

UNIVERSITY OF WEST ALABAMA

A RESOURCE GUIDE FOR STUDENTS ON SEXUAL HARASSMENT/SEXUAL MISCONDUCT: CAMPUS POLICIES, PROCEDURES & VICTIM SERVICES

For the University of West Alabama's Policies and Procedures Regarding Equal Opportunity, Harassment, and Nondiscrimination, please see www.uwa.edu/titleix. These policies and procedures are intended to define expectations for appropriate conduct and outline resolution processes to address conduct that does not meet these expectations. When individuals are accused of violations of these policies, the University will impose serious sanctions, as noted below.

Sexual misconduct, including sexual harassment, sexual violence, sexual exploitation, intimate partner violence, and stalking are violations of the University of West Alabama's Policies and Procedures Regarding Equal Opportunity, Harassment, and Nondiscrimination.

Acts of violence and harassment based on sex or gender, including sexual orientation, gender identity, and gender expression, may also constitute violations of Alabama law. Individuals who have experienced incidents involving one or more of these behaviors are protected by federal laws, specifically Title IX, www.uwa.edu/titleix, the Clery Act, and the Violence against Women Act, which mandate how institutions respond to such allegations.

Members of the University community, guests, and visitors have a right to be free from sexual misconduct. All members of the community must conduct themselves in a way that does not infringe upon the rights of others.

Immediate Care and Preservation of Evidence

If you experience sex- or gender-based discrimination, harassment, or violence, or incidents of rape, acquaintance rape, sexual assault, sexual harassment, stalking, dating violence, or domestic violence, some or all of these safety suggestions may guide you after an incident has occurred:

1. Go to a safe place and speak with someone you trust. Tell this person what happened. If there is any immediate danger, contact University Police at 205-652-5555 or 911 if you are on-campus, or call the City of Livingston Police Department at 205-652-9525 or 911 if you are off-campus.
2. Consider securing immediate professional support (e.g., counseling, victim advocacy, medical services, etc.) to assist you in the crisis.
3. If you are on campus during regular business hours, you may go to University Counseling in Foust Hall – 205-652-3651. University Counseling is a confidential resource. After regular business hours, or in any situation where a victim wishes, local resources are also available and may be able to provide confidential assistance. Victims of sexual assault can obtain counseling through TURNING POINT. Collect calls are accepted through the organization's 24-hour crisis line at 205-758-0808.
4. For your safety and well-being, immediate medical attention is encouraged. Further, being examined as soon as possible, ideally within 120 hours, is important in the case of rape or sexual assault.
 - To preserve evidence, it is recommended that you do not bathe, shower, douche, eat, drink, smoke, brush your teeth, urinate, defecate, or change clothes before receiving medical

attention. Even if you have already taken any of these actions, you are still encouraged to have prompt medical care, and evidence may still be recoverable.

- Typically, if police are involved or will be involved, they will obtain evidence from the scene, and it is best to leave things undisturbed until their arrival. They will gather bedding, linens or unlaundered clothing, and any other pertinent items that may be used for evidence. It is best to allow police to secure items in evidence containers, but if you are involved in transmission of items of evidence, such as to the hospital, secure them in a clean **paper** bag or clean bedsheet to avoid contamination.
 - If you have physical injuries, photograph or have them photographed, with a date stamp on the photo.
 - Record the names of any witnesses and their contact information. This information may be helpful as proof of a crime, to obtain an order of protection, or to offer proof of a campus policy violation.
 - Try to memorize details (e.g., physical description, names, license plate number, car description, etc.), or even better, write notes to remind you of details, if you have time and the ability to do so.
 - If you obtain external orders of protection (e.g., restraining orders, injunctions, protection from abuse), please notify University Police and the campus Title IX Coordinator so that those orders can be observed on campus.
5. Even after the immediate crisis has passed, consider seeking support from University Counseling and/or TURNING POINT.
 6. Contact the University's Title IX Coordinator, Robert Upchurch, rupchurch@uwa.edu, Webb Hall 200, 205-652-3533, if you need assistance with University-related concerns, such as no-contact orders or other supportive measures. The Title IX Coordinator will also assist students who wish to obtain protective or restraining orders from local authorities. The University is able to offer reasonable academic supports, changes to living arrangements, transportation resources or modifications, working situations, safety escorts, no contact orders, counseling services access, and other supports and resources as needed by a victim. The University is able to offer information about legal assistance, visa/immigration assistance, and student financial aid considerations for victims.

