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Sexual Misconduct Policy and Procedures

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I. Policy Statement and Purpose

Non-Student Complainants

Jerrie Smith, Title IX Coordinator
Office: First Floor Founders Hall
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For Student Complainants

Title IX Deputy Coordinator
Office: The Village – Building #7 (Beasley Field)
Phone: 256-233-8172

In accordance with applicable law, and the University's [Non-Discrimination/Equal Opportunity Policy](#) and [Harassment and Discrimination Policy and Procedure](#), Athens State University is committed to providing an environment free of sexual harassment or sexual misconduct for all individuals in the University community. Sexual harassment or sexual misconduct by anyone, whether in the classroom, the office, at a University-sponsored function, or during any activity within the scope of the authority of the University's administration, faculty, or staff, will not be tolerated. Employees or students found responsible for sexual misconduct by the preponderance of the evidence through the University's investigation and review process will be subject to sanctions or disciplinary procedures as appropriate, up to and including termination or expulsion.

This policy applies to all employees, students, applicants, vendors/contractors, visitors, and all others conducting official business with the University or participating in any activity within the scope of the authority of the University's administration, faculty, or staff. This policy defines the process by which an individual who has a complaint made in good faith concerning sexual misconduct (the "**complainant**") may pursue resolution of the matter.

The University is committed to maintaining **confidentiality and privacy**, to the extent practicable and appropriate, of persons who make a complaint or provide information in conjunction with an investigation under this policy. An individual's requests regarding the confidentiality of reports of sexual misconduct will be considered in determining an appropriate response; however, such requests will be considered in the dual contexts of maintaining a working and learning environment free from sexual misconduct and the due process rights of the alleged offender (the "accused"). **Some level of disclosure may be necessary to ensure a complete and fair investigation; therefore, absolute confidentiality cannot be assured or guaranteed.**

Retaliation or intimidation are very serious violations of this policy and should be reported immediately. Any attempt to intimidate, penalize or retaliate against a person bringing, investigating, or cooperating with an investigation of sexual misconduct is prohibited and will be treated as a separate incident of harassment to be reviewed on its own merit.

For the purposes of this policy, "**business day**" is defined as any day the University is officially open, regardless of whether classes are in session.



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These procedures do not replace the right of a person who believes he/she has been subjected to sexual misconduct to pursue other options or remedies available under state, civil, or criminal statutes and/or federal law.

II. Definitions

A. Consent

Consent refers to the voluntary agreement of an individual to engage in sexual contact or activity with another person. In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during sexual activity. Consent is sexual permission. Consent can be given by word or clear action, but non-verbal consent is not as clear as talking about what is wanted and what is not wanted – setting boundaries. Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity. Silence – without clear actions demonstrating permission – cannot be assumed to show consent.

In addition, there is a difference between seduction and coercion. Coercion happens when someone is pressured unreasonably to participate in sexual activity. Coercing someone into sexual activity violates consent in the same way as physically forcing someone into sex.

As such, it must be recognized that:

- Someone who is incapacitated cannot consent. Incapacitation may be due to alcohol or drug use, an intellectual or other disability that prevents the person from having the capacity to give consent, or the person being asleep or unconscious. In addition, according to the [Code of Alabama §13A-6-70](#), a person less than 16 years old is incapable of consent.
- Past consent does not imply future consent.
- Silence or absence of resistance does not imply consent.
- Consent to engage in sexual contact or activity with one person does not imply consent to engage in sexual contact or activity with another person.
- Consent can be withdrawn at any time.
- Coercion, force, or threat of either invalidates consent.

B. Sexual Misconduct

Sexual misconduct, including but not limited to sexual harassment, sexual assault (non-consensual sexual contact or non-consensual sexual intercourse), domestic violence, dating violence, and stalking are forms of sex discrimination that violate [Title VII of the Civil Rights Act of 1964](#), [Title IX of the Education Amendments of 1972](#), the [Violence Against Women Authorization Act](#) (VAWA), the [Campus Sexual Violence Elimination \(Campus SaVE\) Act](#), as well as the University's [Non-Discrimination/Equal Opportunity Policy](#) and [Harassment and Discrimination Policy and Procedure](#).



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C. Sexual Harassment

Harassment is conduct that is (1) unwelcome; (2) discriminatory on the basis of race, color, ethnicity, sex, pregnancy, religion, national origin, disability, age, sexual orientation, gender, gender identity, gender expression, genetic information, veteran status, or any other status protected by state or federal law; and (3) directed at a specific individual or individuals. Harassment violates University policy when it is sufficiently severe, pervasive, or persistent that it denies or limits, or is likely to deny or limit, a reasonable person's ability to participate in or benefit from University programs, services, opportunities, or activities.

