

Harassment Policy

Responsible Area: Human Resources

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Policy Owner: Jessica Harrison

Title: Director of Human Resources

Purpose

The University of Alabama System Office (“UA System Office”) is committed to providing an environment for employees, students, and visitors that is free from unlawful harassment or discrimination based on race, color, religion, national origin, sex, pregnancy, age, genetic or family medical history, disability, veteran status, or other legally protected status. The UA System Office prohibits unlawful harassment or discrimination and related retaliation as defined below.

Policy

Standard of Proof

The standard used to determine whether the Respondent is responsible for Prohibited Conduct is preponderance of the evidence, which means more likely than not that the alleged conduct occurred and said conduct is in violation of this Policy based on the available evidence obtained during the UA System Office investigation.

Prohibited Conduct

- **Discrimination:** Discrimination is treatment of a group or individual, either intentionally or unintentionally, in a less favorable, negative, or detrimental manner as compared to others based on the individual’s legally protected status that denies or limits a reasonable individual’s work or educational environment or effectively denies a reasonable individual’s equal access to participate in or benefit from the UA System Office’s resources, programs, services and/or educational programs, or activities.

Examples of unlawful discrimination may include, but are not limited to, the below actions if the actions are based on a legally protected category:

- Employment actions
 - Unequal pay
 - Unequal or limited access to education programs or activities or facilities
 - Failure to provide reasonable disability or religious accommodations
 - Unequal Policy Application
- **Sexual Harassment/Sexual Misconduct:** Reports involving sexual harassment or sexual misconduct are defined and discussed in the Title IX and Sexual Misconduct Policy. The Title IX and Sexual Misconduct Policy will apply for the processing and handling of all reports of Prohibited Conduct as defined in the Title IX and Sexual Misconduct Policy.

- **Harassment not of a Sexual Nature:** Harassment is:
 - Unwelcome abusive or hostile behavior;
 - That is discriminatory on the basis of a legally protected class; and
 - Is sufficiently severe, pervasive, or objectively offensive that it unreasonably interferes with an individual's work environment or effectively denies an individual's equal access to participate in or benefit from the UA System Office's resources programs, services or educational programs or activities.

The unwelcome conduct will be viewed on the basis of a reasonable person under similar circumstances and with similar identities as the Complainant, but not simply the particular sensitivity or reaction of the Complainant.

The totality of the circumstances must be evaluated to determine whether a particular act or course of conduct constitutes harassment, including the frequency, severity and context of the alleged conduct and whether the conduct was threatening, humiliating, or a mere utterance. An isolated incident usually will not be sufficient to establish a claim of unlawful harassment in violation of this Policy. However, such conduct may be deemed inappropriate and addressed through other UA System Office Policies and/or by counseling the Respondent to ensure that repetition of that or similar conduct does not rise to the level of Prohibited Conduct. Although repeated incidents of abusive or hostile conduct is generally needed to establish a claim of harassment based on a legally protected class, a serious incident, even if isolated, may be sufficient to establish a violation of this Policy.

Examples of Harassment that is not of a sexual nature include but are not limited to:

- Conduct based on stereotyped prejudices including jokes, slurs and objectionable epithets
 - Conduct that demeans, insults, or intimidates an individual because of a legally protected category
- **Retaliation:** Retaliation is any action that would dissuade a reasonable employee from engaging in a legally protected activity, such as alleging Prohibited Conduct, harassment, or illegal discrimination; filing a complaint; assisting or participating in an investigation of such complaint; opposing an allegation of Prohibited Conduct; or advocating for others' rights pursuant to this Policy or applicable law.

Disciplinary action separate from the original report of legally protected class harassment or discrimination may be taken based on a finding of responsibility for retaliation. An individual is protected from retaliation regardless of 1) the validity or reasonableness of the original allegation of harassment or discrimination and 2) when there is not a finding of responsibility based on the allegations in the original report of harassment or discrimination.

Examples of retaliatory actions could include unjustified discipline, suspension, demotion, or termination in the employment context, or maliciously and purposefully interfering with, threatening, or damaging the academic or professional career of another individual before, during, or after the investigation and resolution of a report of conduct prohibited by this Policy.