Supportive Measures

It is the policy of University to notify campus law enforcement when sex or gender-based discrimination, harassment, or violence occurs, typically without providing identifying information about the incident. However, the University will not notify law enforcement if a Complainant wishes that information not to be shared, unless an emergency requires disclosure.

Complainants have the option to notify law enforcement directly, or to be assisted in doing so by campus authorities. If requested, campus officials can facilitate reporting to campus or local law enforcement but may also respect a Complainant's request not to do so. To report to the University Police, call 205-652-5555, or to report to the City of Livingston Police Department dial 205-652-9525 or 911.

University Procedures for Reporting and Addressing Sexual Harassment

In the event that sex or gender-based discrimination, harassment, or violence or the crimes of sexual assault, stalking, dating violence, or domestic violence do occur, the University takes the matter very seriously.

The University employs supportive and protective measures such as no contact orders or emergency removal in cases in which a violence risk assessment indicates such action is warranted.

If a student is accused of sex or gender-based discrimination, harassment, or violence, they are subject to action in accordance with the Policies and Procedures Regarding Equal Opportunity, Harassment, and Nondiscrimination. **A student wishing to officially report such an incident may do so by contacting the University's Title IX Coordinator, Robert Upchurch, rupchurch@uwa.edu, Webb Hall 200, 205-652-3533.**

Anyone with knowledge about sex- or gender-based discrimination, harassment, or violence, or the crimes of rape, sexual assault, sexual harassment, stalking, dating violence, or domestic violence is encouraged to report it immediately to the University's Title IX Coordinator, Robert Upchurch, rupchurch@uwa.edu, Webb Hall 200, 205-652-3533 .

Supportive and protective measures for individuals who have experienced these incidents are available whether the individual chooses to report to local and/or campus law enforcement, and irrespective of whether the individual pursues a formal complaint through the University's resolution process. The University can assist an individual access local community agencies and/or contact law enforcement for support.

The Title IX Coordinator will offer assistance to Complainants in the form of supportive measures such as opportunities for academic adjustments; changes in on-campus housing assignment; visa and immigration assistance; changes in working situations; and other assistance as may be appropriate and available on campus or in the community (such as no contact orders, campus safety escorts, transportation assistance, targeted interventions, etc.).

The Title IX Coordinator can connect the Complainant with a counselor on- or off-campus. No Complainant is required to take advantage of these services and resources, but the University provides them in the hopes of offering help and support. Similar supports can be made available to Respondents, upon request.

Protection Orders

The University does not issue orders of protection. Orders of protection, restraining orders, injunctions, or similar lawful orders may be obtained through the court system and can be enforced by the University Police. Individuals who have obtained a protection order are encouraged to provide a copy to the University Police as soon as possible following the issuance to ensure full enforcement.

Although the University does not issue orders of protection, individuals may request that the University issue an administrative directive for no contact and/or a no trespass notice. Upon request, a determination will be made by the University whether to issue an administrative directive for no contact and/or a no trespass notice.

For information regarding how to obtain a protection order, contact the University Police at 205-652-5555 or the City of Livingston Police Department at 205-652-9525.

Confidential Resources

An individual who seeks completely confidential assistance may do so by speaking with professionals who have legally protected confidentiality. On campus, confidential reports may be made to licensed health care professionals in University Counseling at 205-652-3651. Information shared with these resources will remain confidential and will not be shared with the University or anyone else without express, written permission of the individual seeking services unless required by law or court order.

Campus and Community Resources

The University provides written notification to students and employees about existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for Complainants, both within University and outside in the community.

