



Policy Number: I.17
Policy Level: Operating Policy
Originally Issued: May 13, 2015
Revised: June 6, 2016
Revised: August 30, 2016
Revised: September 15, 2016
Revised: November 16, 2016
Revised: February 1, 2017
Revised: April 25, 2018
Revised: August 13, 2020
Policy Owner: Vice President for Financial Affairs
Policy Implementation: Title IX Coordinator
SACSCOC Standard: 6.4

SEXUAL MISCONDUCT

Table of Contents

- I. Policy Statement and Purpose**
- II. Administrative Contact Information**
- III. Definitions**
- IV. Inquiries and Confidential Resources**
- V. Prohibited Conduct Defined**
- VI. Confidentiality and Privacy**
- VII. Options for Making a Report**
- VIII. Time Limits on Reporting**
- IX. Supportive Measures**
- X. Emergency Removal**
- XI. University Response**
- XII. Statement of Rights of the Parties**
- XIII. Grievance Procedures**
- XIV. Campus and Community Resources**

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I. Policy Statement and Purpose

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, is prohibited and will not be tolerated.

This policy also prohibits retaliation against an individual for making a good faith report of conduct prohibited under this policy. 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.

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 made a complaint in good faith concerning sexual misconduct (the "complainant") may pursue resolution of the matter.

This policy applies to the education program and activities of Athens State University, to conduct that takes place on the campus or on property owned or controlled by Athens State University, at Athens State University-sponsored events, or in buildings owned or controlled by Athens State University. The Respondent must be a member of Athens State University's community in order for its policies to apply.

Sanctions for any member of the University community engaging in acts of Sexual Harassment and Misconduct, or engaging in acts of retaliation, may include suspension or dismissal from the University, termination from employment, and/or referral for criminal investigation and prosecution under Alabama law.

This policy is designed to comply with applicable legal requirements including Title IX of the Education Amendments of 1972; relevant provisions for the Violence Against Women



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Reauthorization Act of 2013; Title VII of the Civil Rights Act of 1964; the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (“Clery Act”); and applicable Alabama state law.

As a recipient of federal financial assistance for education activities, Athens State University is required by Title IX of the Education Amendments of 1972 to ensure that all of its education programs and activities do not discriminate on the basis of sex. Sexual harassment, sexual assault, dating and domestic violence, and stalking are forms of sex discrimination, which are prohibited under Title IX and by Athens State University policy.

II. Administrative Contact Information

Complaints or notice of alleged policy violations, or inquiries about concerns regarding this policy and procedures, may be made internally to:

Jerrie Smith
Title IX Coordinator
Office of Human Resources
300 North Beaty Street
Athens, AL 35611
256-216-3302
Jerrie.Smith@athens.edu

Inquiries may be made **externally** to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Fax: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>



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SACSCOC Standard: 6.4

For Complaints involving employees:
Equal Employment Opportunity Commission (EEOC)
EEOC Field Offices
Birmingham District Office
Ridge Park Place
1130 22nd Street South
Suite 2000
Birmingham, AL 35205
United States
Phone: 1-800-669-4000

III. Definitions

- a) **Advisor** – a person chosen by a party or appointed by the University to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.
- b) **Complainant** – an individual who is alleged to be the victim of conduct that could constitute sexual misconduct; or retaliation for engaging in a protected activity.
- c) **Complaint (formal)** – a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging sexual misconduct or retaliation against a Respondent and requesting that the University investigate the allegation.
- d) **Confidential Resource** – an employee who is not a mandated reporter of notice of sexual misconduct and/or retaliation (irrespective of Cleary Act Campus Security Authority status).
- e) **Education program or activity** – locations, events, or circumstances where Athens State University exercises substantial control over both the Respondent and the context in which the sexual misconduct occurs.
- f) **Final Determination** – a conclusion by the preponderance of the evidence that the alleged conduct occurred and whether it did or did not violate policy.
- g) **Finding** – a conclusion by the preponderance of the evidence that the conduct did or did not occur as alleged.
- h) **Formal Grievance Process** – a method of formal resolution designated by the University to address conduct that falls within the policy below, and which complies with the requirements of 34 CFR Part 106.45.
- i) **Hearing Decision-maker** – refers to those who have decision-making and sanctioning



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authority within the University's formal grievance process.

