



THE UNIVERSITY OF  
ALABAMA IN HUNTSVILLE

# **Sexual Misconduct Policy**

## General Policy

University Commitment. The University is committed to fostering a safe and nondiscriminatory campus, one that is free from sexual misconduct. It encourages prompt reporting by victims of this kind of conduct, and a student or employee charged with committing sexual misconduct will be subject to discipline if those charges are established under the University's disciplinary policies and procedures.

The University also provides ongoing prevention and educational efforts to inform the campus community about these issues.

### Sexual Misconduct.

- *Types.* This policy deals with a broad range of sexual misconduct behaviors. *Sexual harassment* is defined in the University's Equal Opportunity/Affirmative Action (EO/AA) policy, as follows:

Sexual harassment . . . includes sexual advances, requests for sexual favors, and other conduct of a sexual nature that is unwelcome and is directed toward a person on the basis of that person's sex. It may take one of two generally recognized forms. First, the employee's or student's submission to such conduct is made a condition, explicitly or implicitly, of access to an employment or academic opportunity; or the employee's or student's submission to or rejection of such conduct is used as the basis for employment or academic decisions affecting the individual, such as, for example, a salary or grade determination, respectively. . . Secondly, hostile environment harassment occurs when the conduct is so severe, persistent, or pervasive that it unreasonably interferes with an individual's performance as an employee or student or creates an intimidating, hostile, or offensive working/learning environment

*Sexual violence* is a form of sexual harassment and is also defined in the University's EO/AA policy as referring "to physical sexual acts perpetrated against a person's will or carried out when the person is not able to give valid consent due to the use of drugs or alcohol, to physical or mental disability, or to legal incapacity." Some examples of sexual violence are rape, sexual battery, and sexual coercion. It also includes *dating violence* - violence committed by one in a social relationship, romantic or intimate, with the victim; and *domestic violence* - violent acts committed by a current or former spouse or cohabitant or by one sharing a child with the victim. A term closely related to sexual violence is *sexual assault*, which includes forcible sex offenses (rape, sodomy, fondling) and non-forcible sex offenses (incest and statutory rape). A final behavior encompassed by this policy is *stalking*, which refers to a course of conduct directed toward an individual causing, under a "reasonable person" standard, that individual to fear for his/her personal safety or otherwise to suffer substantial emotional distress. Stalking may, depending on the circumstances, amount to the hostile environment form of sexual harassment.

- *Violation of University Policy and the Law - Sexual Misconduct.* All of these types of conduct, referred to generally in this policy as "sexual misconduct," are unacceptable and

violate University policy, including the Student Code of Conduct. They may also violate federal and state law and subject the perpetrator to criminal prosecution.

- *Violation of University Policy and the Law - Retaliation.* University policy and federal law also prohibit retaliation against anyone who reports or brings a complaint of sexual misconduct or otherwise participates in a proceeding instituted to address such a complaint. The University is committed to taking reasonable steps to prevent retaliation and to respond if it does occur.

## **Reporting of Sexual Misconduct**

Initial Reporting - University Authorities. The University encourages prompt reporting of all types of sexual misconduct by anyone who has information (whether as a victim or otherwise) indicating that such misconduct may have occurred. A student who has been subjected to such misconduct should report the incident to the Dean of Students, and a staff or faculty employee should report it to the Associate Vice President for Human Resources or the Vice President for Diversity. This contact should be made even if the victim does not intend to pursue disciplinary or criminal action against the alleged perpetrator. In addition,

Reporting - Police Authorities. A victim of sexual misconduct also has the right to file a police report and a criminal complaint against the alleged perpetrator. Reporting to University police is encouraged. If desired, University officials will assist the victim in notifying local police authorities. The victim, however, has the right to decline to notify police authorities.

Preserving Physical Evidence. It is important that any physical evidence of the sexual misconduct be preserved, which will almost always be important in the investigation of the incident and in any criminal prosecution of the alleged perpetrator.

Prompt Reporting. Prompt reporting will facilitate the collection and preservation of physical evidence and make possible the early and timely investigation of the incident by police authorities. It may prevent additional assaults on other individuals. Additionally, more timely medical and psychological attention may be made available to an individual who reports an incident without undue delay.

Notice of Rights. A student or employee who reports that he/she has been the victim of sexual misconduct, whether occurring on or off campus, shall be provided a written statement or summary of rights and options.

## **Assistance for Victims**

Medical and Counseling Resources. Confidential professional counseling is available to a student who is the victim of sexual misconduct in the University Counseling Center (call 256-824-6203). Counseling resources for an employee may be obtained through the University's Employee Assistance Program (call 1-800-925-5327 for referral to a local professional counselor). For those individuals suffering from physical trauma, the on-campus Student Health Center (call 256-824-6775) is available to provide some ongoing care for students, and the Faculty/Staff Clinic (call 256- 824-2100) is an option for

employees. Any of these offices may provide referrals for more extensive or specialized services in the community. Crisis Services of North Alabama (256-716-1000) also offers free, confidential assistance to victims of sexual violence, including rape examinations and group counseling.