On-campus counseling, health, mental health, and intervention resources are available at the following:

UNIVERSITY COUNSELING

Foust Hall

205-652-3651

Off-campus resources that offer advocacy services and counseling:

TURNING POINT

205-758-0808

SEXUAL HARASSMENT

Sexual harassment is a form of misconduct that undermines the integrity of the academic environment. It is the policy of the University that sexual harassment is prohibited. All members of the University community, especially administrators, faculty, and other individuals who exercise supervisory authority, have an obligation to promote an environment that is free of sexual harassment. Sexual harassment is defined as:

Any unwelcome conduct, determined by a reasonable person, to be so severe, and pervasive, and, objectively offensive that it effectively denies a person equal access to the University's education program or activity.

Any complaints or inquiries regarding sexual harassment of a student by an administrator, faculty member, or staff member should be brought to the immediate attention of the Title IX Coordinator. Any complaints or inquiries regarding sexual harassment of a student by another student should be brought to the immediate attention of the Title IX Coordinator.

The University will promptly respond to such information to determine appropriate steps for resolving the issue. If, for any reason, a student wishes to report or inquire regarding sexual harassment but feels it would not be appropriate to raise such issues with the Title IX Coordinator, the student may inquire or complain to the President of the University.

The University of West Alabama has adopted the following definitions of Sexual Harassment in order to address the unique environment of an academic community, which consists of both employees and students:

- 1) Quid Pro Quo:
 - a. an employee of the recipient,
 - b. conditions the provision of an aid, benefit, or service of the recipient,
 - c. on an individual's participation in unwelcome sexual conduct; and/or

- 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 the University's education program or activity.¹

- 3) Sexual assault, defined as:
 - a) Sex Offenses, Forcible:
 - i) Any sexual act directed against another person,
 - ii) without the consent of the Complainant,
 - iii) including instances in which the Complainant is incapable of giving consent.
 - b) Forcible Rape:
 - i) Penetration,
 - ii) no matter how slight,
 - iii) of the vagina or anus with any body part or object, or
 - iv) oral penetration by a sex organ of another person,
 - v) without the consent of the Complainant.
 - c) Forcible Sodomy:
 - i) Oral or anal sexual intercourse with another person,
 - ii) forcibly,
 - iii) and/or against that person's will (non-consensually), or
 - iv) not forcibly or against the person's will in instances in which the Complainant is incapable of giving consent because of age² or because of temporary or permanent mental or physical incapacity.
 - d) Sexual Assault with an Object:
 - i) The use of an object or instrument to penetrate,
 - ii) however slightly,
 - iii) the genital or anal opening of the body of another person,
 - iv) forcibly,
 - v) and/or against that person's will (non-consensually),
 - vi) 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.

¹ 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.

² Per state law.

- e) Forcible Fondling:
 - i) The touching of the private body parts of another person (buttocks, groin, breasts),
 - ii) for the purpose of sexual gratification,
 - iii) forcibly,
 - iv) and/or against that person's will (non-consensually),
 - v) 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:
 - i) Incest:
 - 1) Non-forcible sexual intercourse,
 - 2) between persons who are related to each other,
 - 3) within the degrees wherein marriage is prohibited by Alabama law.
 - ii) Statutory Rape:
 - 1) Non-forcible sexual intercourse,
 - 2) with a person who is under the statutory age of consent in Alabama.
- 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 Alabama, 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 Alabama.

*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—

- (i) 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.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

University's Policies and Procedures Regarding Equal Opportunity, Harassment, and Nondiscrimination, www.uwa.edu/titleix.

If harassment is established, the University will discipline the offender. Disciplinary action for violations of this policy can range from verbal or written warnings, up to and including immediate termination from employment or dismissal from the University for serious or repeated violations.

CONSENT

Since different people may experience the same interactions differently, each party is responsible for making sure that partners have provided ongoing, clear consent to engaging in any sexual activity or contact. A person may withdraw consent at any time during sexual activity or contact through words or actions. If that happens, the other party must immediately cease the activity or contact. Pressuring another person into sexual activity can constitute coercion, which is also considered to be sexual misconduct. Consent to some forms of sexual activity should not be construed as consent for other kinds of sexual activities. Being or having been in a dating relationship with the other party does not mean that consent for sexual activity exists.

FORCE

Force is defined as direct or indirect use of physical violence and/or imposing physically on someone to gain sexual access. Force, unless part of mutually-agreed behavior, is a clear demonstration of a lack of consent.