Harassment can include but is not limited to verbal or non-verbal communication, written or graphic communication, electronic communication, and/or physical conduct. Examples of prohibited harassment may include, but are not limited to physical harassment, such as touching, pinching, grabbing, or brushing against another person without their consent; and (b) severe, pervasive, or persistent insults, jokes or derisive comments relating to a person's protected characteristic.

Sexual Harassment is harassment (as defined above) of a sexual nature. It can include verbal or non-verbal communication or physical conduct. It is prohibited by this policy when it is sufficiently severe, pervasive or persistent that it denies or limits or is likely to deny or limit a reasonable person's ability to participate in or benefit from University programs, services, opportunities or activities. Examples of prohibited sexual harassment include, but are not limited to (a) repeated sexual solicitations toward a person who has indicated they are unwelcome; (b) conditioning favorable treatment in connection with any University program upon sexual favors; (c) threats of a sexual nature that do not rise to the level of sexual assault or domestic violence; and (d) severe, pervasive, or persistent insults or derisive comments related to sex, gender, gender identity, gender expression, or sexual orientation directed at a specific individual.

Whether sexual harassment is sufficiently severe, pervasive or persistent to violate this policy may depend on multiple factors. Thus, a person should not be deterred from reporting unwelcome sexual conduct simply because they are not certain whether it is severe, pervasive or persistent enough to constitute a policy violation. That is a determination for the University to make, and a person reporting harassment will never be penalized or retaliated against for any report made in good faith.

Whether the alleged conduct constitutes sexual harassment depends on the totality of the circumstances including, but not limited to, the nature, frequency, intensity, duration and context of the questioned conduct.

In cases of alleged sexual harassment, the protection of First Amendment rights must be considered if issues of speech or artistic expression are involved. Free speech rights apply in the classroom and in all other education programs and activities, as well as to the speech of students and employees. Care must be taken not to inhibit open discussion, academic debate, and expression of personal opinion, particularly in the classroom. Nonetheless, speech or conduct of a sexual or hostile nature that occurs in the context of educational instruction may exceed the protections of academic freedom and constitute prohibited



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sexual harassment if it meets the definition of sexual harassment and (1) is reasonably regarded as non-professional speech (e.g., advances a personal interest of the faculty member as opposed to furthering the learning process or legitimate objectives of the course), or (2) lacks accepted pedagogical purpose or is not germane to the academic subject matter.

D. Sexual Assault: Non-Consensual Sexual Contact

Non-consensual sexual contact occurs when an individual (man or woman), either without consent and/or by force, intentionally touches (or attempts to touch) a man or woman in a sexual manner, however slight or with any object, or forces (or attempts to force) a man or woman to touch any person in a sexual manner without consent or against their will [Code of Alabama Title §13A, Article 4](#).

Non-consensual sexual contact includes intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another person touch you or themselves with or on any of these body parts. Other examples include unwelcome physical contact of a sexual nature, such as fondling, touching, pinching, or brushing against the body.

E. Sexual Assault: Non-Consensual Sexual Intercourse

Non-consensual sexual intercourse acts occur when an individual (man or woman), either without consent and/or by force, performs (or attempts to perform) a physical sexual act on or engages in (or attempts to engage in) sexual intercourse with a man or woman, or forces (or attempts to force) a man or woman to perform a physical sexual act on or engage in sexual intercourse with any person without consent or against their will [Code of Alabama Title §13A, Article 4](#).

Physical sexual acts and sexual intercourse include any instances where there is (no matter how slight the penetration or contact):

- vaginal penetration by a penis, object, tongue or finger;
- anal penetration by a penis, object, tongue, or finger, and/or;
- oral copulation (mouth to genital contact or genital to mouth contact).

F. Other Types of Sexual Misconduct

Other types of sexual misconduct include domestic violence, dating violence, sexual exploitation, and stalking.

Domestic Violence and Dating Violence

According to the [Code of Alabama §13A-6-130](#) et. seq., domestic violence includes misdemeanor or felony crimes of violence committed by a person against any victim who is:

- a current or former spouse of the accused;
- a parent or child of the accused;
- any person with whom the accused has a child in common;
- a present or former household member with the accused; or



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- a person who has or had a dating or engagement relationship with the accused. As further specified in the Campus SaVE Act, dating violence is a crime of violence committed by a person against any victim who has been in a romantic or intimate relationship with the accused, where the existence of the relationship is determined by the length, type, and frequency of interaction in the relationship.

