a Complainant” means a written document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by ATU) that contains the Complainant’s physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint and requests that ATU investigate the allegations. If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to ensure that it is filed correctly.

## **7. External Contact Information**

Inquiries may be made externally to:

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

For discrimination complaints by employees:  
Equal Employment Opportunity Commission (EEOC)  
1-800-669-4000  
<https://www.eeoc.gov/>

Little Rock Area Office  
820 Louisiana Street, Suite 200

Little Rock, AR 72201  
Phone: 1-800-669-4000  
Facsimile: 501-324-5991  
TDD#: 1-800-669-6820

## **8. Supportive Measures**

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

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

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

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

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the institutional community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts
- Providing transportation accommodations



- Implementing contact limitations (no contact directives) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Campus ban letters
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator or the AA/EEO Officer

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

### **9. Emergency Removal**

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

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

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

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

for adequate preparation.

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

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

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

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

**10. Promptness**

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

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

## **11. Privacy**

Every effort is made by ATU to preserve the privacy of reports.<sup>2</sup> Unless required by law or this Policy, ATU will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination (gender discrimination), any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law; or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

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

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

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

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

Confidentiality and mandated reporting are addressed more specifically below.

## **12. Jurisdiction of ATU**

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

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

A substantial ATU interest includes:

- a. Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of any student or other individual or the ATU campus

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

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

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

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

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

### **13. Time Limits on Reporting**

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

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

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

### **14. Online Harassment and Misconduct**

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

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

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

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

### **15. Policy Definitions**

#### ***A. Policy on Nondiscrimination***

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

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

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

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

When brought to the attention of the AA/EEO Officer, any such discrimination will be addressed by ATU according to the grievance process described in Process B.

***B. Policy on Disability Discrimination and Accommodation***

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

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

Kristy Davis, Associate Dean for Student Wellness, has been designated as ATU's ADA/504 Coordinator responsible for overseeing efforts to comply with these disability laws, including responding to reports of any allegation of noncompliance or discrimination based on disability. Any complaints submitted electronically or reported to other individuals alleging discrimination based upon disability will be forwarded to Kristy Davis. Grievances related to disability status and/or accommodations will be addressed using Process B in this Policy. ATU will maintain these records in the Health and Wellness Center for a period of at least seven (7) years.

#### **i. Students with Disabilities**

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

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

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

#### **ii. Employees with Disabilities**

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

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

### ***C. Policy on Discriminatory Harassment***

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

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

#### **i. Discriminatory Harassment**

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

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

A hostile environment is one that unreasonably interferes with, limits, or effectively denies an individual's educational or employment access, benefits, or opportunities.<sup>3</sup> This discriminatory effect results from harassing verbal, written, graphic, or physical conduct that is severe or pervasive **and** objectively offensive.

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

ATU reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature and not based on a protected status. Addressing such conduct will not result in the imposition of discipline under ATU policy, but may be addressed through respectful conversation, remedial actions, education, and/or other informal resolution mechanisms.

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<sup>3</sup> This definition of hostile environment is based on Federal Register / Vol. 59, No. 47 / Thursday, March 10, 1994: [Department of Education Office for Civil Rights, Racial Incidents and Harassment Against Students At Educational Recipients Investigative Guidance.](#)



## ii. Sexual Harassment

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

ATU has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community.

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

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

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

- 1) Quid Pro Quo:
  - a. an employee of ATU,
  - b. conditions the provision of an employment or educational benefit, aid, or service of ATU,
  - c. on an individual's participation in unwelcome sexual conduct.
  
- 2) Sexual Harassment:
  - a. unwelcome conduct,
  - b. determined by a reasonable person,
  - c. to be so severe, and
  - d. pervasive, and,
  - e. objectively offensive,
  - f. that it effectively denies a person equal access to ATU's education program or activity.<sup>4</sup>
  
- 3) Sexual assault, defined as:
  - a. Sex Offenses, Forcible:
    - Any sexual act directed against another person,
    - without the consent of the Complainant,

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<sup>4</sup> Unwelcomeness is subjective and determined by the Complainant (except when the Complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

- including instances in which the Complainant is incapable of giving consent.
- b. Forcible Rape:
  - Penetration,
  - no matter how slight,
  - of the vagina or anus with any body part or object, or
  - oral penetration by a sex organ of another person,
  - without the consent of the Complainant.
- c. Forcible Sodomy:
  - Oral or anal sexual intercourse with another person,
  - forcibly,
  - and/or against that person's will (non-consensually), or
  - not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age<sup>5</sup> or because of temporary or permanent mental or physical incapacity.
- d. Sexual Assault with an Object:
  - The use of an object or instrument to penetrate,
  - however slightly,
  - the genital or anal opening of the body of another person,
  - forcibly,
  - and/or against that person's will (non-consensually),
  - or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- e. Forcible Fondling:
  - The touching of the private body parts of another person (buttocks, groin, breasts),
  - for the purpose of sexual gratification,
  - forcibly,
  - and/or against that person's will (non-consensually),
  - or not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.
- f. Sex Offenses, Non-forcible:
  - Incest:
    - 1) Non-forcible sexual intercourse,
    - 2) between persons who are related to each other,

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<sup>5</sup> Per state law.

- 3) within the degrees wherein marriage is prohibited by Arkansas law.
  - Statutory Rape:
    - 1) Non-forcible sexual intercourse,
    - 2) with a person who is under the statutory age of consent of 14.
  
- 4) Dating Violence, defined as:
  - a. violence,
  - b. on the basis of sex,
  - c. committed by a person,
  - d. who is in or has been in a social relationship of a romantic or intimate nature with the Complainant.
    - i. The existence of such a relationship shall be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
    - ii. Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
    - iii. Dating violence does not include acts covered under the definition of domestic violence.
  
- 5) Domestic Violence, defined as:
  - a. violence,
  - b. on the basis of sex,
  - c. committed by a current or former spouse or intimate partner of the Complainant,
  - d. by a person with whom the Complainant shares a child in common, or
  - e. by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or
  - f. by a person similarly situated to a spouse of the Complainant under the domestic or family violence laws of Arkansas, or
  - g. by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of Arkansas.

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

- 6) Stalking, defined as:
  - a. engaging in a course of conduct,

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

For the purposes of this definition—

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

#### **ATU Consensual Relations Policy**

Sexual relations between employees and those with whom they also have an academic evaluative or supervisory relationship are fraught with the potential for exploitation. The respect and trust accorded a professor or staff member by a student, as well as the power exercised by the professor, or other staff member, in an academic or evaluative role, make voluntary consent by the subordinate suspect. Even when both parties have previously consented, circumstances could change and conduct that was once welcome could become unwelcome and the development of a sexual relationship renders both the employee and the institution vulnerable to possible later allegations of sexual harassment in light of the significant power differential that exists between individuals in unequal positions.

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

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

formally advising the student or when that student is a major in the employee's department or college.

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

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

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

### iii. Force, Coercion, Consent, and Incapacitation<sup>6</sup>

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

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

- **“Mentally defective”** means that a person suffers from a mental disease or defect that renders the person:
  - incapable of understanding the nature and consequences of a sexual act; or
  - unaware a sexual act is occurring.
  - Note: a determination that a person is mentally defective shall not be based solely on the person's IQ. Arkansas Code §§ 5-14-101(4).
- **“Mentally incapacitated”** means that a person is temporarily incapable of appreciating or controlling the person's conduct as a result of the influence of a controlled or intoxicating substance:
  - administered to the person without the person's consent; or
  - that renders the person unaware a sexual act is occurring. Arkansas Code §§ 5-14-101(5).
- **“Physically helpless”** means that a person is:
  - unconscious;
  - physically unable to communicate a lack of consent; or
  - rendered unaware that a sexual act is occurring. Arkansas Code §§ 5-14-101(7)
  - A nursing home patient was unable to communicate lack of consent and, thus, was “physically helpless” within meaning of statute for attempted rape purposes; victim was blind, unable to speak, and confined to bed or wheelchair, and victim could only grunt, raise her hand, and shake her head from side to side to communicate. *Dabney v. State*, 1996, 930 S.W.2d 360, 326 Ark. 382.
- Note: When criminality of conduct depends on a victim's being incapable of consent because he or she is mentally defective or mentally incapacitated, it is an affirmative defense that the actor reasonably believed that the victim was capable of consent. Arkansas Code §§ 5-14-102(e)

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

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

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

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

**Consent is:**

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

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

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

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

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

Consent to some sexual contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous intimate relationship is not sufficient to constitute consent.