The following actions do not constitute retaliation:

- Initiating an employee investigation/action against an individual for making a materially false statement in bad faith with regard to making a report or in the course of an investigation or proceeding, provided a determination regarding responsibility, alone, is not sufficient to conclude that any party has made a materially false statement in bad faith;
 - The exercise of rights protected under the First Amendment (except that speech that amounts to intimidation, threats, or coercion for the purpose of chilling the exercise of a person's rights under this Policy is not protected);
 - Mutual restrictions on contact between the parties;
 - Advising the parties and participants in any proceeding of the consequences of making false statements;
 - Warning the parties and witnesses that retaliation is prohibited and informing the parties and witnesses of the consequences of retaliating against another for exercising their rights; or
 - Warning the parties not to discuss or disseminate the allegations in a manner that constitutes retaliation or unlawful tortious conduct.
- **False Reports:** A complaint of alleged Prohibited Conduct may not be substantiated, but a lack of corroborating evidence should not discourage a person from reporting an alleged incident and seeking relief under this Policy. All reports and statements provided during an investigation should be made in good faith, meaning the individual making the report or providing the statement has a reasonable belief that the provided information is true. A bad faith report or statement is one that is intentionally dishonest, frivolous, or malicious or contains materially false allegations or information.

When a report or statement is made in bad faith, the bad faith report or statement may deter other individuals from filing good faith reports, unnecessarily expend UA System Office and law enforcement resources, distract UA System Office and law enforcement officials from investigating good faith reports, and cause harm to the alleged Respondent and the community.

It is a violation of UA System Office Policy to report intentionally dishonest, frivolous, or malicious allegations of Prohibited Conduct or to submit materially false statements or allegations. If a complaint is brought in bad faith or a statement is made in bad faith, disciplinary action may be taken against the person making the complaint or statement.

- **Failure to Report by Supervisory Personnel:** Supervisory personnel are required to promptly report incidents of legally protected class harassment or discrimination or related retaliation to the University of Alabama ("UA" or "University") Office of Equal Opportunity and Title IX Programs and/or the UA System Office Human Resources Department. Failure by supervisory personnel to promptly report may result in disciplinary action.

Privacy and Confidentiality

Making a report of legally protected class harassment or discrimination or related retaliation places the University on notice and initiates a process to appropriately address the concern. Information shared with the UA Office of Equal Opportunity and Title IX Programs, Supervisory Personnel, or the UA System Office Human Resources Department are kept as private as possible and are only shared on a need to know basis with those individuals who are needed to assist in an inquiry or investigation, to provide a response to allegations of Prohibited Conduct, to resolve a report, to provide assistance with supportive measures/resources, or in the interest of campus safety. Individuals who receive information

related to a report of Prohibited Conduct are expected to be discreet and respect the privacy of all involved in the process.

The UA Office of Equal Opportunity and Title IX Programs is not confidential. Requests for confidentiality by the Complainant are given consideration. However, maintaining confidentiality of an individual's identity, evidence/statements, and/or of other relevant information may limit the UA System Office's efforts to appropriately address the conduct. If the report presents a concern of a threat to campus or may lead to ongoing harassment, discrimination, or related retaliation, the UA Office of Equal Opportunity and Title IX Programs may proceed with sharing information and addressing the conduct as appropriate.

Confidential reports may be made to certain designated UA System Office or University employees who qualify for the confidentiality privilege by law and cannot reveal the information to any third party except when an applicable law or a court order requires or permits disclosure of such information. "Confidential Employees" may include (but are not necessarily limited to) all employees of the Camellia Center, the University Counseling Center, the Student Health Center, University Medical Center, the Psychology Clinic, the Autism Spectrum Disorders Clinic, the Capstone Family Therapy Clinic, the University of Alabama School of Law clinics, and qualified news reporters in accordance with ALA. CODE § 12-21-142. Such individuals are prohibited from breaking confidentiality unless (i) given permission to do so by the person who disclosed the information; (ii) there is an imminent threat of harm to self or others; (iii) the conduct involves suspected abuse or neglect of a person under the age of 18; or (iv) otherwise required or permitted by law or court order. The UA System Office is not deemed to have actual knowledge of alleged Prohibited Conduct based on a report to employees of these offices.