#### Protective Accommodations and Orders

- A victim may request from University officials a change in class schedules, campus housing assignments, transportation, and work assignments as an accommodation to minimize contact and interaction with the alleged perpetrator. Such changes may be made, in an appropriate case and where feasible, on an interim basis pending the outcome of the University's resolution of charges of sexual misconduct brought by the victim. These accommodations are not dependent on the victim's filing of charges with police authorities.
- A victim may, if desired, seek judicial remedies, such as protective orders, restraining orders, "no contact" orders, etc.

#### **Disciplinary Procedures**

Discrimination Grievance Procedure. Sexual misconduct, as defined herein, violates University policy, and a charge of any form of sexual misconduct (including stalking of a nature that constitutes the hostile environment form of sexual harassment) will be addressed pursuant to the University's Discrimination Grievance Procedure.

- The Discrimination Grievance Procedure provides for a prompt, fair, and impartial investigation and resolution of complaints of discrimination, including those involving sexual misconduct. University officials playing a role in this process receive annual training on issues pertinent to sexual misconduct as well as on effective investigative and hearing methods.
- A charge of sexual misconduct should be presented by the victim-accuser to the official identified in the paragraph above entitled "Initial Reporting - University Officials."
- An accuser may request the nondisclosure of his/her name or other identifying information to the accused. An accuser may also indicate a reluctance for the University to pursue the matter against the accused and/or be hesitant or unwilling to cooperate. In these instances, the University shall nevertheless take steps, to the extent reasonable under all the circumstances, to investigate and address the complaint, even if the identity of the accuser becomes known to the accused as a result. The accuser shall not be given an assurance of anonymity.
- Under the Discrimination Grievance Procedure, both the accuser and the accused are entitled to select an advisor and to be present, along with the advisor, at any meeting or proceeding.
- The Discrimination Grievance Procedure includes one or more stages at which a University official may attempt to resolve a complaint through a voluntary, informal process involving both the accuser and the accused. In a sexual misconduct case, the accuser shall not be required to

deal directly with the accused, and the accuser shall have the option to end such process at any time. This process will not be used at all if the charges includes sexual assault.

- In a formal hearing or other proceeding, the burden of showing that sexual misconduct occurred is on the accuser. A “more likely than not” (preponderance of evidence) standard of proof will be used to determine whether the misconduct occurred. Both the accuser and the accused have the right to present witnesses and other evidence in the proceeding.
- Both the accuser and the accused are entitled to simultaneous written notification of the outcome of the disciplinary proceeding, of appeal rights, of any changes in the outcome occurring during the appeal, and of the time the determination is final.

Sanctions. Following a determination, under the Discrimination Grievance Procedure, that sexual misconduct occurred, the University may impose a sanction up to and including suspension or termination of employment for an employee perpetrator and suspension or expulsion for a student perpetrator.

Confidentiality. Disclosure of information about a case involving charges of sexual misconduct is to be limited, to the extent reasonably possible, to the parties and the University officials who have a role in the procedure for addressing such charges. Information in a case in which a student is either the accuser or the accused is subject to student privacy rights afforded by the federal Family Educational Records and Privacy Act (FERPA), and disclosure beyond the foregoing parties and officials shall only be made in compliance with FERPA.

## **Awareness and Prevention Programs**

### Educational Efforts

- **New Students and Employees.** Incoming students and new employees shall be provided an educational program designed to increase their awareness of the risk of, and how to prevent, sexual misconduct incidents. This program shall encompass the following topics: the University’s policy prohibiting behavior that constitutes any form of sexual misconduct; the definitions of the forms of sexual misconduct; the definition of consent as it relates to sexual activity; options for bystander intervention; warning signs of abusive behavior and how to avoid potential attacks. It shall also provide information relating to victim reporting, victim’s rights, University procedures for addressing charges of sexual misconduct (as set forth more fully herein and in the University’s Discrimination Grievance Procedure), resources available to victims, confidentiality, and other matters required by law or reflected in University policy.
- **Current Students and Employees.** The University shall conduct ongoing, periodic educational programs for current students and employees covering the topics mentioned immediately above.

Environmental Factors. The University community is encouraged to help detect and report areas of the campus that may be unsafe due to poor lighting, the presence of structural or landscaping features (such as overgrown bushes near a walkway) that may increase the risk of attack, etc. These

reports will be used to identify modifications that may help make the campus more safe.

Other Preventions Programs. The University maintains an ongoing workgroup charged with developing outreach and prevention efforts geared toward students. This workgroup is tasked with developing active and passive campaigns to inform students about sexual violence. Specific emphasis is given to educating students on the dangers associated with alcohol and drug use as it relates to sexual violence. Workshops are presented each academic year on topics related to sexual violence. These workshops are made available to the campus at large and targeted student populations including first year students, fraternity and sorority members, and student athletes. Additional awareness activities related to sexual violence are held each semester such as the Red Flag Campaign and Clothesline Project. Posters and other printed materials are distributed to students and posted in academic buildings & residence halls which detail reporting procedures.

**Resource Information**

Telephone Numbers. The following are telephone numbers of offices and organizations that may be able to provide assistance to a student or an employee dealing with a sexual misconduct matter:

University Police	256-824-6911 or 256-824-6596
Dean of Students	256-824-6700
Counseling Center	256-824-6203
Student Health Center	256-824-6775
Office of Diversity	256-824-4600
Human Resources	256-824-6545
Faculty/Staff Clinic	256-824-2100
Employee Assistance Program	800-925-5327
Crisis Services of North Alabama	256-716-1000