The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred.

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

It is a defense to a sexual assault policy violation that the Respondent neither knew nor should have known the Complainant to be physically or mentally incapacitated. "Should have known" is an objective, reasonable person standard that assumes that a reasonable person is both sober and exercising sound judgment.

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

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

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

#### **iv. Other Civil Rights Offenses**

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

- Sexual Exploitation, defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this Policy. Examples of Sexual Exploitation include, but are not limited to:



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

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

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

## **16. Retaliation**

Protected activity under this Policy includes reporting an incident that may implicate this Policy, participating in the grievance process, assisting in providing information relevant to an investigation, and/or acting in good faith to oppose conduct that constitutes a violation of this Policy.

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

It is prohibited for any member of ATU's community to take materially adverse action by intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or policy, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Policy and procedure.

Charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

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

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

## **17. Responsible Employees**

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

- President
- Chancellor
- Vice Presidents
- Chief Officers
- Associate Vice Presidents

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

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

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

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

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

**a. Confidential Resources**

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

- On-campus licensed professional counselors
- On-campus health service providers
- Off-campus (non-employees):
  - Licensed professional counselors and other medical providers

- Local rape crisis counselors
- Domestic violence resources
- Local or state assistance agencies
- Clergy/chaplains
- Attorneys

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

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

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

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

Counseling Services:

Kristy Davis, LPC, Associate Dean for Student Wellness, [kdavis51@atu.edu](mailto:kdavis51@atu.edu)

Craig Witcher, LPC, Counselor, [cwitcher@atu.edu](mailto:cwitcher@atu.edu)

Janis Taylor, LPC, Counselor, [jtaylor78@atu.edu](mailto:jtaylor78@atu.edu)

Josh Root, LAC, Counselor, [jroot4@atu.edu](mailto:jroot4@atu.edu)

Leann Watson, LPC, Counselor, [lwatson12@atu.edu](mailto:lwatson12@atu.edu)

Health Services:

Brandye Bisek, APRN, Director of Health Services/Nurse Practitioner, [bbisek@atu.edu](mailto:bbisek@atu.edu)

Robin Joslin, APRN, Nurse Practitioner, [rkoontz@atu.edu](mailto:rkoontz@atu.edu)

Kyle Wewers, APRN, Nurse Practitioner, [kwewers@atu.edu](mailto:kwewers@atu.edu)

Heather Stout, RN, Registered Nurse, [hstout1@atu.edu](mailto:hstout1@atu.edu)

Cori Hinson, RN, Registered Nurse, [cpoore1@atu.edu](mailto:cpoore1@atu.edu)

**b. Responsible Employees and Formal Notice/Complaints**

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

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

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

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

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

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

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

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

### **18. When a Complainant Does Not Wish to Proceed**

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

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

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

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

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

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

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

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

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

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

### **19. Federal Timely Warning Obligations**

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

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

### **20. False Allegations and Evidence**

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

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

### **21. Amnesty for Complainants and Witnesses**

The ATU community encourages the reporting of misconduct and crimes by Complainants and witnesses. Sometimes, Complainants or witnesses are hesitant to report to ATU officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

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

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

Amnesty does not apply to more serious allegations such as physical abuse of another or illicit drug distribution. The decision not to offer amnesty is based on neither sex nor gender, but on the fact

that collateral misconduct is typically addressed for all students within a progressive discipline system, and the rationale for amnesty – the incentive to report serious misconduct – is rarely applicable to a Respondent with respect to a Complainant.

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

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

## **22. Federal Statistical Reporting Obligations**

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

- a) All “primary crimes,” which include homicide (criminal homicide-murder and non-negligent manslaughter, manslaughter by negligence), sexual assault (rape, fondling, incest, statutory rape), robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny/theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c) VAWA<sup>7</sup>-based crimes, which include sexual assault, domestic violence, dating violence, and stalking; and
- d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

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

Campus Security Authorities include: student affairs/student conduct staff, public safety staff, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations, and any other official with significant responsibility for student

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



and campus activities. A complete list of employees who serve as a CSA can be obtained by contacting the Department of Public Safety.

### **23. Preservation of Evidence**

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

1. Seek forensic medical assistance at a local hospital, ideally within 72-120 hours of the incident (sooner is better). In Russellville, Saint Mary's Regional Medical Center is located at 1808 West Main Street. In Ozark, Mercy Hospital is located at 801 West River.
2. Avoid showering, bathing, washing hands or face, or douching, if possible, but evidence may still be collected even if you do.
3. Try not to urinate.
4. If oral sexual contact took place, refrain from smoking, eating, drinking, or brushing teeth.
5. If clothes are changed, place soiled clothes in a paper bag (plastic destroys evidence).
6. Seeking medical treatment can be essential even if it is not for the purposes of collecting forensic evidence.

During the initial meeting between the Complainant and the Title IX Coordinator, the importance of taking these actions will be reiterated, if timely.

## PROCESS A

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

#### **1. Overview**

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

The procedures below, Process A, apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students, staff, administrator, or faculty members.

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

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

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

#### **2. Notice/Complaint**

Upon receipt of a notice or complaint to the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator initiates an initial assessment to determine the next steps ATU needs to take.

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

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<sup>8</sup> Anywhere this procedure indicates "Title IX Coordinator," ATU may substitute a trained designee.

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

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

### **3. Initial Assessment**

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

- If notice is given, the Title IX Coordinator seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired.
  - If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and works with the Complainant to make sure it is correctly completed.
- The Title IX Coordinator reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator works with the Complainant to ensure they are aware of the right to have an Advisor.
- The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
  - If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes, assess the request, and implements accordingly. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.

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

- If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, and may seek to determine if the Respondent is also willing to engage in informal resolution.
- If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of Title IX:
  - If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
    - an incident, and/or
    - a pattern of alleged misconduct, and/or
    - a culture/climate issue, based on the nature of the complaint.
  - If it does not, the Title IX Coordinator determines that Title IX does not apply and will “dismiss” that aspect of the complaint, if any. The Title IX Coordinator will then assess which policies may apply, if any, and may refer the matter for resolution under Process B. Please note that dismissing a complaint under Title IX is solely a procedural requirement under Title IX, and does not limit ATU’s authority to address a complaint with another appropriate process and remedy.

**a. Violence Risk Assessment**

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

- Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potential predatory conduct;
- To help assess/identify grooming behaviors;
- Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Assessment of appropriate sanctions/remedies (to be applied post-hearing); and/or
- Whether a Clery Act Timely Warning or campus ban is needed.

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

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

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

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

**b. Dismissal (Mandatory and Discretionary)<sup>10</sup>**

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

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined above, even if proved; and/or
- 2) The conduct did not occur in an employment or educational program or activity controlled by ATU (including buildings or property controlled by recognized student organizations), and/or ATU does not have control of the Respondent; and/or
- 3) The conduct did not occur against a person in the United States; and/or
- 4) At the time of filing a formal complaint, the Complainant is not participating in or attempting to participate in the education program or activity of ATU.

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

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<sup>10</sup> These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR Part 106.45.

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

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

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

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

#### **4. Counterclaims**

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

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

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

#### **5. Right to an Advisor**

The parties may each have an Advisor<sup>11</sup> of their choice present with them for all meetings,

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<sup>11</sup> This could include an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally).

interviews, and hearings within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>12</sup>

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. An Advisor cannot serve as a witness.

ATU may permit parties to have more than one (1) Advisor with a maximum of two (2) Advisors allowed upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties. Only one of the Advisors may be designated to participate in the cross-examination.