Reporting

Reporting of Sexual Harassment/Sexual Misconduct

Reporting requirements with regard to alleged incidents of sexual harassment or sexual misconduct are described in the Title IX and Sexual Misconduct Policy. To speak with someone regarding reporting or your reporting requirements, contact the Title IX Coordinator in the UA Office of Equal Opportunity and Title IX Programs at titleix@ua.edu or (205) 348-5496.

Reporting of Harassment or Discrimination Not of a Sexual Manner or Retaliation

- **Mandatory Reporting Requirements of Supervisory Personnel and Designated Harassment Resource Officers:** All members of the UA System Office community have a general responsibility to contribute in a positive way to a university environment that is free of illegal harassment. Supervisory personnel, however, have additional responsibilities.

Supervisory personnel are required to promptly report alleged incidents of legally protected class harassment or discrimination or related retaliation. Reports should be made to the Director of Equal Opportunity in the Office of Equal Opportunity and Title IX Programs at eop@ua.edu or (205) 348-5496. Reports may also be made to the UA System Office Department of Human Resources. All reports made to the UA System Office Department of Human Resources will be forwarded to the UA Office of Equal Opportunity and Title IX Programs.

Failure of supervisory personnel to report alleged incidents of legally protected class harassment or discrimination or related retaliation may result in disciplinary action as described above. Supervisory personnel do not satisfy their reporting obligation by making an anonymous report to the Compliance and Fraud Hotline.

- **Employee Reports:** Employees may report concerns of protected class harassment or discrimination or related retaliation to the UA Office of Equal Opportunity and Title IX Programs at eop@ua.edu or (205) 348-

5496. Employees may, but are not required to, first report to their supervisor prior to contacting the UA Office of Equal Opportunity and Title IX Programs.

- **UA System Office Visitors:** UA System Office visitors may report concerns of protected class harassment or discrimination or related retaliation to the UA Office of Equal Opportunity and Title IX Programs at eop@ua.edu or (205) 348-5496.
- **Conflicts:** If a conflict exists or the employee feels that they cannot communicate their concerns with the UA Office of Equal Opportunity and Title IX Programs, the employee may consult with the UA System Office Department of Human Resources.

Anonymous Reporting

Anonymous reports may be made via [The Compliance and Fraud Hotline](#) by visiting the hotline website or calling 1-866-362-9476. The UA System Office is not deemed to have actual knowledge when an anonymous report is made to this hotline. The extent of any inquiry of an anonymous report will depend, in part, on the extent of the information provided.

Procedures

The UA Office of Equal Opportunity and Title IX Programs is responsible for establishing procedures related to addressing reports of legally protected class harassment or discrimination or related retaliation.

Upon receipt of a report, the Director of Equal Opportunity or designee will determine whether the UA System Office has jurisdiction to proceed with an inquiry to obtain additional information so that jurisdiction can be determined or an investigation into the allegations in the report.

If the Executive Director of Equal Opportunity and Title IX Programs or designee determines that jurisdiction exists pursuant to this Policy, Complaints may be resolved through formal or informal procedures. Additional details regarding the formal and informal procedures are located on the [Office of Equal Opportunity and Title IX Programs website](#).

Disciplinary Sanctions

A conclusion that an employee or visitor has violated this Policy or relevant law shall subject the Respondent to appropriate disciplinary action and may result in suspension, discharge, expulsion or dismissal. UA System Office disciplinary procedures and possible sanctions are described in the Employee Handbook. Sanctions imposed will be determined on the basis of the facts of each case and the extent of harm to the UA System Office's interests.

Preventative Action

A conclusion that an employee or visitor has not violated this Policy or relevant law will not result in disciplinary action. However, the UA System Office may determine that steps short of formal discipline are necessary to prevent the situation from escalating or to otherwise provide additional support to employees or students. In these situations, the UA Office of Equal Opportunity and Title IX Programs may recommend preventative or remedial steps as deemed appropriate. These steps may include but are not limited to training, policy or procedure revisions, review of processes, etc. Recommendations will be based on the specific factors involved in the matter. These recommendations would not result in a disciplinary record in the employee's file. An employee's failure to comply with the preventative recommendations may result in separate disciplinary action.