INCAPACITATION

Incapacitation is defined as a state in which individuals are unable to make rational, reasonable decisions because they lack the capacity to understand the "who, what, when, where, why, or how" of a situation or interaction. Individuals cannot give sexual consent if they can't understand what is happening, or if they are unconscious, asleep, etc. for any reason.

Process Rights

A summary of rights, options, supports, and procedures, is provided to all Complainants, whether they are students, employees, guests, or visitors.

When appropriate upon receipt of notice and/or a formal complaint, the Title IX Coordinator will initiate a prompt, fair, and impartial process, commencing with an investigation, which may lead to the imposition of sanctions for a Respondent based upon a preponderance of evidence (what is more likely than not).

Procedures detailing the investigation and resolution processes of the University and the formal Statement of Rights of the Parties can be found online here: www.uwa.edu/titleix. The Title IX Coordinator is ultimately responsible for assuring in all cases that the behavior is brought to an end, the University acts to reasonably prevent its recurrence, and the effects on the Complainant and the community are remedied.

All parties are entitled to a process which:

- Is prompt, fair, and impartial from initial investigation to final result, including being:
 - Completed within reasonably prompt timeframes, including allowing for the extension of timeframes for good cause with written notice to the parties of the delay and the reason for the delay;
 - Conducted in a manner that is consistent with the institution's policies and transparent to the parties;
 - Given timely notice of meetings at which the parties (one or all) may be present;
 - Given timely provision to the parties and any appropriate officials of equal access to any information that will be used during informal and formal disciplinary meetings and hearings; and is
 - Conducted by officials who do not have a conflict of interest or bias for or against the any of the parties
- Is conducted by administrators who, at minimum, receive annual training on:
 - Issues related to dating violence, domestic violence, sexual assault, and stalking; and
 - How to conduct an investigation and hearing process the protects the safety of the parties and promotes accountability
- Allows all parties the same opportunities to have others present during any institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice
- Does not limit the choice of advisor or presence for any party in any meeting or institutional disciplinary proceeding; however, the institution may establish regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to all parties
- Provides for simultaneous written notification to all parties of:
 - The result of any institutional disciplinary proceeding that arises from an allegation of dating violence, domestic violence, sexual assault, or stalking;
 - The institution's procedures for the parties to appeal the result of the institutional disciplinary proceeding, if such procedures are available;
 - Any change to the result; and
 - When such results become final
- Prohibits retaliation

Process Outcomes

For offenses including sex- or gender-based discrimination, harassment, and violence, which typically include the crimes of domestic violence, dating violence, sexual assault, and stalking, sanctions range from warning to expulsion.

Serious and violent incidents and acts of sexual assault usually result in suspension, expulsion, or termination of employment.

Knowingly providing false or misleading information to investigators can result in additional consequences under the Code of Student Conduct.

Retaliation

Both Title IX and the Clery Act provide protections for whistleblowers who bring allegations of non-compliance with the Clery Act and/or Title IX to the attention of appropriate campus administrators.

The University does not retaliate against those who raise concerns of non-compliance. Any concerns should be brought to the immediate attention of the campus Title IX Coordinator and/or to officials of the U.S. Department of Education.

Recordkeeping and Privacy/Confidentiality

The University records of investigations and resolutions are maintained in privacy in accordance with the institution's record retention policy for a minimum of seven years. Information is shared internally between administrators who need to know in order to complete their job duties.

When information must be shared to permit the investigation to move forward, the parties will be informed. Privacy of the records specific to the investigation is maintained in accordance with Alabama law and the federal FERPA statute. Any public release of information needed to comply with the open crime logs or timely warning provisions of the Clery Act will not include the names of Complainant or information that could easily lead to a Complainant's identification.

Additionally, the University maintains privacy in relation to any supportive measures afforded to a Complainant, except to the extent necessary to provide the supportive measures. Typically, if faculty members or administrators are asked to provide supportive measures for a specific student, they are told that such measures are necessary under Title IX or the Clery Act, but they are not given any details of the incident, or what kind of incident it is.

Irrespective of state law or public records access provisions, information about Complainants is maintained privately in accordance with Title IX and FERPA.