#### **a. Who Can Serve as an Advisor**

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

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

If the parties choose an Advisor from outside the pool of those identified by ATU, the Advisor may not have been trained by ATU and may not be familiar with ATU policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

#### **b. Advisor's Role in Meetings and Interviews**

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

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<sup>12</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

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

**c. Advisors in Hearings/ATU-Appointed Advisor**

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

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

**d. Pre-Interview Meetings**

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

**e. Advisor Violations of ATU Policy**

All Advisors are subject to the same ATU policies and procedures, whether they are attorneys or not. Advisors are expected to advise their parties without disrupting proceedings. Advisors should not address ATU officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee<sup>13</sup> during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-Maker(s) except during a hearing proceeding, during cross-examination.

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

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<sup>13</sup> Subject to the state law provisions or ATU policy above.



involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this Policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will stop, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

**f. Sharing Information with the Advisor**

ATU expects that the parties may wish to have ATU share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

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

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

**g. Privacy of Records Shared with Advisor**

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

**h. Expectations of an Advisor**

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

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

### **i. Expectations of the Parties with Respect to Advisors**

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

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

## **6. Resolution Processes**

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

### **a. Informal Resolution**

Informal Resolution can include three different approaches:

- When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.
- When the parties agree to resolve the matter through an alternate resolution mechanism including mediation, restorative practices, etc.
- When the Respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent who wishes to initiate Informal Resolution should contact the Title IX Coordinator.

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

begin or resume the Formal Grievance Process.

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

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

#### **b. Alternate Resolution Mechanism**

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

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

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

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

### **c. Respondent Accepts Responsibility for Alleged Violations**

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

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

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

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

### **d. Negotiated Resolution**

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and ATU. Negotiated Resolutions are not appealable.

## **7. Grievance Process Pool**

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

The list of Pool members and a description of the Pool can be found at <http://atu.edu/titleix/pool>.

### **a. Pool Member Roles**

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

- To act as an Advisor to the parties
- To serve as a Decision-Maker regarding the complaint

#### **b. Pool Member Appointment**

The Title IX Coordinator, in consultation with the President, appoints the Pool<sup>14</sup>, which acts with independence and impartiality. Although members of the Pool are typically trained in a variety of skill sets and can rotate amongst the different roles listed above in different cases, ATU can also designate permanent roles for individuals in the Pool, using others as substitutes or to provide greater depth of experience when necessary. This process of role assignment may be the result of particular skills, aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

#### **c. Pool Member Training**

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

- The scope of ATU's discrimination and harassment policy and procedures
- How investigation and hearings are conducted that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility
- Impartiality and objectivity
- Types of evidence
- Deliberation
- How to render findings and generate clear, concise, evidence-based rationales

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<sup>14</sup> This does not preclude ATU from having all members of the Pool go through an application and/or interview/selection process.

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

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

#### **d. Pool Membership**

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

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

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

### **8. Formal Grievance Process: Notice of Investigation and Allegations**

The Title IX Coordinator will provide written notice of the investigation and allegations (the “NOIA”) to the Respondent upon commencement of the Formal Grievance Process. This facilitates the Respondent’s ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that ATU presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about ATU's policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that ATU's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A link to ATU's VAWA brochure;
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

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

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

## **9. Resolution Timeline**

ATU will make a good faith effort to complete the resolution process within a sixty-to-ninety (60-

90) business day time period, including appeal, which can be extended as necessary for appropriate cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

### **10. Appointment of Investigators**

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

### **11. Ensuring Impartiality**

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

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

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

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

### **12. Investigation Timeline**

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.



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

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

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

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

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

### **14. Steps in the Investigation Process**

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

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

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

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX Coordinator), initiate or assist with any necessary supportive measures
- Identify policies implicated by the alleged misconduct and notify the Complainant and Respondent of all of the specific policies implicated

- Assist the Title IX Coordinator with conducting an initial assessment to determine if the allegations indicate a potential policy violation
- Commence an investigation by identifying issues and developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all witnesses and the parties
- Meet with the Complainant to finalize their interview/statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations
  - Notice should inform the parties of their right to have the assistance of an Advisor, who could be a member of the Pool or an Advisor of their choosing present for all meetings attended by the party
- Provide each interviewed party and witness an opportunity to review and verify the Investigator's summary notes (or transcript) of the relevant evidence/testimony from their respective interviews and meetings
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- When participation of a party is expected, provide that party with written notice of the date, time, and location of the meeting, as well as the expected participants and purpose
- Interview available, relevant witnesses and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest witnesses and questions they wish the Investigator(s) to ask of the other party and witnesses, and document in the report which questions were asked, with a rationale for any changes or omissions.
- Complete the investigation without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation.
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) with a list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included
- The Investigator(s) gather, assess, and synthesize evidence, but make no conclusions, engage in no policy analysis, and render no recommendations as part of their report
- Prior to the conclusion of the investigation, provide the parties and their respective Advisors (if so desired by the parties) a secured electronic or hard copy of the draft investigation report as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which ATU does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may

meaningfully respond to the evidence. The parties may elect to waive the full ten (10) business days. Each copy of the materials shared will be watermarked on each page with the role of the person receiving it (e.g., Complainant, Respondent, Complainant's Advisor, Respondent's Advisor).

- The Investigator(s) may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses
- The Investigator(s) will incorporate relevant elements of the parties' written responses into the final investigation report, include any additional relevant evidence, make any necessary revisions, and finalize the report. The Investigator(s) should document all rationales for any changes made after the review and comment period
- The Investigator(s) shares the report with the Title IX Coordinator for their review and feedback
- The Investigator will incorporate any relevant feedback, and the final report is then shared with all parties and their Advisors through secure electronic transmission or hard copy at least ten (10) business days prior to a hearing. The parties are also provided with a file of any directly related evidence that was not included in the report

### **15. Role and Participation of Witnesses in the Investigation**

Witnesses (as distinguished from the parties) who are employees of ATU are expected to cooperate with and participate in ATU's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of policy and may warrant discipline. As part of the ATU community, students have a responsibility to cooperate with and/or participate in the investigation and resolution process. Failure to participate may hinder ATU's ability to stop, remedy, and prevent the described forms of discrimination and harassment.

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

Witnesses may also provide written statements in lieu of interviews or choose to respond to written questions, if deemed appropriate by the Investigator(s), though not preferred. Witnesses are strongly encouraged to participate in the entire process. If a witness submits a written statement but is not present for cross-examination at a hearing, their written statement may not be used as evidence.

## **16. Recording of Interviews**

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

## **17. Evidentiary Considerations in the Investigation**

The investigation does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

## **18. Referral for Hearing**

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

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

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

## **19. Hearing Decision-Makers Composition**

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

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

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

Decision-Makers in that matter.

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

## **20. Evidentiary Considerations in the Hearing**

Any evidence that the Decision-Maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of responsibility, because ATU uses a progressive discipline system. This information is only considered at the sanction stage of the process, and is not shared until then.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-Maker(s) at the sanction stage of the process when a determination of responsibility is reached.

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

## **21. Notice of Hearing**

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

The notice will contain:

- A description of the alleged violation(s), a list of policies allegedly violated, a description of

the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.

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

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

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

## **22. Alternative Hearing Participation Options**

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

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

## **23. Pre-Hearing Preparation**

The Chair, after any necessary consultation with the parties, Investigator(s) and/or Title IX Coordinator, will provide the names of persons who will be participating in the hearing, documentary evidence, and the final investigation report to the parties at least ten (10) business days prior to the hearing.

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator(s) or have proffered a written statement or answered written questions, unless all parties and the Chair assent to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, at the discretion of the Chair, the hearing will either be recessed to allow all parties to review new information or may, in extreme circumstances, instruct that the investigation needs to be re-opened to consider that evidence. The Chair may also determine that the new information is not relevant, was not submitted in a timely manner, and may not be introduced. In which case, the hearing will continue.