Sexual Exploitation

For the purposes of this policy, sexual exploitation includes, but is not limited to:

- invasion of sexual privacy and/or engaging in voyeurism;
- prostituting or attempting to prostitute another person;
- exceeding the boundaries of consent, such as knowingly allowing others to watch consensual sex between persons;
- knowingly transmitting an STD or HIV to another person;
- indecent exposure, exposing one's genitals in non-consensual situations, or inducing another to expose their genitals; or
- solicitation of children or transmitting obscene material by electronic means (Code of Alabama Title 13A, Articles 6 and 6A).

Stalking

For the purposes of this policy, stalking is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. In general, stalking includes any intentional course of conduct directed at a person that alarms, annoys, or interferes with the movement of that person, and which serves no legitimate purpose [Code of Alabama Title §13A, Article 5](#).

III. Rights of Individuals Involved in a Sexual Misconduct Complaint

A. Rights of the Alleged Victim (Complainant)

- The right to be fully informed of the sexual misconduct policy and procedures.
- The right to an investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to University officials.
- The right to be treated with respect by University officials.
- The right to have complaints of sexual misconduct responded to quickly and with sensitivity by University officials.
- The right not to be discouraged by University officials from reporting an assault to both on-campus and off-campus authorities.
- The right of both complainant and alleged offender (accused) to have the same opportunity to have others present (in support or advisory roles) during an investigative interview or proceeding.
- The right to be informed by University officials of options to notify proper law enforcement authorities, including Campus Security and local police, and the option to be assisted by campus administrators in notifying such authorities, if the student chooses. This also includes the right not to report if this is the victim's choice.



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- The right to be notified of available counseling, mental health or student services for victims of sexual misconduct, both on campus and in the community.
- The right to notification of and options for, and available assistance in, changing academic conditions after an alleged sexual misconduct incident, if so requested by the victim and if such changes are reasonably available. Options may include:
 - Exam and assignment rescheduling;
 - Taking an incomplete in a class;
 - Transferring class sections;
 - Temporary withdrawal; or
 - Alternative course completion options.
- The right to a campus “no contact order” against another student who has engaged in or threatens to engage in stalking, threatening, harassing or other improper behavior that presents a danger to the welfare of the complainant or others.
- The right to have any complaint of sexual misconduct adjudicated through the investigation and review process rather than any steps towards resolution through mediation or informal means.
- The right to have complaints and appeals (when appropriate) reviewed by the Title IX Coordinator or the Title IX Deputy Coordinator and University Investigative Panel members comprised of representatives of both genders, and who have received annual sexual misconduct training.
- The right to make a victim impact statement as part of the investigation and review process and to have that statement considered by the University in determining sanction(s).
- The right to appeal the sanctions, in accordance with the standards for appeal established in this policy.
- The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law, at least 48 hours prior to the any investigative interviews or proceedings.
- The right not to have irrelevant prior sexual history admitted as evidence in the investigation.
- The right to be informed of the names of all witnesses who will be called to give testimony, within 48 hours of the investigative interviews or proceedings, except in cases where the identity of a witness will not be revealed to the alleged offender (accused) for compelling safety reasons (this does not include the name of the alleged victim/complainant, which will always be revealed).
- The right to preservation of privacy, to the extent possible and allowed by law.
- The right to investigative interviews and proceedings that are closed to the public.
- The right to petition that any member of the investigative panel, including the Title IX Coordinator or the Title IX Deputy Coordinator, be removed on the basis of demonstrated bias.
- The right to have an advisor or advocate accompany and assist in the investigation and review process. This advisor can be anyone, including an attorney provided at the complainant’s own cost. The advisor may not take part directly in the investigative interviews or proceedings, but may communicate with the complainant as necessary.
- The right to give testimony in the investigation and review process by means other than being in the same room with the alleged offender (accused).
- The right to ask the Title IX Coordinator or the Title IX Deputy Coordinator or Judicial Coordinator to identify and question witnesses, including expert witnesses.

- The right to have the University arrange the presence of student, faculty and staff witnesses, and the opportunity to ask questions, directly or indirectly, of witnesses present (including the alleged offender (accused), and the right to challenge documentary evidence.
- The right to be present for all testimony given and evidence presented at the investigative interviews or proceedings.
- The right to be informed of the determination and any sanctions resulting from the investigation and review process involving sexual misconduct, no more than 15 days from the of the end of the investigation and review process.
- The right to have University policies and procedures followed without material deviation.
- The right to be informed in advance of any public release of information regarding the complaint.
- The right not to have released to the public any personally identifiable information about the complainant, without his or her consent.

