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SECTION: ADMINISTRATION

AREA: GENERAL ADMINISTRATION

SUBJECT: TITLE IX, SEX DISCRIMINATION, SEXUAL HARASSMENT, SEXUAL ASSAULT, SEXUAL MISCONDUCT, SEXUAL VIOLENCE, STALKING, GENDER-BASED HARASSMENT AND RETALIATION

PURPOSE

To establish the policy and procedure for reporting, investigating, and responding to complaints of sex discrimination, sexual harassment, sexual assault, sexual misconduct, sexual violence, stalking, gender-based harassment, and retaliation.

SCOPE

All UAMS employees, faculty members, staff members, students, non-employees (such as contractors, vendors, delivery persons, and volunteers) and guests and visitors of the UAMS campus.

DEFINITIONS

Complainant: Any party who makes a complaint/grievance against another student, employee, faculty member, staff member, non-employee, guest or campus visitor.

Respondent: The person(s) against whom a complaint has been made.

Definition of Status: A full-time employee will be considered as an employee, regardless of student status. A student who is a part-time employee will be considered a student unless the incident under consideration occurred in connection with employment.

Sexual Harassment: Sexual harassment generally includes any unwanted or unsolicited sexual gesture, physical contact, or statement which, when viewed from the perspective of a reasonable person similarly situated, is offensive, threatening, humiliating, or interferes with a person's ability to perform his or her job, educational pursuit, or participation in campus life. Sexual harassment may include: (1) submission to or rejection of the conduct is made either explicitly or implicitly a term or condition of employment or status in a UAMS-sponsored course, program, or activity; (2) submission to or rejection of the conduct is used as a basis for employment or academic decisions affecting that individual; or (3) such conduct unreasonably interferes with an individual's work or academic performance, or creates an intimidating, hostile, or offensive environment for work or learning.

Hostile Environment: A hostile environment exists when harassment: (1) is sufficiently serious (i.e., severe, pervasive, or persistent) and from both the alleged victim's and reasonable person's

viewpoint offensive so as to deny or limit a person's ability to participate in or benefit from the UAMS's programs, services, opportunities, or activities; or (2) when such conduct has the purpose or effect of unreasonably interfering with an individual's employment opportunities.

Sexual Misconduct: includes sexual assault, inducing incapacitation for sexual purposes, sexual exploitation, and relationship violence.

- **Sexual Assault:** means an actual or attempted sexual contact with another person without that person's consent.
- **Inducing incapacitation for sexual purposes:** includes using drugs, alcohol, or other means with the intent to affect or having an actual effect on the ability of an individual to consent or refuse to consent (as "consent" is defined in this policy) to sexual contact.
- **Sexual Exploitation:** Occurs when a person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of the other sexual misconduct offenses.
- **Relationship Violence:** Abuse or violence between partners or former partners involving one or more of the following elements: (1) battering that causes bodily injury (2) purposely or knowingly causing reasonable apprehension of bodily injury; (3) emotional abuse creating apprehension of bodily injury or property damage; or (4) repeated telephonic, electronic, or other forms of communication - anonymously or directly - made with the intent to intimidate, terrify, harass, or threaten.

Stalking: includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.

Consent: is informed, freely given, and mutual. Consent must be knowing, willing, and voluntary.

Non-Consensual Sexual Contact: Non-consensual sexual contact is any intentional sexual touching, however slight, with any object by a person upon another person that is without consent and/or by force.

Non-Consensual Sexual Intercourse: Non-consensual sexual intercourse is any sexual intercourse however slight, with any object by a person upon another person that is without consent and/or by force.

Gender-based Harassment: Non-sexual harassment of a person because of the person's sex and/or gender, including, but not limited to harassment based on the person's nonconformity with gender stereotypes.

Retaliation: action taken by an accused individual or an action taken by a third party against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, sexual assault, sexual violence, or sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual’s complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

POLICY

UAMS is committed to providing an environment that emphasizes the dignity and worth of every member of its community. Members of the UAMS community have the right to an environment free of sex discrimination, sexual harassment, sexual assault, sexual misconduct, sexual violence, stalking, gender-based harassment and retaliation, and this behavior will not be tolerated. This right is protected by Title VII of the 1964 Civil Rights Act, Title IX of the Educational Amendment of 1972 Act, the Clery Act, the SaVE Act, and the Violence Against Women Act.

No person at UAMS will be subjected to sex discrimination, sexual harassment, sexual assault, sexual misconduct, sexual violence, stalking, gender-based harassment or retaliation under any employment, academic, educational, extracurricular, or other program of UAMS, whether these programs take place in UAMS facilities, in transportation, at a class, training program, or event sponsored by UAMS at another location or elsewhere. All complaints or any concerns about conduct that may violate this policy and retaliation must be filed with the Campus Title IX Coordinator or a Deputy Title IX Coordinator.

