





Memorandum

To: R. Michael Banish
President, UAH Faculty Senate

From: Robert A. Altenkirch 
President

Christine W. Curtis 
Provost and Executive Vice President for Academic Affairs

Subject: Response to Faculty Senate Resolution 17/18-11, Campus Sexual Assault
Evidentiary Standards

Date: September 4, 2018

Faculty Resolution 17/18-11 states that the Faculty Senate remains proponents of the preponderance of the evidence standard of proof in deciding whether a student is responsible for campus sexual assault. The Faculty Senate further states that "University policy maintain the 'preponderance of evidence' standard of proof unless otherwise mandated by a legal directive from the Department of Education."

The preponderance of the evidence standard is employed in the current Sexual Misconduct Policy of The University of Alabama in Huntsville, which expressly prohibits sexual misconduct and discrimination of any nature. Our policy is dedicated to the core principles of nondiscrimination, due process, and supporting involved parties.

As stated in the resolution, the U.S. Department of Education (DOE) retracted the 2011 and 2015 mandates of using the preponderance of evidence as proof; however, they did not create new directives. Therefore, all of our current policies and practices are still in compliance with federal law. We have no plans to change our current standard of evidence at this time. However, we will continue to study and monitor guidance from the DOE and other federal laws to ensure that we are attuned to national discussions, best practices, and evolving regulations. These laws include Title IX of the Education Amendments of 1972; Title VII of the Civil Rights Act of 1964; and the Clery Act, as amended by the Violence Against Women Reauthorization Act of 2013 (VAWA).

We checked to see which standard of evidence our sister institutions in the system are using. At this time, policies at both of our sister institutions also follow the preponderance of evidence standard. It is our intent to continue to use the preponderance of evidence standard for all sexual misconduct cases. We will continue to monitor best practices and federal law to ensure that we are in compliance.