B. Rights of the Alleged Offender (Accused)

- The right to be fully informed of the sexual misconduct policy and procedures.
- The right to an investigation and appropriate resolution of all credible complaints of sexual misconduct made in good faith to University administrators.
- The right to be treated with respect by University officials.
- The right to be informed of and have access to campus and community resources for medical, counseling and advisory services.
- The right of both complainant and alleged offender (accused) to have the same opportunity to have others present (in support or advisory roles) during an investigative interview or proceeding.
- The right to be fully informed of the nature, rules and procedures of the investigation and review process and to timely written notice of all alleged violations within the complaint, including the nature of the violations and possible sanctions.
- The right to an investigation of the complaint, including timely notice of the date and time of any investigative interviews or proceedings, and adequate time for preparation.
- The right not to have irrelevant prior sexual history admitted as evidence in the investigation.
- The right to make an impact statement as part of the investigation and review process and to have that statement considered by the University in determining the sanction(s).
- The right to appeal the sanction(s), in accordance with the standards for appeal established in this policy.
- The right to review all documentary evidence available regarding the complaint, subject to the privacy limitations imposed by state and federal law, at least 48 hours prior to any investigative interviews or proceedings.
- The right to be informed of the names of all witnesses who will be called to give testimony, within 48 hours of the investigative interviews or proceedings, except in cases where the identity of a witness will not be revealed to the alleged offender (accused) individual for compelling safety reasons (this does not include the name of the alleged victim/complainant, which will always be revealed).
- The right to investigative interviews or proceedings that are closed to the public.
- The right to petition that any member of the investigative panel, including the Title IX Coordinator or the Title IX Deputy Coordinator, be removed on the basis of demonstrated bias.



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- The right to have the University arrange the presence of students, faculty and staff witnesses and the opportunity to ask questions, directly or indirectly, of witnesses present, and the right to challenge documentary evidence.
- The right to have complaints and appeals (when appropriate) reviewed by the Title IX Coordinator or the Title IX Deputy Coordinator and University Investigative Panel members comprised of representatives of both genders, and who have received annual sexual misconduct training.
- The right to have University policies and procedures followed without material deviation.
- The right to have an advisor or advocate accompany and assist in the investigation and review process. This advisor can be anyone, including an attorney provided at the alleged offender's (accused) own cost. The advisor may not take part directly in the investigative interviews or proceedings, but may communicate with the alleged offender (accused) as necessary.
- The right to a fundamentally fair investigation and review, as defined in these procedures.
- The right to a determination of the investigation based solely on evidence presented during the review process, and based on the preponderance of the evidence – whether it is more likely than not that the sexual misconduct occurred. Such evidence shall be credible, relevant, based in fact, and without prejudice.
- The right to written notice of the outcome and sanction(s) of the investigation and review.
- The right to be informed in advance, when possible, of any public release of information regarding the complaint.

IV. Reporting and Resolving a Complaint of Sexual Misconduct

Athens State University strongly encourages anyone who feels they have been subjected to sexual misconduct to report the incident as soon as possible after the occurrence. The University can only take action against alleged offenders and protect the University community from future incidents if occurrences of sexual misconduct are reported in a timely fashion.

In cases of sexual misconduct, the University may take whatever interim measures deemed necessary, as determined by the President or the President's designated representative(s), when a credible report or complaint is received, and/or when it is determined that there is a safety concern, or an individual poses a potential threat to others. Interim measures will be taken within the context of other University policies and might include changes to assigned class sections for students or work assignments for employees.

Once the complaint is reported to the Title IX Coordinator or the Title IX Deputy Coordinator or another responsible employee (as defined below), it is the complainant's choice as to whether the University proceeds with a formal investigation and review of the complaint. However, in cases of possible sexual assault/violence, once a University official receives notice of the incident, the University has the obligation to take appropriate steps to address the situation regardless of whether the complainant chooses to proceed with a formal investigation and review. The University will take immediate and appropriate steps to investigate or otherwise determine what occurred (maintaining confidentiality to the extent practicable and appropriate), if the situation creates an unsafe or hostile environment, and what steps can be taken to address the situation so as to provide a safe environment for all members of the University community.



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In cases of sexual assault/violence, the complainant may also choose and is encouraged to file a criminal report, in addition to lodging a formal complaint of sexual misconduct with the University. Filing a criminal report puts the incident on record and helps to give the complainant options regarding criminal prosecution at a later date if the individual so chooses. The Title IX Coordinator or the Title IX Deputy Coordinator and Campus Security personnel can assist individuals who wish to pursue filing criminal reports.

In some cases, informal steps may be appropriate for attempting to resolve the complaint. **However, for allegations of sexual assault/violence, informal resolution is not appropriate even on a voluntary basis and will not be used to resolve such complaints.**

A. Confidentiality and Privacy

In considering a course of action related to sexual misconduct and in order to make informed choices about who to consult, individuals need to be aware of the reporting requirements for University employees and how these relate to any request for confidentiality and/or privacy.