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

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

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

#### **24. Hearing Procedures**

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

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

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

Witnesses will not be allowed in the hearing room until they are called to provide testimony or answer questions. The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-Makers and the parties and the witnesses will then be excused, unless the witness is also serving as an Advisor.



## **25. Joint Hearings**

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

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

## **26. The Order of the Hearing – Introductions and Explanation of Procedure**

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

## **27. Investigator Presents the Final Investigation Report**

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

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

## **28. Testimony and Questioning**

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

and then by the parties through their Advisors (“cross-examination”).

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

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

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

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

### **29. Refusal to Submit to Cross-Examination and Inferences**

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-Makers may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-Makers must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal

harassment or a quid pro quo offer), then those statements are not precluded from admission. Similarly, statements can be relied upon when questions are posed by the Decision-Maker(s), as distinguished from questions posed by Advisors through cross-examination.

The Decision-Makers may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-Makers may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with ATU's established rules of decorum for the hearing, ATU may require the party to use a different Advisor. If an ATU-provided Advisor refuses to comply with the rules of decorum, ATU may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

### **30. Recording Hearings**

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

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

### **31. Deliberation, Decision-making, and Standard of Proof**

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

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

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-Makers may – at their discretion – consider the statements, but they are not binding.

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

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the evidence not relied upon in its determination, credibility assessments, and any sanctions.

This report is typically three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within two (2) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

### **32. Notice of Outcome**

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

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

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

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent ATU is permitted to share such information under state or federal law; any sanctions issued which ATU is permitted to share according to state or federal law; and any remedies provided to the

Complainant designed to ensure access to ATU's educational or employment program or activity, to the extent ATU is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by ATU to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

### **33. Sanctions**

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

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

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

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

#### **a. Student Sanctions**

The following are the sanctions that may be imposed upon students or organizations singly or in combination<sup>15</sup>:

- *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any ATU policy, procedure, or directive will result in more severe

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<sup>15</sup> Subject to ATU's Organizational Code of Conduct.

sanctions/responsive actions.

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

and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.

- *Revocation of Admission or Degree:* ATU reserves the right to revoke admission or a degree previously awarded from ATU for fraud, misrepresentation, and/or other violation of ATU policies, procedures, or directives in obtaining admission or the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions:* Censure, Disciplinary Probation, Deferred Suspension, Disciplinary Suspension, Indefinite Dismissal, Restrictions, Educational Sanctions, Restitution, and Monetary Fines.
- *Other Actions:* In addition to or in place of the above sanctions, ATU may assign any other sanctions as deemed appropriate.

#### **b. Employee Sanctions**

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

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions, ATU may assign any other sanctions as deemed appropriate.

#### **34. Withdrawal or Resignation While Charges Pending**

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

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw

from ATU, the resolution process ends, as ATU no longer has disciplinary jurisdiction over the withdrawn student.

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

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

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

However, ATU will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

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

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

### **35. Appeals**

Any party may file a request for appeal (“Request for Appeal”), but it must be submitted in writing to the Title IX Coordinator within five (5) days of the delivery of the Notice of Outcome.

#### **Respondent is a student or non-faculty employee:**

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

#### **Respondent is a faculty member:**

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



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

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

**a. Grounds for Appeal**

Appeals are limited to the following grounds:

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

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

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

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

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed to determine if it meets the grounds of this Policy by the Appeal Decision-Maker(s) and either denied or approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-Makers, as necessary, who will submit their responses in three (3) business days, which will be circulated for review and comment by all parties.

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

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

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

#### **b. Sanctions Status During the Appeal**

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

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

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

#### **c. Appeal Considerations**

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and documentation regarding the specific grounds for appeal.
- An appeal is not an opportunity for the Appeal Decision-Maker to substitute their judgment for that of the original Decision-Makers merely because they disagree with the finding

and/or sanction(s).

- The Appeal Decision-Maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-Makers for reconsideration.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.
- In rare cases where a procedural error cannot be cured by the original Decision-Makers (as in cases of bias), the appeal may order a new hearing with new Decision-Makers.
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to ATU or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

### **36. Long-Term Remedies/Other Actions**

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

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

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

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

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

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

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

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

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

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

**38. Recordkeeping**

ATU will maintain for a period of at least seven (7) years records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the Respondent;
3. Any remedies provided to the Complainant designed to restore or preserve equal access to ATU's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an Informal Resolution process. ATU will make these training materials publicly available on ATU's website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
  - a. The basis for all conclusions that the response was not deliberately indifferent;

- b. Any measures designed to restore or preserve equal access to ATU's education program or activity; and
- c. If no supportive measures were provided to the Complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

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

### **39. Disabilities Accommodations in the Resolution Process**

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

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

### **40. Revision of this Policy and Procedures**

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

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

If government laws or regulations change – or court decisions alter – the requirements in a way that impacts this document, this document will be construed to comply with the most recent government regulations or holdings.

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

This policy and procedures are effective August 14, 2020.

## **APPENDIX A: GLOSSARY**

- *Arkansas Tech University* herein referenced as “ATU”.
- *Advisor* means a person chosen by a party or appointed by ATU to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- *Complainant* means an individual who is alleged to be the victim of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Complaint (formal)* means a document submitted or signed by a Complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a Respondent and requesting that ATU investigate the allegation.
- *Confidential Resource* means an employee who is not mandated to report notice of harassment, discrimination, and/or retaliation. At ATU, this includes the licensed counselors and the licensed health care providers in the Health and Wellness Center.
- *Day* means a business day when the ATU is in normal operation.
- *Education program or activity* means locations, events, or circumstances where ATU exercises substantial control over both the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any building owned or controlled by a student organization that is officially recognized by ATU.
- *Final Determination*: A conclusion by preponderance of the evidence of whether or not the alleged conduct did or did not violate policy.
- *Finding*: A conclusion by the preponderance of the evidence that the conduct did or did not occur as alleged.
- *Formal Grievance Process* means “Process A,” a method of formal resolution designated by ATU to address conduct that falls within the policies included below, and which complies with the requirements of the Title IX regulations (34 CFR § 106.45).

- *Grievance Process Pool* includes any investigators, hearing officers, appeal officers, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- *Hearing Decision Panel* refers to those who have decision-making and sanctioning authority within the ATU's Formal Grievance process.
- *Investigator* means the person or persons charged by ATU with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- *Responsible Employee* means an employee of ATU who is mandated by policy to share knowledge, notice, and/or reports of harassment, discrimination, and/or retaliation with the Title IX Coordinator.<sup>16</sup>
- *Official with Authority (OWA)* means an employee of ATU explicitly vested with the authority to institute corrective measures for harassment, discrimination, and/or retaliation on behalf of ATU.
- *Notice* means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassing, discriminatory, and/or retaliatory conduct.
- *Parties* include the Complainant(s) and Respondent(s), collectively.
- *Process A* means the Formal Grievance Process used to address qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking,) involving students, staff, administrator, or faculty members.
- *Process B* means the administrative resolution procedures detailed in Appendix C that apply only when Process A does not.
- *Recipient* means a postsecondary education program that is a recipient of federal funding.

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<sup>16</sup> Not to be confused with a Mandated Reporter who is obligated by state law to report child abuse, elder abuse, and/or abuse of individuals with disabilities to appropriate officials, though these responsibilities may overlap with those who have mandated reporting responsibility in this Policy.



- *Remedies* are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to ATU's educational program.
- *Respondent* means an individual who has been reported to be the perpetrator of conduct that could constitute harassment or discrimination based on a protected class; or retaliation for engaging in a protected activity.
- *Resolution* means the result of an informal or Formal Grievance Process.
- *Sanction* means a consequence imposed by ATU on a Respondent who is found to have violated this Policy.
- *Sexual Harassment* is the umbrella category including the offenses of sexual harassment, sexual assault, stalking, dating violence, and domestic violence.
- *Title IX Coordinator* is at least one official designated by ATU to ensure compliance with Title IX and ATU's Title IX program. References to the Coordinator throughout this Policy may also encompass a designee of the Coordinator for specific tasks.
- *Title IX Team* refers to the Title IX Coordinator, and any deputy coordinators, and any member of the Grievance Process Pool.