- j) **Investigator** – the person or persons charged by the University with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.
- k) **Notice** – means that an employee, student, or third-party informs the Title IX Coordinator or Responsible Employee of the alleged occurrence of sexual misconduct and/retaliatory conduct.
- l) **Parties** – include the Complainant(s) and Respondent(s), collectively.
- m) **Preponderance of the Evidence** – the evidentiary standard used in campus investigation and disciplinary processes to determine whether or not a Respondent is responsible for a violation of this Policy. A preponderance of the evidence is found when the alleged actions are more likely to have occurred than not.
- n) **Recipient** – a postsecondary education program that is a recipient of federal funding.
- o) **Remedies** – post finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to the University's educational program.
- p) **Respondent** – an individual who has been reported to be the perpetrator of conduct that could constitute sexual misconduct, or retaliation for engaging in a protected activity.
- q) **Resolution** – the result of an informal or formal grievance process.
- r) **Responsible Employee** – 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.
- s) **Sanction** – a consequence imposed by the University on a Respondent who is found to have violated this policy.
- t) **Student** – For the purpose of this policy, Athens State University defines student as any individual who has been accepted for admission and who is or was registered or enrolled for credit or non-credit bearing coursework for any part of the period of time of the aggrieved behavior.
- u) **Supportive measures** – individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment.



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- v) **Sexual Harassment** – the umbrella category including the offenses of sexual harassment, sexual assault, stalking, and dating violence and domestic violence. See section V for greater detail.
- w) **Title IX Coordinator** – at least one official designated by the University to ensure compliance with Title IX and the University’s Title IX program. References to the Title IX Coordinator throughout this policy may also encompass a designee of the Coordinator for specific tasks.

IV. Inquiries and Confidential Resources

The University’s Title IX Coordinator is charged with monitoring the University’s compliance with Title IX, related laws, and regulations; ensuring appropriate education and training for employees, students, and all individuals engaged in investigating and resolving complaints of Sexual Harassment and Misconduct; coordinating the University’s investigation, response, and resolution of all reports under this Policy; and ensuring appropriate actions to eliminate incidents of Sexual Harassment and Misconduct, prevent its recurrence, and remedy its effects.

The Title IX Coordinator and Title IX Deputy Coordinator can be contacted by telephone, email, or in person during regular office hours:

For Non-Student Complaints:

- Jerrie Smith, Title IX Coordinator
Office: First Floor, Founders Hall
Room 106
Phone: 256-216-3302
Jerrie.Smith@athens.edu

For Student Complaints:

- Sarah McAbee, Title IX Deputy Coordinator
Office: Sandridge Student Union Building
Second Floor-Room 118
Phone: 256-233-8172



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In addition to the Title IX Coordinator and Title IX Deputy Coordinator, staff members in the Office of Human Resources are available to provide general information about Sexual Harassment and Misconduct complaints and investigation procedures upon request. However, if an individual wishes to discuss a specific incident confidentially without making a report for institutional review and response, that individual should directly contact:

- Lisa Philippart, LPC
Office: Waters Hall
Room S103D
Phone: 256-233-8144
Email: Lisa.philippart@athens.edu
Office Hours: Tuesday and Wednesdays 8:00 am – 5:00 pm

Please email for an appointment.

V. Prohibited Conduct Defined

Students, staff, administrators, and faculty are entitled to an employment and educational environment that is free of sexual misconduct. Athens State University's sexual misconduct policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane but controversial or sensitive subject matters protected by academic freedom.