Confidential Reporting

If an individual would like the details of an incident to be kept confidential, the individual may speak with the University's licensed professional counselor, who is available by appointment to discuss personal issues. However, if the counselor believes circumstances represent the potential for greater harm for the individual or the University community at large, or if the counselor believes there is an immediate threat or abuse of a minor, the limits of confidentiality and personal safety planning will be discussed in greater detail with the client.

Responsible Employees

Responsible employees are University employees who have the duty of reporting incidents of sexual misconduct to the Title IX Coordinator or the Title IX Deputy Coordinator, or who have been given the authority by the University to take action when incidents of sexual misconduct are reported.

As such, **all University employees have a duty to report**, unless they fall under the "Confidential Reporting" section above. Individuals bringing a complaint may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared by the employee with the Title IX Coordinator or the Title IX Deputy Coordinator. Otherwise, employees must share all details of the reports they receive. If a complainant does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the complainant may make such a request to the Title IX Coordinator or the Title IX Deputy Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law.

In cases indicating pattern, predation, threat, weapons and/or violence, the University will likely be unable to honor a request for confidentiality. In cases where the victim requests confidentiality and the circumstances allow the University to honor that request, the University will offer interim supports and remedies to the victim and the community, but will not otherwise pursue formal action. A party bringing a



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complaint has the right, and can expect, to have complaints taken seriously by the University when formally reported, and to have those incidents investigated and properly resolved.

Formal reporting still affords **privacy** to the complainant, in that only a small group of officials who need to know will be told, including but not limited to: Title IX Coordinator or the Title IX Deputy Coordinator, the President of the University, Director of Human Resources, Campus Security, and the University's Investigative Panel. Information will be shared as necessary with investigators, witnesses, and the alleged offender. The circle of people with this knowledge will be kept as tight as possible to preserve the rights and privacy of both the complainant and alleged offender.

B. Reporting Complaints to Responsible Employees

Individuals should be aware that once a responsible employee knows, or reasonably should know of an incident of sexual misconduct, that employee **must** report the incident to the Title IX Coordinator or the Title IX Deputy Coordinator within 24 hours of becoming aware of the incident. The University must take appropriate steps to address the situation, particularly in circumstances that represent the potential for greater harm for an individual or the University community at large, even if the alleged victim chooses not to pursue a formal investigation and review.

The Title IX Coordinator or the Title IX Deputy Coordinator is formally designated to respond to complaints regarding sexual misconduct. Notice of formal complaint can be made in person to any responsible employee as defined above, but individuals are strongly encouraged to submit complaints in writing or by email (with attachments as needed) If the complainant is a student, the complaint should be submitted to:

Title IX Deputy Coordinator

Office: The Village – Building #7 (Beasley Field)
Phone: 256-233-8172

If the complainant is not a student, the complaint should be submitted to:

Jerrie Smith, Title IX Coordinator

Office: First Floor, Founders Hall
Phone: 256.216.3302

C. Informal Steps to Resolve a Complaint of Sexual Misconduct (When Appropriate)

For complaints **not** involving sexual assault/violence, informal steps may be appropriate for resolving the situation.

If the complainant is able and feels safe, he/she should directly inform the alleged offender that the comments or conduct are unwelcome and must stop. If the complainant does not feel comfortable communicating directly with the alleged offender, or if the comments or conduct do not cease



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immediately, the complainant should report the complaint to the University's Title IX Coordinator or the Title IX Deputy Coordinator or another responsible employee as defined above.

In the informal process to resolve a complaint, the Title IX Coordinator or the Title IX Deputy Coordinator, appropriate University Vice President (depending on whether the alleged offender is a student, employee, or non-employee), and other University personnel as needed or requested by the complainant or alleged offender, will discuss and review the complaint with the complainant and with the alleged offender in separate consultations. In the interest of confidentiality, every effort will be made to limit the number of persons involved in the consultations.

The informal process typically includes an inquiry into the facts of the complaint, but does not involve a formal investigation. If it is determined that the complaint is valid and can be resolved immediately to the satisfaction of the complainant, the appropriate Vice President will take action to resolve the complaint.

If a complaint is resolved informally, no record of the complaint will be entered in the alleged offender's personnel file or student records. However, the Title IX Coordinator or the Title IX Deputy Coordinator will, in the form of a confidential file memorandum, keep a record of the facts of the complaint and the resolution achieved.

Means of resolving the complaint in the informal process may include advising the complainant and/or alleged offender about methods to resolve the concern, arranging for educational programs for individuals or groups, or intervening and/or mediating between the parties. However, the informal process **does not** require the complainant and alleged offender to meet or to resolve the complaint directly with each other. Informal resolution, such as mediation, **will not** be used to resolve sexual assault/violence complaints.