## **APPENDIX B: VIOLENCE RISK ASSESSMENT (VRA)**

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

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

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

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

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

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

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

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

Some examples of formalized approaches to the VRA process include: The NaBITA Risk Rubric,<sup>17</sup> The Structured Interview for Violence Risk Assessment (SIVRA-35),<sup>18</sup> The Extremist Risk Intervention Scale (ERIS),<sup>19</sup> Looking Glass,<sup>20</sup> Workplace Assessment of Violence Risk (WAVR-21),<sup>21</sup> Historical Clinical Risk Management (HCR-20),<sup>22</sup> and MOSAIC.<sup>23</sup>

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

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

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<sup>17</sup> [www.nabita.org/tools](http://www.nabita.org/tools)

<sup>18</sup> [www.nabita.org/resources/assessment-tools/sivra-35/](http://www.nabita.org/resources/assessment-tools/sivra-35/)

<sup>19</sup> [www.nabita.org/resources/assessment-tools/eris/](http://www.nabita.org/resources/assessment-tools/eris/)

<sup>20</sup> [www.nabita.org/looking-glass](http://www.nabita.org/looking-glass)

<sup>21</sup> [www.wavr21.com](http://www.wavr21.com)

<sup>22</sup> [hcr-20.com](http://hcr-20.com)

<sup>23</sup> [www.mosaicmethod.com](http://www.mosaicmethod.com)

## **APPENDIX C: PROCESS B**

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

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

Please note the following:

- Process B is applicable for gender discrimination complaints when the Title IX Coordinator determines Process A is inapplicable, or offenses subject to Process A have been dismissed.
- If Process A is applicable, Process A must be applied in lieu of Process B.
- ATU can substitute any alternative process instead of Process B, if desired.
- In compliance with federal law, VAWA Section 304 requirements apply to Process B or any alternative process for reports that fall under VAWA.
- Title IX requirements outside of Section 106.30 (based on the original 1975 regulations, the 2001 Revised Guidance, etc.) may also be applicable to Process B.

### **PROCESS B**

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

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

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

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

## **1. Initial Assessment**

Following an intake meeting with the Complainant, receipt of a written report, or receipt of a written complaint of an alleged violation of this Policy, the Title IX Coordinator<sup>24</sup> and/or the AA/EEO Officer engages in an initial assessment, which is typically one (1) to five (5) business days in duration. The steps in an initial assessment may include:

- The Title IX Coordinator and/or the AA/EEO Officer reaches out to the Complainant to offer supportive measures.
- The Title IX Coordinator and/or the AA/EEO Officer informs the Complainant the opportunity to have an Advisor.
- The Title IX Coordinator and/or the AA/EEO Officer works with the Complainant to determine whether the Complainant prefers an Informal Resolution Process or a Formal Complaint Resolution Process.

### **Complainant's Initial Meeting with the Title IX Coordinator or AA/EEO Officer**

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

1. Provide the Complainant a copy of this Policy;
2. Request that the Complainant submit a written complaint which the Complainant may, if he or she agrees to disclose the information, provide details regarding the allegation, including the name of the accused individual and the date, location, and general nature of the alleged violation;
3. Explain avenues for Informal Resolution Process and Formal Complaint Resolution Process of the Complaint;
4. Explain the steps involved in an investigation;
5. Discuss confidentiality standards and concerns with the Complainant;

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<sup>24</sup> If circumstances require, the President will designate another person to oversee the process below should an allegation be made about the Title IX Coordinator and/or AA/EEO Officer or should they be otherwise unavailable or unable to fulfill their duties.

6. Determine whether the Complainant wishes to pursue a resolution (informal or formal) through ATU, or no resolution of any kind;
7. Discuss with the Complainant, as appropriate, possible supportive measures that can be provided to the Complainant, at no cost, during the pendency of the investigative and resolution processes. ATU may implement such measures if requested, appropriate, and reasonably available, whether a complaint has been filed or not. Supportive measures may include, but are not limited to:
  - a. issuing no-contact directives to prevent any contact between the Complainant, the Respondent, witnesses and/or third parties;
  - b. providing the Complainant an escort to ensure that he or she can move safely between classes, work, and/or activities;
  - c. changing a Complainant's or a Respondent's on-campus housing or dining, if any, to a different on-campus location and providing assistance from ATU support staff in completing the relocation;
  - d. arranging to dissolve a campus housing contract and offering a pro-rated refund;
  - e. changing work arrangements;
  - f. rescheduling class work, assignments, and examinations without penalty;
  - g. arranging for the Complainant to take an incomplete in a class; or
  - h. moving the Complainant or the Respondent from one class section to another without penalty;
  - i. permitting a temporary withdrawal from ATU;
  - j. providing alternative course completion options without penalty;
  - k. providing counseling services;
  - l. providing academic support services such as tutoring.

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

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

1. Provide Respondent with a copy of the Complaint;
2. Provide Respondent with a copy of this Policy;
3. Explain the ATU's procedures for Informal Resolution Process and Formal Complaint Resolution Process of the Complaint
4. Explain the steps involved in an investigation;
5. Discuss confidentiality standards and concerns with the Respondent;
6. Discuss non-retaliation requirements with the Respondent;

7. Discuss with the Respondent, as appropriate, possible supportive measures that can be provided, at no cost, during the pendency of the investigative and resolution processes. ATU may implement such measures if requested, appropriate, and reasonably available, whether a complaint has been filed or not. Supportive measures may include, but are not limited to:
  - a. issuing no-contact directives to prevent any contact between the Complainant, the Respondent, witnesses and/or third parties;
  - b. providing the Complainant an escort to ensure that he or she can move safely between classes, work, and/or activities;
  - c. changing a Complainant's or a Respondent's on-campus housing or dining, if any, to a different on-campus location and providing assistance from ATU support staff in completing the relocation;
  - d. arranging to dissolve a campus housing contract and offering a pro-rated refund;
  - e. changing work arrangements;
  - f. rescheduling class work, assignments, and examinations without penalty;
  - g. arranging for the Complainant to take an incomplete in a class; or
  - h. moving the Complainant or the Respondent from one class section to another without penalty;
  - i. permitting a temporary withdrawal from ATU;
  - j. providing alternative course completion options without penalty;
  - k. providing counseling services;
  - l. providing academic support services such as tutoring.

ATU provides two options for resolving matters of discrimination, harassment, and retaliation: an Informal Resolution Process and a Formal Complaint Resolution Process. An individual who believes that he or she has been subjected to discrimination, harassment, or retaliation and seeks to take action may use the Informal Resolution Process, the Formal Complaint Resolution Process, or both. The Informal Resolution Process and the 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.

The process followed considers the preference of the parties but is ultimately determined at the discretion of the Title IX Coordinator or the AA/EEO Officer. At any point during the initial assessment or formal investigation, if the Title IX Coordinator or the AA/EEO Officer determines that reasonable cause does not support the conclusion that this Policy has been violated, the process will end, and the parties will be notified.

The Complainant may request that the Title IX Coordinator or the AA/EEO Officer review the reasonable cause determination and/or re-open the formal investigation. This decision lies in the sole discretion of the Title IX Coordinator or the AA/EEO Officer, but the request is usually only

granted in extraordinary circumstances.

## **2. Violence Risk Assessment**

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

- Interim suspension of a Respondent who is a threat to health/safety;
- Whether the Title IX Coordinator and/or the AA/EEO Officer should pursue a Complaint absent a willing/able Complainant;
- Whether to put the investigation on the footing of incident and/or pattern and/or climate;
- To help identify potentially predatory conduct;
- To help assess/identify grooming behaviors;
- Whether a Complaint is amenable to informal resolution, and what modality may be most successful;
- Whether to permit a voluntary withdrawal by the Respondent;
- Assessment of appropriate sanctions/remedies;
- Whether a Clery Act Timely Warning or campus ban is needed.