Campus Title IX Coordinator	Andrea Neal aneal@uams.edu (501) 526-5641
Title IX Deputy Coordinators – Student Issues	<ul style="list-style-type: none"> • Associate Dean for Academic Affairs, College of Nursing, (501) 686-8349 • Executive Associate Dean for Academic Affairs, College of Medicine, (501) 686-8499 • Associate Dean for Undergraduate Medical Education, College of Medicine, (501) 686-7407 • Assistant Dean for Undergraduate Clinical Medical Education, College of Medicine, (501) 526-5968 • Associate Dean for Professional Programs, College of Public Health, (501) 526-6673 • Associate Dean for Academic Affairs, College of Public Health, (501) 526-6604 • Assistant Dean, Graduate Student Recruitment and Retention, Graduate School, (501) 526-7396

	<ul style="list-style-type: none"> • Assoc. Dean for Student Affairs & Faculty Development, College of Pharmacy, (501) 686-7920 • Associate Dean for Academic Affairs, College of Health Professions, (501) 686-5730 • Associate Dean for Student Success, College of Health Professions,(501) 686-5732
Title IX Deputy Coordinator – Employee Issues	Audrey Bradley, Office of Human Resources bradleyaudreyy@uams.edu (501) 603-1579

A. Consensual Relationships

Consenting romantic relationships between faculty and students, supervisors and subordinates or fellow employees are **strongly discouraged**. Faculty members exercise power over students as do supervisors over subordinates, whether in promotions, raises, evaluations, recommendations, study, job duties, grades, assignments, or other benefits. This difference in power increases the opportunity for abuse of power, thus endangering the professional environment. Employees and students involved in a consenting relationship in the actual or equivalent context of educational/employment supervision and evaluation should be and are deemed to be aware of the possible costs of even an apparently consenting relationship, including the possible difficulty in defending a future charge of violating this policy on the grounds of mutual consent. The element of power implicit in sexual relationships occurring in the supervisory context has the potential to diminish a subordinate’s freedom of choice. It is incumbent upon those with authority not to abuse, or appear to abuse, the power with which they have been entrusted.

B. Disciplinary Actions

Disciplinary actions for violations of this policy may include, but are not limited to, the following: oral or written warning, reassignment, counseling, demotion, termination, suspension, or expulsion, or any combination thereof. Sanctions will depend upon the circumstances in each case. The severity of sanctions or corrective action will depend on the circumstances in each case, taking into consideration the frequency and severity of the offense and any history of past misconduct. In instances of non-employee or guest/visitor violations of the policy, the appropriate action will be taken. In addition to disciplinary action, those who engage in violations of this policy may be subject to legal consequences, including civil and criminal penalties and monetary damages.

C. Confidentiality

Subject to the other provisions of this policy and the requirements of law, every possible effort will be made to ensure that any information received as part of UAMS’s resolution and complaint procedures is treated discreetly. All parties to the complaint will be asked to assist in maintaining the privacy of the parties involved. Because of UAMS’s obligation to investigate allegations of misconduct, it is not possible to guarantee that complaints will be handled confidentially.

Except as compelled by law, in the interest of fairness and problem resolution, disclosure of complaints and their substance and the results of investigations and complaint procedures will be limited to the immediate parties, witnesses and other appropriate administrative officials. Disclosure may also be necessary to conduct a full and impartial investigation.

D. Malicious Allegations/Complaints; False Information

UAMS is committed to protecting the due process rights it provides to the respondent as well as the complainant. Allegations of sex discrimination, sexual harassment, sexual assault, sexual misconduct, sexual violence, stalking, gender-based harassment or retaliation that are malicious, intentionally false, or without foundation are very serious with potential for great harm to all persons involved and are prohibited by this policy. Such actions constitute grounds for disciplinary action as described above. Further, repeated filing of frivolous complaints is considered a malicious action and may be grounds for disciplinary action.

The failure to substantiate a sex discrimination, sexual harassment, sexual assault, sexual misconduct, sexual violence, stalking, gender-based harassment or retaliation complaint does not automatically constitute a malicious or frivolous complaint. In the event that allegations are not substantiated, every reasonable effort will be made and all reasonable steps taken to restore the reputation of the accused if it was damaged by the proceedings.

E. Training

The Campus Title IX Coordinator, Title IX Deputy Coordinators, and all organizational units and colleges must make reasonable efforts to provide training for their employees and students each year. **All new employees and students should receive a copy of this policy and training within the first six months of becoming an employee or student at UAMS.** Employees should receive refresher training from the Office of Human Resources every **three** years.