If the matter is not resolved to the satisfaction of the complainant after the informal process, or if the informal process is not appropriate for the complaint, the complainant can choose to begin a formal investigation and review of the complaint.

D. Formal Investigation and Review of a Complaint of Sexual Misconduct

The investigation process is not a formal legal procedure, but is an internal process for complaints to be addressed and resolved while maintaining the rights of the parties involved in the complaint.

1. **Request.** To begin the formal process, a request for a formal investigation and review must be submitted in writing to the Title IX Coordinator or the Title IX Deputy Coordinator and signed by the complainant, **or** the Title IX Coordinator or the Title IX Deputy Coordinator, upon receiving a report, chooses to submit a formal request for an investigation based on the nature of the report.

Complainants may ask the Title IX Coordinator or the Title IX Deputy Coordinator for assistance from other University personnel in completing their formal request when needed. The request must include:



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- Date of report;
- Date and time of incident;
- Contact information for the complainant/reporter;
- Name and status (student, employee, other) of the alleged offender (if known);
- Description of the incident and the desired remedy;
- Description of any informal efforts to resolve the complaint, if appropriate;
- Information on whether the incident was reported to any other University official or department, or any police agency.

In addition to the request, the complainant may also submit any supporting documentation related to the complaint. **Note:** It is the right of the complainant to withdraw a formal complaint by requesting so in writing to the Title IX Coordinator or the Title IX Deputy Coordinator at any stage of the process; however, the investigation process will still proceed if the situation is believed to create an unsafe or hostile environment for members of the University community.

2. The University Investigative Panel. The University's Investigative Panel consists of members who are appointed by the President to three-year terms. The Panel reports to the Title IX Coordinator or the Title IX Deputy Coordinator. Members are required to receive annual training on sexual misconduct, related Title IX issues, and University policies and procedures. Appointments to the Panel should be made with attention to diversity.

The Investigative Panel must include:

- 2 Co-chairpersons;
- At least 3 members of the faculty (one from each College);
- At least 3 staff members chosen from different areas;
- At least 1 representative from Human Resources;
- At least 1 representative from Student Support Services.

Not all members of the Investigative Panel will participate in every investigation. The nature of the complaint (student complainant, student alleged offender, employee complainant, employee alleged offender) will determine which members of the panel will participate in a particular investigation. Participating members (a minimum of four) will be selected by the Title IX Coordinator or the Title IX Deputy Coordinator and the President. It is the right of both the complainant and alleged offender to petition that any member of the Investigative Panel, including the Title IX Coordinator or the Title IX Deputy Coordinator, be removed on the basis of demonstrated bias, or to request that additional members of the Panel participate in the investigation.

3. Investigation. The Title IX Coordinator or the Title IX Deputy Coordinator will notify the President of the filing of the formal request as soon as is practicable. Normally, within two business days, an initial determination is made whether a sexual misconduct violation may have occurred based on the complaint/report. If the complaint/reported incident does not appear to allege a violation under this policy, then the complaint does not proceed to investigation. **A full investigation will normally be**



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Policy Implementation: Title IX Coordinator

pursued if there is evidence of a pattern of misconduct or a perceived threat of further harm to the University community or any of its members.

Within five (5) business days of the filing of the request, the President or a designee will notify by written letter all persons connected with the complaint of the filing of the formal request and whether the complaint will proceed to a full investigation. All persons connected with the complaint will also receive notice of any interim measures that will be taken based on a concern for the safety or well-being of any member of the University community.

The Title IX Coordinator or the Title IX Deputy Coordinator will coordinate a formal investigation of the complaint with the participation of the appropriate members of the University Investigative Panel as determined by the Coordinator and the President.

In general, the investigation will include the following steps:

- a. Review of written statements and oral interviews with the complainant.
- b. Review of written statements and oral interviews with the alleged offender.
- c. Review of written statements and oral interviews with any witnesses with pertinent information related to the complaint.

In the interest of confidentiality and privacy, every effort will be made to limit the number of persons involved in the interviews. Both the complainant and the alleged offender have the right to have an advisor or advocate attend and assist in the interview process. This advisor can be anyone, including an attorney provided at the complainant's or alleged offender's own cost. The advisor may not take part directly in the interviews, but may communicate with the complainant/alleged offender as necessary.

The investigation will be conducted as promptly as possible given the circumstances of the complaint, and will be completed in no more than sixty (60) calendar days of the filing of the formal request.