Other Policy Violations

The UA System Office has an interest in protecting the safety and well-being of employees and visitors. If information arises due to a report, inquiry, or investigation of Prohibited Conduct that could be considered a violation of other UA System Office Policies, the UA Office of Equal Opportunity may 1) refer that information to the department/individual

responsible for addressing that concern for further action or 2) may consult with the department/individual responsible for addressing that concern and include determinations of responsibility or recommended disciplinary sanctions for all conduct that would be considered a UA System Office Policy violation in its final determination.

Free Speech

This Policy is not intended to restrict protected speech or other civil rights. Opinions, ideas, speech, and/or symbols which an individual may find merely offensive or objectionable will likely not be considered a violation of this Policy. The protections of the First Amendment must be considered if issues of speech or artistic expression are involved.

Supportive Measures and Resources

For reports of Prohibited Conduct, the UA System Office will take action to provide reasonable supportive measures to all parties involved. The need and eligibility for supportive measures varies based on the facts of the specific incident and the individual's needs. For more information regarding supportive measures and resources, see the [Office of Equal Opportunity and Title IX Programs website](#).

Preservation of Records

The UA Office of Equal Opportunity and Title IX Programs maintains records in compliance with the Record/Data Retention and Destruction Policy. All records are held in the UA Office of Equal Opportunity and Title IX Programs and are not released to parties.

Education and Prevention Measures

The UA System Office is committed to providing preventive, informative, and supportive programming for all members of the UA System Office community. Among other things, the UA System Office's comprehensive education and awareness plan consists of the following: implementation of this Policy; educational programming that addresses all aspects of Prohibited Conduct including new and annual employee training; correspondence to employees; the UA System Office's response to allegations of Prohibited Conduct; and UA System Office's provided support systems to remediate the effects of Prohibited Conduct.

Scope

This Policy applies to employees and visitors.

The jurisdiction for this Policy includes allegations of Prohibited Conduct by employees regardless of whether the alleged violation occurred on-campus, off-campus, or by online/electronic means if the conduct adversely affects or is detrimental to the UA System Office community and/or the pursuit of its objectives, which can occur anywhere. An employee will be subject to the Harassment Policy for any action that allegedly violates the Harassment Policy that occurs on UA System Office premises, relates to a UA System Office program, or, in the UA System Office's sole discretion, affects or is detrimental to the UA System Office community and/or the pursuit of UA System Office objectives.

Definitions (delete if not applicable)

- **Visitors:** Includes but is not limited to visitors, vendors, contractors, guests, patrons, volunteers, applicants, and others.
- **Complainant:** An individual who is alleged to be the victim of alleged Prohibited Conduct in violation of this Policy.
- **Complaint:** Notification to the UA Office of Equal Opportunity and Title IX Programs or mandatory reporter, either verbally or in writing, of an allegation of Prohibited Conduct.

- **Employee:** An employee is an individual who receives compensation for work or services for which the UA System Office has the right (whether or not it exercises the right) to supervise and control the manner of performance as well as the result of the work or service. For purposes of this Policy, UA System Office staff and student employees are considered “employees.” Volunteers and independent contractors are not considered “employees.”
- **Legally Protected Classes:** Legally identified traits including race, color, religion, sex, pregnancy, national origin, age, disability, genetic information and any other legally protected category.
- **Reasonable Accommodation:** Any modification of the way things are customarily done in the work or learning environment that provides an equal employment or educational opportunity to an individual with a disability or based on an individual’s sincerely held religious beliefs or practices.
- **Reporting Party:** Individual who makes a report to the UA Office of Equal Opportunity and Title IX Programs of alleged Prohibited Conduct.
- **Respondent:** An individual who has been accused of engaging in Prohibited Conduct in violation of this Policy.
- **Supervisor:** A UA System Office employee empowered to take tangible employment actions against the employees who report to them, i.e., to effect a significant change in employment status, such as hiring, firing, failing to promote, reassignment with significantly different responsibilities or a decision causing a significant change in benefits. A supervisor is not someone who merely has the right to direct a co-worker’s labor.