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

## **3. Resolution Options**

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

### **Informal Resolution Process.**

The Informal Resolution Process 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.

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

- Mediating between the Complainant and the Respondent;
- Aiding in the modification of the situation in which the 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 Respondent and an ATU official that involves, at a minimum, a discussion of the requirements of this Policy.

ATU will document any Informal Resolution Process. The documentation will be retained by the Title IX Coordinator and/or the AA/EEO 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 Process is not a precondition for filing a formal written complaint.

#### **Formal Complaint Resolution Process.**

A Formal Complaint Resolution Process (including an investigation and hearing) can be pursued for any behavior for which the Respondent has not accepted responsibility that constitutes conduct covered by the Equal Opportunity, Harassment (Sexual Misconduct), and Nondiscrimination Policy and Procedures at any time during the process. The Formal Complaint Resolution Process starts with an investigation and concludes with a hearing. An individual who believes that he or she has been subjected to discrimination, harassment, or retaliation may submit a written formal complaint setting forth all facts to the Title IX Coordinator and/or the AA/EEO Officer who will assign an Investigator(s) to review 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.

Proceedings are private. All persons present at any time during the resolution processes are expected to maintain the privacy of the proceedings in accord with ATU policy.

While there is an expectation of privacy around what is discussed during interviews, the parties have discretion to share their own experiences with others if they so choose, but are encouraged to discuss with their Advisors first before doing so.

If the Formal Complaint Resolution Process is initiated, the Title IX Coordinator or the AA/EEO Officer will provide written notification of the investigation to the parties at an appropriate time during the investigation. Typically, notice is given at least 48 hours in advance of an interview. Advanced notice facilitates the parties' ability to identify and choose an Advisor, if any, to accompany them to the interview.

#### **4. Counterclaims**

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

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

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

## **5. Advisors**

The parties may each have an Advisor<sup>25</sup> of their choice present with them for all meetings and interviews within the resolution processes, if they so choose. The parties may select whomever they wish to serve as their Advisor as long as the Advisor is eligible and available.<sup>26</sup>

Choosing an Advisor who is also a witness in the process creates potential for bias and conflict-of-interest. An Advisor cannot serve as a witness.

ATU may permit parties to have more than one (1) Advisor with a maximum of two (2) Advisors allowed upon special request to the Title IX Coordinator. The decision to grant this request is at the sole discretion of the Title IX Coordinator and will be granted equitably to all parties. Only one of the Advisors may be designated to participate in the cross-examination.

### **a. Who Can Serve as an Advisor**

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

The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so chooses. If the parties choose an Advisor from the pool available from ATU, the Advisor will be

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<sup>25</sup> This could include an attorney, advocate, or support person. The law permits one Advisor for each party (witnesses are not entitled to Advisors within the process, though they can be advised externally).

<sup>26</sup> "Available" means the party cannot insist on an Advisor who simply doesn't have inclination, time, or availability. Also, the Advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

trained by ATU and be familiar with ATU's resolution process.

If the parties choose an Advisor from outside the pool of those identified by ATU, the Advisor may not have been trained by ATU and may not be familiar with ATU policies and procedures.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

**b. Advisors in Hearings/ATU-Appointed Advisor**

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an Advisor for a hearing, ATU will appoint a trained Advisor for the limited purpose of conducting any cross-examination.

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

**c. Advisor's Role**

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

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

**d. Pre-Interview Meetings**

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

**e. Advisor Violations of ATU Policy**

All Advisors are subject to the same ATU policies and procedures, whether they are attorneys or not. Advisors are expected to advise their parties without disrupting proceedings. Advisors should not address ATU officials in a meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may not make a presentation or represent their advisee<sup>27</sup> during any meeting or proceeding and may not speak on behalf of the advisee to the Investigator(s) or other Decision-Maker(s) except during a hearing proceeding, during cross-examination.

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

Any Advisor who oversteps their role as defined by this Policy will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will stop, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

#### **f. Sharing Information with the Advisor**

ATU expects that the parties may wish to have ATU share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish. Doing so may help the parties participate more meaningfully in the resolution process.

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

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

#### **g. Privacy of Records Shared with Advisor**

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<sup>27</sup> Subject to the state law provisions or ATU policy above.

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

#### **h. Expectations of an Advisor**

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

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

#### **i. Expectations of the Parties with Respect to Advisors**

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

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

### **6. Notice of Investigation and Allegations**

The Title IX Coordinator or the AA/EEO Officer will provide written notice of the investigation and allegations (the "NOIA") to the Respondent upon commencement of the Formal Complaint Resolution Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The NOIA will include:

- A meaningful summary of all of allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,

- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that ATU presumes the Respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about ATU's policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an Advisor of their choosing and suggestions for ways to identify an Advisor,
- A statement informing the parties that ATU's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the interview process,
- A link to ATU's VAWA brochure (if applicable);
- The name(s) of the Investigator(s), along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the Investigator(s) may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

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

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

## **7. Resolution Timeline**

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

## **8. Ensuring Impartiality**

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

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

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

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

## **9. Investigation Timeline**

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations may take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

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

## **10. 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 this Policy was violated. The Title IX Coordinator and/or the AA/EEO Officer, will give the Respondent a copy of the complaint. The Respondent is also provided with an opportunity to respond to the Complaint within five (5) days of receipt by the Respondent.

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

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

- Determine the identity and contact information of the Complainant
- In coordination with campus partners (e.g., the Title IX Coordinator, AA/EEO Officer), initiate or assist with any necessary supportive measures
- Identify policies implicated by the alleged misconduct
- Assist the Title IX Coordinator or the AA/EEO Officer with conducting an initial assessment to determine if there is reasonable cause to believe the Respondent has violated policy
- If there is insufficient evidence to support reasonable cause, the process is closed with no further action
- Commence an investigation by developing a strategic investigation plan, including a witness list, evidence list, intended investigation timeframe, and order of interviews for all parties and witnesses
- Meet with the Complainant to finalize their statement, if necessary
- Prepare the initial Notice of Investigation and Allegation (NOIA) on the basis of the initial assessment. Notice may be one step or multiple steps, depending on how the investigation unfolds, and potential policy violations may be added or dropped as more is learned. Investigators will update the NOIA accordingly and provide it to the parties.
- Notice should inform the parties of their right to have the assistance of an Advisor appointed by ATU or other Advisor of their choosing present for all meetings attended by the advisee
- When formal notice is being given, it should provide the parties with a written description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result
- Give an instruction to the parties to preserve any evidence that is directly related to the allegations



- Provide the parties and witnesses with an opportunity to review and verify the Investigator's summary notes from interviews and meetings with that specific party or witness
- Make good faith efforts to notify the parties of any meeting or interview involving the other party, in advance when possible
- Interview relevant individuals and conduct follow-up interviews as necessary
- Allow each party the opportunity to suggest questions they wish the Investigator(s) to ask of the other party and witnesses
- Complete the investigation and without unreasonable deviation from the intended timeline
- Provide regular status updates to the parties throughout the investigation
- Prior to the conclusion of the investigation, summarize for the parties the list of witnesses whose information will be used to render a finding
- Write a comprehensive investigation report fully summarizing the investigation and all evidence
- Provide parties with a copy of the draft investigation report when it is completed, including all relevant evidence, analysis, credibility assessments, and recommended finding(s)
- Provide each party with a full and fair opportunity to respond to the report in writing within five (5) business days and incorporate that response into the report
- Investigators may choose to respond in writing in the report to the responses of the parties, and/or to share the responses between the parties for their responses, while also ensuring that they do not create a never-ending feedback loop
- Gather, assess, and synthesize evidence without making a finding, conclusion, determination or recommendation
- Provide the final report to the Title IX Coordinator or the AA/EEO Officer

In the course of an investigation, ATU 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.

Investigations are completed expeditiously, normally within thirty (30) business days, though some investigations take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.

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

ATU may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges based on the same behaviors that invoke ATU's resolution process are being investigated by law enforcement. ATU will promptly resume its investigation and resolution process once notified by law enforcement that the initial evidence collection process is complete.