4. Findings and Report of the Investigation. Within fifteen (15) business days of the conclusion of the investigation, the Title IX Coordinator or the Title IX Deputy Coordinator will prepare a written report of the formal investigation. In general, the written report will include:
 - a. Statements of the allegations and issues associated with the complaint.
 - b. Positions of the parties involved in the complaint.
 - c. Summary of the evidence and findings of fact.
 - d. A determination by the Title IX Coordinator or the Title IX Deputy Coordinator and other investigating parties as to whether sexual misconduct in violation of this policy occurred. This determination will be based on the preponderance of the evidence – whether it is more likely than not that the sexual misconduct occurred.

The complainant and alleged offender will be informed promptly by written letter when the investigation is completed, and of the determination of the investigating parties as to whether the



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- policy was or was not violated. VAWA requires that both parties be notified simultaneously and in writing of the results of the institutional investigation arising from an allegation of sexual misconduct. Results must include any initial, interim, and final decision arising from the investigation, and must include any sanctions imposed by the institution and the rationale for the results and the sanctions.
5. Resolution of the Complaint. The investigation report will be submitted to the President and the appropriate University administrator, depending on whether the alleged offender is an employee or student. In cases where it is determined that violations have occurred based on the preponderance of the evidence, sanctions or disciplinary actions will be the decision of the President and the appropriate University administrator pursuant to other applicable University policies.

When it is determined that violations have occurred based on the preponderance of the evidence, the specific findings of the investigation will be considered in determining remedies for individuals harmed by the harassment or discrimination. In cases where disciplinary action or sanctions may be taken against the alleged offender, such actions may include (but not be limited to) counseling or education relevant to the complaint, verbal or written reprimands, reassignment, suspension, expulsion, or termination.

Whatever the outcome of the investigation, the Title IX Coordinator or the Title IX Deputy Coordinator will provide both the complainant and the alleged offender sources of counseling, advocacy, or support upon request.

6. Retention of Records of the Formal Investigation. The Title IX Coordinator or the Title IX Deputy Coordinator is responsible for maintaining records relating to harassment and discrimination investigations, reports, and resolutions. Records shall be maintained in accordance with University records policies, but may be maintained longer at the discretion of the Title IX Coordinator or the Title IX Deputy Coordinator in cases where the parties have a continuing affiliation with the University.

Any documentation concerning disciplinary action taken against the offender, whether the offender is an employee or student, will be maintained in the personnel or student record of the offender as appropriate.

7. Appeals. Appeals will be considered only in those instances where a procedural error occurred during the original investigation, or where previously unavailable relevant evidence that could impact the outcome of the original investigation becomes available. Either party may request an appeal, to the President, on these grounds. If granted, the appeal will follow the same procedure as the original formal investigation and review process.

V. Responsibility for this Operating Policy

Policy Owner



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As part of the initial approval of this policy by the President and subsequent to the original dissemination of the policy, the President has assigned the Vice President for Financial Affairs as the policy owner for the ongoing evaluation, review, and approval of this policy. Subsequent reviews and revisions to this policy must be in accordance with approved operating policy procedures and processes.

This policy will be reviewed every three years or more frequently as needed.

Responsibility for Policy Implementation

The President has assigned the responsibility of implementing this policy to the Title IX Coordinator or the Title IX Deputy Coordinator.



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VI. Supporting Documents

Note: These supporting documents are intended to provide additional information related to sexual misconduct for all members of the University community. Although presented here as a section of the University's Sexual Misconduct Policy and Procedures, these documents and the information contained within are separate entities and may be distributed in other formats and revised as needed, without going through the formal policy approval process.

- **What Should I Do If I Am a Victim of Sexual Assault?**
- **Sexual Misconduct/Violence – Risk Reduction Tips**
- **Campus and Community Resources**
- **Bystander Intervention Tips**



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What Should I Do If I Am a Victim of Sexual Assault?

First and foremost, make sure you are safe from further harm. Call someone you trust, such as a friend, the Office of the Vice President of Enrollment and Student Support Services, and/or Campus Security.

- Do not bathe or douche. Do not eat or have anything to drink. Try not to urinate if possible.
- If oral contact took place, do not smoke, drink, eat, or brush your teeth.
- Go to the hospital emergency room. Medical attention is vital, as you may have injuries of which you are unaware. They can also test you for sexually transmitted diseases, and provide emergency contraception if desired.
- If you've already changed clothes, place them in a paper bag (plastic destroys evidence). If you haven't changed, keep the original clothes on, and bring an extra set to wear home from the hospital. The police may need to keep your clothes for evidence.

YOU NEED NOT FORMALLY REPORT THE INCIDENT TO SEEK MEDICAL ATTENTION OR RECEIVE SUPPORT FROM THE UNIVERSITY.