The sections below describe the specific forms of legally prohibited sexual misconduct that are also prohibited under Athens State University policy. 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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Sexual Harassment

The Department of Education's Office for Civil Rights (OCR), the Equal Opportunity Commission (EEOC), and the Code of Alabama regard sexual harassment as an unlawful discriminatory practice.

Athens State University has adopted the following definition of Sexual Harassment in order to address the unique environment of an academic community, which consists not only of employer and employees, but of students as well.

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 sexual harassment if it meets the definition of sexual harassment and (1) is reasonably regarded as non-professorial 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.

Acts of sexual harassment may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved.

Sexual Harassment, as an umbrella category includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, is defined as:



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Conduct on the basis of sex that satisfies one or more of the following:

1) Quid Pro Quo:

- a. an employee of the University,
- 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 Athens State University's education program or activity.

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



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SACSCOC Standard: 6.4

- iv. 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.

- 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.

- 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 state law.

 - ii. Statutory Rape:
 - 1) Non-forcible sexual intercourse,
 - 2) With a person who is under the statutory age of consent of Alabama.



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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 family violence laws of Alabama, or
- g) By any other person against an adult or your Complainant who is protected from that person's acts under the domestic or family violence laws of Alabama

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, step-parent, child or step-child of the accused;
- any person with whom the accused has a child in common;



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- a present or former household member with the accused; or
- 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.

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.



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Force, Coercion, Consent, and Incapacitation

As used in the offenses above, the following definitions and understandings apply:

1. **Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent.

2. **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.

3. Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent. 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



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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.

VI. 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.

a) 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.

b) 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.



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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 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.

c) 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 promptly. 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.

d) Privacy

Formal reporting still affords **privacy** to the complainant, in that only a small group of officials who need to know will be told. 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.

An Athens State University official may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so.

VII. Options for Making a Report

Any individual who has experienced acts of Sexual Harassment or Misconduct may request a criminal investigation, an internal University investigation, both, or neither, and has the right to participate in any such investigation and in any resulting disciplinary process as detailed therein.



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Individuals may file a complaint with, or give verbal notice to, the Title IX Coordinator, Title IX Deputy Coordinator, or a responsible employee. Such a report may be made at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

If such a disclosure is made to a Responsible Employee, necessitating a report to the Title IX Coordinator, the complainant will be provided information about the University's complaint and resolutions processes and invited to make a report.

Once the complaint is reported to the Title IX Coordinator, in some cases 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.

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 and the Campus Security personnel can assist individuals who wish to pursue filing criminal reports.

Except in cases of emergency or an imminent or continuing threat of harm, the University must respect the decision of an individual not to report an incident to law enforcement, unless otherwise required by law.



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Policy Owner: Vice President for Financial Affairs
Policy Implementation: Title IX Coordinator
SACSCOC Standard: 6.4

VIII. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to Athens State University's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of policy) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

When notice/complaint is affected by significant time delay, the Athens State University will typically apply the policy in place at the time of the alleged misconduct and the procedures in place at the time of notice/complaint.

IX. Supportive Measures

Athens State University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual misconduct, and/or retaliation. Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to Athens State University's education program or activity, including measures designed to protect the safety of all parties or Athens State University's educational environment, and/or deter harassment, discrimination, and/or retaliation.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Student financial aid counseling
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing campus safety escorts



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SACSCOC Standard: 6.4

- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments.
- Timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

X. Emergency Removal

Athens State University can act to remove a Respondent entirely or partially from its education program or activities on an emergency basis when it has been determined by the appropriate administrators and security personnel that an immediate threat to the physical health or safety of any student or other individual justifies removal.

XI. University Response

Athens State University will provide a timely response to an allegation of sexual harassment when such an allegation is provided to an institution's Title IX Coordinator or to any official of the institution who has authority to institute corrective measures on behalf of the institution. Complaints can take 60-90 business days to resolve, typically. There are always exceptions and extenuating circumstances that can cause a resolution to take longer, but the University will avoid all undue delays within its control.