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

Investigations involve interviews with all relevant parties and witnesses, obtaining available, relevant evidence, and identifying sources of expert information, as necessary. Investigators do not meet with character witnesses.

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

## **11. Additional Details of the Investigation Process**

### **a. Witness responsibilities**

Witnesses (as distinguished from the parties) who are students, staff, or faculty of ATU should cooperate with and participate in ATU's investigation and resolution process. Failure to participate may hinder ATU's ability to stop, remedy, and prevent the described forms of discrimination and harassment.

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

### **b. Remote processes**

Parties and witnesses may be interviewed remotely by phone, video conferencing, or similar technologies if the Investigator(s) or Decision-Makers determine that timeliness or efficiency dictates a need for remote interviewing. Witnesses may also provide written statements in lieu of interviews, or respond to questions in writing, if deemed appropriate by the Investigator(s), though this approach is not ideal. Where remote technologies are used, ATU makes reasonable efforts to ensure privacy, and that any technology does not work to the detriment of any party or subject

them to unfairness.

**c. Recording**

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

**d. Evidence**

Any evidence that the Decision-Maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

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

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-Maker(s) at the sanction stage of the process when a determination of responsibility is reached.

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

**e. Character witnesses**

The Investigator(s) do not meet with character witnesses.

**12. Referral for Hearing**

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

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

### **13. Resolution Process Pool**

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

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

- To act as an Advisor to the parties
- To serve as a Decision-Maker regarding the complaint

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

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

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

- The scope of ATU’s discrimination and harassment policies and procedures
- How investigation and hearings are conducted that protect the safety of Complainants and Respondents, and promote accountability
- Implicit bias
- Disparate treatment and impact
- Reporting, confidentiality, and privacy requirements
- Applicable laws, regulations, and federal regulatory guidance
- How to implement appropriate and situation-specific remedies
- How to investigate in a thorough, reliable, and impartial manner
- How to uphold fairness, equity, and due process
- How to weigh evidence
- How to conduct questioning
- How to assess credibility

- Impartiality and objectivity
- Types of evidence
- Deliberation
- How to render findings and generate clear, concise, evidence-based rationales
- The definitions of all offenses
- How to apply definitions used by ATU with respect to consent (or the absence or negation of consent) consistently, impartially, and in accordance with policy
- How investigations and grievance process are conducted including hearings, appeals, and informal resolution processes
- How to serve impartially, by avoiding prejudgment of the facts at issue, conflicts of interest, and bias
- Any technology to be use
- Issues of relevance of questions and evidence
- Issues of relevance to create an investigation report that fairly summarizes relevant evidence
- How to determine appropriate sanctions in reference to all forms of harassment and discrimination allegations

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

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

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

#### **14. Hearing Panel Composition**

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

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

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

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

### **15. Evidentiary Considerations in the Hearing**

Any evidence that the Decision-Maker(s) determine(s) is relevant and credible may be considered. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

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

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-Maker(s) at the sanction stage of the process when a determination of responsibility is reached.

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

### **16. Notice of Hearing**

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

The notice will contain:

- A description of the alleged violation(s), a list of policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- The time, date, and location of the hearing and a reminder that attendance is mandatory, superseding all other campus activities.
- Any technology that will be used to facilitate the hearing.
- Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-Makers and parties to see and hear a party or witness answering questions. Such a request must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- A list of all those who will attend the hearing, along with an invitation to object to any Decision-Maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator or the AA/EEO Officer at least five (5) business days prior to the hearing.
- An invitation to each party to submit to the Chair the questions or topics (the parties and their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendation for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing. The Chair will document and share their rationale for any relevance determination.
- Notification in advance of the hearing of any witnesses that do not need to be present if the Chair has determined their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing and both parties are in full agreement.
- Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence, and the party's or witness's testimony and any statements given prior to the hearing will not be considered by the Decision-Makers. For compelling reasons, the Chair may reschedule the hearing.
- Notification that the parties may have the assistance of an Advisor of their choosing at the hearing and will be required to have one present for any questions they may desire to ask. The party must notify the Title IX Coordinator or the AA/EEO Officer if they do not have an Advisor, and ATU will appoint one. Each party must have an Advisor present. There are no exceptions.
- A copy of all the materials provided to the Decision-Makers about the matter, unless they have been provided already.
- An invitation to each party to submit to the Chair an impact statement pre-hearing that the Decision-Makers will review during any sanction determination.
- An invitation to contact the Title IX Coordinator or AA/EEO Officer to arrange any disability

accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least seven (7) business days prior to the hearing.

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

In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

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

### **17. Hearing Procedures**

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

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

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

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing



in order to respond to specific questions from the Decision-Makers and the parties and will then be excused.

### **18. Joint Hearings**

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly.

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

### **19. The Order of the Hearing – Introductions and Explanation of Procedure**

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

### **20. Investigator Presents the Final Investigation Report**

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

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

### **21. Testimony and Questioning**

Once the Investigator(s) present their report and are questioned, the parties and witnesses may

provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-Makers and then by the parties through their Advisors (“cross-examination”).

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

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

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

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

## **22. Refusal to Submit to Cross-Examination and Inferences**

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the meeting, or they attend but refuse to participate in questioning, then the Decision-Makers may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. The Decision-Makers must disregard that statement. Evidence provided that is something other than a statement by the party or witness may be considered.

If the party or witness attends the hearing and answers some cross-examination questions, only statements related to the cross-examination questions they refuse to answer cannot be relied

upon. However, if the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission. Similarly, statements can be relied upon when questions are posed by the Decision-Maker(s), as distinguished from questions posed by Advisors through cross-examination.

The Decision-Makers may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the Decision-Makers may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their Advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's Advisor of choice refuses to comply with ATU's established rules of decorum for the hearing, ATU may require the party to use a different Advisor. If an ATU-provided Advisor refuses to comply with the rules of decorum, ATU may provide that party with a different Advisor to conduct cross-examination on behalf of that party.

### **23. Respondent Accepts Responsibility for Alleged Violation(s)**

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

### **24. Decision**

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

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

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The Decision-Makers may – at their discretion – consider the statements, but they are not binding.

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

The Chair will then prepare a written deliberation statement and deliver it to the Title IX Coordinator or AA/EEO Officer, detailing the determination, rationale, the evidence used in support of its determination, the evidence disregarded, credibility assessments, and any sanctions.

This report typically should not exceed three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator or AA/EEO Officer within two (2) business days of the end of deliberations, unless the Title IX Coordinator or AA/EEO Officer grants an extension. If an extension is granted, the Title IX Coordinator or AA/EEO Officer will notify the parties.

## **25. Notice of Outcome**

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

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

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

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent ATU is permitted to share such information under state or federal law; any sanctions issued which ATU is permitted to share according to state or federal law; and any remedies provided to the Complainant designed to ensure access to ATU's educational or employment program or activity, to the extent ATU is permitted to share such information under state or federal law (this detail is not typically shared with the Respondent unless the remedy directly relates to the Respondent).

The Notice of Outcome will also include information on when the results are considered by ATU to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

## **26. Sanctions**

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

- The nature, severity of, and circumstances surrounding the violation
- An individual's disciplinary history
- Previous allegations or allegations involving similar conduct
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or retaliation on the Complainant and the community
- The impact on the parties
- Any other information deemed relevant by the Title IX Coordinator

The sanction(s) will be implemented as soon as is feasible. The sanctions described in this Policy are not exclusive of, and may be in addition to, other actions taken, or sanctions imposed by outside authorities.

### **a. Student Sanctions**

The following are the sanctions that may be imposed upon students or organizations singly or in combination<sup>28</sup>:

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<sup>28</sup> Subject to ATU's RSO Code of Conduct sanctions.

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

and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.