A Sexual Assault Nurse Examiner (SANE) is a Registered Nurse trained in the nursing field of forensics to provide comprehensive care to sexual assault patients. The forensic examination of a sexual assault victim by the SANE includes:

- Forensic examination of sexual assault victims with evidence collection, 24 hours/day, 7 days a week.
- Treatment/documentation of injuries.
- Treatment and evaluation of sexually transmitted diseases.
- Pregnancy risk evaluation.
- Collection of medical legal evidence while maintaining proper chain of custody.
- Expert witness testimony.

Athens/Limestone Hospital
Sexual Assault Nurse Examiner (SANE)
256.233.9152

Decatur/Morgan General
256.341.2000

Decatur/Morgan General
Parkway Campus
256.350.2211



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Sexual Misconduct/Violence – Risk Reduction Tips

Risk reduction tips can often take a victim-blaming tone, even unintentionally. With no intention to victim-blame, and with recognition that only those who commit sexual misconduct/violence are responsible for those actions, these suggestions may nevertheless help you to reduce your risk experiencing a non-consensual sexual act:

- Make your limits known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Take affirmative responsibility for your alcohol intake/drug use and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views a drunk or high person as a sexual opportunity.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone's drunkenness or drugged state, even if they did it to themselves.
- Realize that your potential partner could be intimidated by you, or fearful. You may have a power advantage simply because of your gender or size. Don't abuse that power.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence and passivity cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and non-verbal communication and body language.

In the investigation and review process, legal terms like “guilt, “innocence” and “burdens of proof” are not applicable, and the University never assumes anyone is in violation of the sexual misconduct policy.

The University investigation and review of complaints of sexual misconduct take into account the totality of all evidence available, from all relevant sources. The determination as to whether sexual misconduct occurred will be based on the preponderance of the evidence – whether it is more likely than not that the sexual misconduct occurred.



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Campus and Community Resources

On-Campus Counseling Services

A licensed professional counselor is available by appointment to discuss personal or developmental issues with currently enrolled students and Athens State University faculty or staff. In addition, we have a Substance Abuse Counselor available weekly for personal and club and classroom support.

Lisa Philippart, LPC

Phone: 256.233.8144

Email: lisa.philippart@athens.edu

Location: Waters Hall, Room S103D

Office Hours: Tuesday and Wednesdays 8:00 am - 5:00 pm

Prevention Services – Substance Abuse Counselors

Phone: 256.233.8144

Email: PreventionServices@athens.edu

Office Hours: Thursday 9:00 am – 12:00 Noon

Please email Lisa Philippart or Prevention Services for an appointment.

Community/Local Resources

Alabama Coalition Against Domestic Violence

[Alabama Coalition Against Domestic Violence](#)

Alabama Coalition Against Sexual Violence

334.264.0123

[Alabama Coalition Against Sexual Violence](#)

Alabama Domestic Violence Hotline

1.800.650.6522

Crisis Services of North Alabama

256.716.1000

1.800.691.8426

[Crisis Center of North Alabama](#)

National Resources

National Domestic Violence Hotline

1.800.799.7233

National Sexual Assault Hotline

1.800.656.4673

Rape, Abuse and Incest National Network

[Rape Abuse and Incest National Network](#)



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Bystander Intervention Tips

An active bystander is someone who intervenes to interrupt behavior in situations that could lead to sexual misconduct, assault, or violence. Effective intervention is the community responsibility of every person. Individuals are encouraged to speak out against attitudes that promote sexual misconduct and become more supportive of victims. There are essentially five stages to effective and safe bystander intervention:

1. Be aware of your surroundings and notice potential problems;
2. Understand that the problem demands action;
3. Feel the responsibility to act, just as you hope others would if you were the person in the problem situation;
4. Choose what form of safe assistance to provide; and
5. Respond.

Remember intervention doesn't have to be confrontational. Simply honking your car horn, turning on the lights, or turning off the music at a party can call attention to a situation. Every member of the University community plays a role in intervention. If you don't speak up and challenge inappropriate behavior once you become aware, in a sense you are helping to perpetuate the problem.

Other tips for safe intervention:

- Remain calm and speak up, say something like... "You need to just ease up" or; "he/she already said no to you once, so why don't you just stop".
- Remain calm and ask the perpetrator "Is there a problem here?" or "What are you doing to this person?" or "You should really stop and think about what you're doing here".
- Ask others in the area to help so as to intervene as a group.
- Assist the person by walking them to their car or to a safe area until assistance arrives if authorities have been contacted.
- Call Campus Security 256-233-8222 or 911 if not on campus.
- Don't be afraid to tell a friend when they are acting inappropriately.
- Be willing to challenge inappropriate conversation or jokes directed at sexual misconduct, assault, or violence.