Athens State University will presume that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process by the preponderance of the evidence. The burden of proof to prove the allegations of prohibited conduct rests on the University.



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SACSCOC Standard: 6.4

XII. Statement of Rights of the Parties

- The right to an equitable investigation and resolution of all credible allegations of prohibited sexual misconduct made in good faith to University officials.
- The right to timely written notice of all alleged violations, including the identity of the parties involved (if known), the precise misconduct being alleged, the date and location of the alleged misconduct (if known), the implicated policies and procedures, and possible sanctions.
- The right to timely written notice of any material adjustments to the allegations (e.g., additional incidents or allegations, additional Complainants, unsubstantiated allegations) and any attendant adjustments needed to clarify potentially implicated policy violations.
- The right to be informed in advance of any public release of information regarding the allegation(s) or underlying incident(s), whenever possible.
- The right not to have any personally identifiable information released to the public without consent provided, except to the extent permitted by law.
- The right to be treated with respect by Athens State University officials.
- The right to have Athens State University policies and procedures followed without material deviation.
- The right not to be pressured to mediate or otherwise informally resolve any reported misconduct involving violence, including sexual violence.
- The right not to be discouraged by Athens State University officials from reporting sexual misconduct or discrimination to both on-campus and off-campus authorities.
- The right to be informed by Athens State University officials of options to notify proper law enforcement authorities, including on-campus and local police, and the option(s) to be assisted by University authorities in notifying such authorities, if the party so chooses. This also includes the right not to be pressured to report, as well.
- The right to have allegations of violations of this Policy responded to promptly and with sensitivity by Athens State University Security officials.
- The right to be informed of available interim actions and supportive measures, such as counseling; advocacy; health care; legal, student financial aid, visa, and immigration assistance; or other services, both on campus and in the community.



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Policy Implementation: Title IX Coordinator

SACSCOC Standard: 6.4

- The right to a campus no-contact order [or a no-trespass order against a non-affiliated third party) when a person has engaged in or threatens to engage in stalking, threatening, harassing, or other improper conduct that presents a danger to the welfare of the party or others.
- The right to be informed of available assistance in changing academic, or working situations after an alleged incident of sexual misconduct, and/or retaliation, if such changes are reasonably available. No formal report, or investigation, either campus or criminal, needs to occur before this option is available. Such actions may include, but are not limited to:
 - Changing an employee's work environment (e.g., reporting structure, office/workspace relocation)
 - Visa/immigration assistance
 - Exam, paper, and/or assignment rescheduling or adjustment
 - Receiving an incomplete in, or a withdrawal from, a class (may be retroactive)
 - Transferring class sections
 - Temporary withdrawal/leave of absence (may be retroactive)
 - Campus safety escorts
 - Alternative course completion options.
- The right to have the University maintain such actions for as long as necessary and for supportive measures to remain private, provided privacy does not impair the University's ability to provide the supportive measures.
- The right to receive sufficiently advanced, written notice of any meeting or interview involving the other party, when possible.
- The right to ask the Investigator(s) and Decision-maker(s) to identify and question relevant witnesses, including expert witnesses.
- The right to provide the Investigator(s)/Decision-maker(s) with a list of questions that, if deemed relevant by the Investigator(s)/Chair, may be asked of any party or witness.
- The right not to have irrelevant prior sexual history or character admitted as evidence.
- The right to fair opportunity to provide the Investigator(s) with their account of the alleged misconduct and have that account be on the record.
- The right to receive a copy of the investigation report, including all factual, policy, and/or credibility analyses performed, and all relevant and directly related evidence available and used to produce the investigation report, subject to the privacy limitations imposed by state



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SACSCOC Standard: 6.4

and federal law, prior to the hearing, and the right to have at least ten (10) business days to review the report prior to the hearing.