- *Revocation of Admission or Degree:* ATU reserves the right to revoke admission or a degree previously awarded from ATU for fraud, misrepresentation, and/or other violation of ATU policies, procedures, or directives in obtaining admission or the degree, or for other serious violations committed by a student prior to graduation.
- *Organizational Sanctions:* Censure, Disciplinary Probation, Deferred Suspension, Disciplinary Suspension, Indefinite Dismissal, Restrictions, Educational Sanctions, Restitution, and Monetary Fines.
- *Other Actions:* In addition to or in place of the above sanctions, ATU may assign any other sanctions as deemed appropriate.

#### **b. Employee Sanctions**

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

- *Warning – Verbal or Written*
- *Performance Improvement/Management Process*
- *Required Counseling*
- *Required Training or Education*
- *Probation*
- *Loss of Annual Pay Increase*
- *Loss of Oversight or Supervisory Responsibility*
- *Demotion*
- *Suspension with pay*
- *Suspension without pay*
- *Termination*
- *Other Actions:* In addition to or in place of the above sanctions, ATU may assign any other sanctions as deemed appropriate.

#### **27. Withdrawal or Resignation While Charges are Pending**

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

Should a student decide to not participate in the resolution process, the process proceeds absent their participation to a reasonable resolution. Should a student Respondent permanently withdraw

from ATU, the resolution process ends, as ATU no longer has disciplinary jurisdiction over the withdrawn student.

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

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

During the resolution process, ATU may put a hold on a responding student's transcript.

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

However, ATU will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination.

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

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

## **28. Appeals**

Any party may file a request for appeal ("Request for Appeal"), but it must be submitted in writing to the Title IX Coordinator or the AA/EEO Officer within five (5) business days of the delivery of the written finding of the Decision-Maker(s). Any party may appeal the findings only under the grounds described below.

**Respondent is a student or non-faculty employee:**



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

**Respondent is a faculty member:**

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

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

Appeals are limited to the following grounds:

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

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

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

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

The non-appealing party (if any) may also choose to raise a new ground for appeal at this time. If so, that will be reviewed for standing by the Appeal Decision-Maker(s) and either denied or

approved. If approved, it will be forwarded to the party who initially requested an appeal, the Investigator(s) and/or original Decision-Makers, as necessary, who will submit their responses in three (3) business days, which will be circulated for review and comment by all parties.

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

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

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

Any sanctions imposed as a result of the hearing are stayed during the appeal process. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

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

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

**Appeal Considerations.**

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and documentation regarding the specific grounds for appeal.

- An appeal is not an opportunity for the Appeal Decision-Maker to substitute their judgment for that of the original Decision-Makers merely because they disagree with the finding and/or sanction(s).
- The Appeal Decision-Maker may consult with the Title IX Coordinator on questions of procedure or rationale, for clarification, if needed. Documentation of all such consultation will be maintained.
- Appeals granted based on new evidence should normally be remanded to the original Investigator(s) and/or Decision-Makers for reconsideration.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). When appeals result in no change to the finding or sanction, that decision is final. When an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.
- In rare cases where a procedural error cannot be cured by the original Decision-Makers (as in cases of bias), the appeal may order a new hearing with a new Decision-Makers.
- The results of a new hearing can be appealed, once, on any of the three available appeal grounds.
- In cases in which the appeal results in reinstatement to ATU or resumption of privileges, all reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

## **29. Long-Term Remedies/Actions**

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

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

- Referral to counseling and health services
- Education to the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification
- Provision of transportation accommodations

- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

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

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

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

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

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

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

### **31. Recordkeeping**

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

### **32. Disabilities Accommodation in the Resolution Process**

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

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

### **33. Revision**

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

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

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

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

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

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

This Policy was implemented on August 14, 2020.

## **Appendix D: Suggested Actions for Victims of Sexual Assault**

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

**1. Ensure Your Physical Safety.**

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

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

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

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

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

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

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

If you choose to have forensic evidence collected at a hospital, it is important to do so within 72-120 hours of an assault. Even if you do not want to file charges at the time, by having evidence collected, you keep your options open. There is a window of time after an assault to collect evidence, and having evidence collected does not mean you have to want to press charges or even make up your mind about what you want to do. It means that if

you decide a few days, weeks, or months later that you want to report the assault to law enforcement, the physical evidence has been preserved.

Some general guidelines for evidence collection:

- You may want to shower, bathe, brush your teeth, smoke, change your clothes, or clean the area where the assault occurred. Try to avoid these things before having evidence collected if possible, but an evidence collection kit can still be completed if you have already done any or all of these things.
- If you have already changed clothes, take what you were wearing at the time of the assault to the hospital in a paper (not plastic) bag.
- Save any forms of communication or documents that might be helpful in an investigation. This may include text messages, emails, messages on social media like Instagram, Facebook, and Snapchat, pictures, etc.
- If you are unsure about the identity of your assailant, write down everything you are able to remember about that person, including a physical description and any information you remember about the person's identity.

**3. Obtain Emotional Support.**

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

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

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

**IMPORTANT CONTACT INFORMATION**

**ATU Resources**  
**Title IX Office**

**Russellville**

Amy Pennington, AVP/Dean of Students and Title IX Coordinator

479-968-0407

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

Doc Bryan Student Services Center, Suite 233

Russellville, AR 72801

Stacy Galbo, Deputy Title IX Coordinator for Educational Outreach and Training/Title IX Investigator

479-964-0583 ext. 4714

[sgalbo2@atu.edu](mailto:sgalbo2@atu.edu)

Doc Bryan Student Services Center, Suite 233

Russellville, AR 72801

Susie Nicholson, Director of Compliance/Deputy Title IX Coordinator

479-964-3230

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

Tucker Coliseum

Russellville, AR 72801

Ashlee Leavell, Assistant Dean for Student Wellness/Deputy Title IX Coordinator

479-968-0302

Doc Bryan Student Services Center, Suite 141

[sleavell8@atu.edu](mailto:sleavell8@atu.edu)

Christina Stolarz, Director of Human Resources and AA/EEO Officer/Deputy Title IX Coordinator

479-968-0396

Brown Hall, Suite 434

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

**Ozark**

Mitzi Reano, Project/Program Specialist and Deputy Title IX Coordinator

479-667-2117 ext. 6532

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

Technology and Academic Support Building, Room 154

Ozark, AR 72949

**Law Enforcement Resources**

**In case of emergency, dial 911.**



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

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

### **Health and Wellness Center**

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

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

#### Counseling Services:

Kristy Davis, LPC, Associate Dean for Student Wellness, [kdavis51@atu.edu](mailto:kdavis51@atu.edu)

Craig Witcher, LPC, Counselor, [cwitcher@atu.edu](mailto:cwitcher@atu.edu)

Janis Taylor, LPC, Counselor, [jtaylor78@atu.edu](mailto:jtaylor78@atu.edu)

Josh Root, LAC, Counselor, [jroot4@atu.edu](mailto:jroot4@atu.edu)

Leann Watson, LPC, Counselor, [lwatson12@atu.edu](mailto:lwatson12@atu.edu)

#### Health Services:

Brandye Bisek, APRN, Director of Health Services/Nurse Practitioner, [bbisek@atu.edu](mailto:bbisek@atu.edu)

Robin Joslin, APRN, Nurse Practitioner, [rkoontz@atu.edu](mailto:rkoontz@atu.edu)

Kyle Wewers, APRN, Nurse Practitioner, [kwewers@atu.edu](mailto:kwewers@atu.edu)

Heather Stout, RN, Registered Nurse, [hstout1@atu.edu](mailto:hstout1@atu.edu)

Cori Hinson, RN, Registered Nurse, [cpoore1@atu.edu](mailto:cpoore1@atu.edu)

### **Community Resources**

#### **Saint Mary's Regional Medical Center**

1808 West Main Street, Russellville, AR 72801

479-968-2841

#### **Mercy Hospital**

801 West River, Ozark, AR 72949

479-667-4138

***Victim Assistance Outreach Program***

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

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

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

***Arkansas Coalition Against Sexual Assault***

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

***Ozark Rape Crisis Center***

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

***National Domestic Violence Hotline***

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

24-hour live chat: [www.thehotline.org](http://www.thehotline.org)

***National Sexual Assault Hotline***

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

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