

Brief Overview of Updated Title IX Policy

Effective August 14, 2020

- **Scope of Policy Enforcement:**

- The conduct occurs on campus or property owned or controlled by the University;
- The conduct occurs in the context of the University's employment or education programs or activities, including, but not limited to, research, on-line, academic or professional conferences, or internship programs; or
- The conduct occurs outside the context of the University's employment or education programs or activities, but the Complainant has to interact with the Respondent while on campus or property owned or controlled by the University or in any employment or education program or activity or where the effects of the underlying Prohibited Conduct creates a hostile environment in the Complainant's workplace or educational environment.
 - For Sexual Misconduct Complaints Outside of Title IX Scope

- **Three Sets of Procedures**

- Procedures for Resolution of Title IX Sexual Harassment and Sexual Violence complaints.
 - Based on New Title IX Regulations
 - Students, Faculty, and Staff
- Sex Discrimination (non-harassment)- Student Respondent
- Sex Discrimination (non-harassment)- Faculty, Staff, Affiliates, and Non-Affiliates

- **New Definition:**

- Sexual Harassment
 - An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo)
 - Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a

person equal access to the educational institution's education program or activity; or

- Sexual assault (as defined in the Clery Act), or dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).
- Sexual Exploitation
 - Conduct not under new regulations but included in the policy because of best practices across the country
 - Fall under Discrimination Non-Harassment Procedures
- **EVIDENCE REQUIREMENT:**
 - Preponderance of the Evidence (Same as Previous Policy)
- **REMOVING MANDATORY REPORTING REQUIREMENT:**
 - No longer have "Mandatory Reporters".
 - Actual knowledge" of Prohibited Conduct when the Title IX Coordinator or a Deputy Title IX Coordinator receives a Report of Prohibited Conduct
 - We have listed a limited number of responsible employees
 - Directors, Deans, Housing staff, Athletics, Dean of Students, etc.
- **Formal Complaints (GRIEVANCE PROCESS):**
 - A Formal Complaint is a document filed by a Complainant or signed by the Title IX Coordinator alleging Prohibited Conduct against a Respondent and requesting that UAH investigate the allegation of Prohibited Conduct.
 - Mandatory dismissal if complaint doesn't meet certain requirements
 - May transfer to a different set of procedures (Student Conduct, Sex Discrimination Non-Harassment Procedures, etc)
 - Review of Evidence and Investigation Report
 - Informal Voluntary Resolution process is more detailed
- **LIVE HEARINGS:**
 - Formal Complaints go to live hearings and allow cross-examination when adjudicating sexual-misconduct complaints
 - Must be overseen by a decision maker that is not the Title IX Coordinator or Investigator

- Both parties will have an adviser who will pose questions on their behalf.
 - UASystem Office of Counsel is working on a pool of Attorneys to serve as advisors and decision makers.
- We will create a recording of any live hearing.
- **APPEALS:**
 - Both parties offered an appeal from a determination regarding responsibility, and from a school's dismissal of a formal complaint or any allegations therein, on the following bases:
 - procedural irregularity that affected the outcome of the matter
 - newly discovered evidence that could affect the outcome of the matter
 - and/or Title IX personnel had a conflict of interest or bias, that affected the outcome of the matter
 - Student Appeals - VP for Student Affairs
 - Faculty Appeals -Provost Office for Faculty
 - Staff Appeals - Appropriate VP