- The right to respond to the investigation report, including comments providing any additional relevant evidence after the opportunity to review the investigation report, and to have that response on the record.
- The right to be informed of the names of all witnesses whose information will be used to make a finding, in advance of that finding, when relevant.
- The right to regular updates on the status of the investigation and/or resolution.
- The right to have reports of alleged Policy violations addressed by Investigators, Title IX Coordinators, and Decision-maker(s) who have received relevant annual training.
- The right to a Hearing Panel that is not single-sex in its composition, if a panel is used.
- The right to preservation of privacy, to the extent possible and permitted by law.
- The right to meetings, interviews, and/or hearings that are closed to the public.
- The right to petition that any University representative in the process be recused on the basis of disqualifying bias and/or conflict of interest.
- The right to have an Advisor of their choice to accompany and assist the party in all meetings and/or interviews associated with the resolution process.
- The right to the use of the appropriate standard of evidence, preponderance of the evidence, to make a finding after an objective evaluation of all relevant evidence.
- The right to be present, including presence via remote technology, during all testimony given and evidence presented during any formal grievance hearing.
- The right to have an impact statement considered by the Decision-maker(s) following a determination of responsibility for any allegation, but prior to sanctioning.
- The right to be promptly informed in a written Notice of Outcome letter of the finding(s) and sanction(s) of the resolution process and a detailed rationale therefor (including an explanation of how credibility was assessed), delivered simultaneously (without undue delay) to the parties.
- The right to be informed in writing of when a decision by the University is considered final and any changes to the sanction(s) that occur before the decision is finalized.
- The right to be informed of the opportunity to appeal the finding(s) and sanction(s) of the resolution process, and the procedures for doing so in accordance with the standards for appeal established by the University.



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SACSCOC Standard: 6.4

- The right to a fundamentally fair resolution as defined in these procedures.

XIII. Grievance Procedures

Athens State University will act on any formal notice/complaint of violation of the Sexual Misconduct Policy by applying one of the following procedures, known as Process A and Process B.

- a) **Process A** – The Department of Education’s Title IX regulations require institutions to respond to sexual harassment when it occurs in their education programs or activities in the United States, including locations, events, or circumstances over which an institution exercises substantial control over both the alleged perpetrator and the context in which the harassment occurred. The regulations specify a grievance process that must be carried out when the institution receives a formal complaint.
 1. This process includes a requirement that institutions provide both parties an equal opportunity to inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint. While institutions must maintain compliance with the Family Education Rights Privacy Act (FERPA), the regulatory preamble specifically states that if “the enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions.”
 2. The regulations prohibit the grievance process from requiring the submission of any evidence that is protected under legally recognized privilege (such as medical records covered by the Health Insurance Portability and Accountability Act of 1996 (HIPAA)).
 3. The process includes a live hearing with cross-examination, which must be conducted by the parties’ advisors, not the parties themselves.
 4. At the conclusion of the grievance process, a decision-maker must issue a written determination regarding responsibility.
 5. The regulations allow institutions to use informal resolution procedures with the voluntary, informed, and written consent of both parties.



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SACSCOC Standard: 6.4

- i. Informal resolution may only be offered after a formal complaint is filed.
 - ii. Parties have the right to withdraw from informal resolution and resume the grievance process at any time.
 - iii. Informal resolution may not be used to resolve allegations that an employee sexually harassed a student.
6. Institutions must offer both parties the opportunity to appeal a final determination or the dismissal of a formal complaint or any allegations therein. Permissible bases for an appeal are:
- i. Procedural irregularities
 - ii. New evidence
 - iii. Conflicts of interest

Grievance Process A applies only to allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) involving students and employees, which qualify under the Title IX rule.

- b) **Process B** –Process B can apply to sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined above) when jurisdiction does not fall within Process A, as determined by the Title IX Coordinator.

XIV. 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.

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



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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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XV. Responsibility for this Operating Policy

Policy Owner

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 by the Policy Owner. Revisions will be reviewed/affirmed by the Cabinet and approved by the University President. This policy will be updated/published in the University's Policy Library.

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.