PROCEDURE

A. Reporting Violations of this Policy

1. **MANDATORY EMPLOYEE DUTY TO REPORT:** To enable UAMS to respond effectively and to stop conduct that violates this policy, all UAMS employees **must**, within 24 hours of witnessing or receiving information about a violation of this policy, report it to a Title IX Coordinator regardless of whether an informal or formal complaint has been filed. Employees who are statutorily prohibited from reporting such information are exempt from these reporting requirements, including licensed health-care professionals. Any student, non-employee, or campus visitor/guest who has witnessed or received information about conduct that violates this policy is **strongly encouraged** to report it to a Title IX Coordinator.
2. **COMPLAINANTS:** A complainant who wishes to make an informal or formal complaint about an incident involving an employee must report the incident to either the Title Deputy Coordinator for Employees or his/her immediate supervisor or department head, who must

report it to the Title IX Deputy Coordinator. If the respondent is the employee's supervisor, the employee may contact someone outside his or her chain-of-command, who then must also report the incident to the Title IX Deputy Coordinator for Employees.

A complainant who wishes to make an informal or formal complaint about an incident involving a student must report the incident to the respective college's Title IX Deputy Coordinator.

Complainants who need to report violations of this policy after regular business hours should report the incident to the UAMS Police Department if the Title IX Deputy Coordinator is not available. The UAMS Police Department will take appropriate action and will notify the Title IX Deputy Coordinator for Employees and the Campus Title IX Coordinator at the beginning of the next business day.

3. **ANONYMOUS COMPLAINTS:** All members of the UAMS community may contact the Campus Title IX Coordinator, Title IX Deputy Coordinators, or the Office of Human Resources at any time to ask questions about sex discrimination, sexual harassment, sexual assault, sexual misconduct, sexual violence, stalking, gender-based harassment or retaliation or complaint procedures without disclosing their names and without filing a complaint. However, because of the inherent difficulty in investigating and resolving allegations from unknown persons, individuals are discouraged from making anonymous complaints. Although anonymous complaints are discouraged, UAMS will respond reasonably to all allegations. In order to determine the appropriate response to an anonymous allegation, UAMS will weigh the following factors:

- The source and nature of the information;
- The seriousness of the alleged incident;
- The specificity of the information;
- The objectivity and credibility of the source of the report;
- Whether any individuals can be identified who were subjected to the alleged incident; and
- Whether those individuals want to pursue the matter.

If, based on these factors, it is reasonable for UAMS to investigate the matter; the Office of Human Resources will conduct an investigation and recommend appropriate action to address substantiated allegations. However, a reasonable response would not include disciplinary action against a respondent if a complainant insists that his or her name not be revealed, if there is insufficient corroborating evidence, and if the respondent could not respond to the charges without knowing the name of the complainant.

4. **TITLE IX COORDINATORS:** Upon receiving a report of an alleged violation of this policy, the Title IX Deputy Coordinators must notify the Campus Title IX Coordinator. The Title Deputy Coordinators, in coordination with the Campus Title IX Coordinator, will evaluate the information received and determine what further actions should be taken. The Title IX Deputy Coordinators will follow the procedures described in this policy. The Title IX Deputy Coordinators will take steps, either directly with the complainant or through a

reporting individual, to provide information about this policy and its procedures, as well as available health and advocacy resources and options for criminal and civil reporting. A statement of the rights of the complainant and the respondent will be provided to the parties upon an allegation of a violation of this policy.

B. Informal Complaint Process

Before pursuing the formal complaint process, every reasonable effort should be made to constructively resolve issues with students, faculty members, staff members, or administrators. Whenever possible and safe, the complainant should discuss the problem or complaint with the respondent. If satisfactory resolution is not reached after discussion with the respondent, the complainant should contact the respondent's direct supervisor or college to resolve the complaint. If these efforts are unsuccessful, the formal complaint process may be initiated. UAMS does not require a complainant to contact the respondent or the respondent's supervisor or college if doing so is impracticable, or if the complainant believes that the conduct cannot be effectively addressed through informal means.

1. In the event that an individual believes that a violation of this policy has been or is occurring, he or she is encouraged, but not required, to maintain careful written records the violation and to continue to maintain current records throughout the process.
2. The complainant should consider meeting with their designated Title IX Deputy Coordinator to discuss the allegation. If the complainant cannot decide whether to initiate a formal complaint or is reluctant to discuss the matter with the respondent, he or she may seek the advice of their designated Title IX Deputy Coordinator who, along with the HR Director of Employee Relations or a designee, and with the complainant's permission, may seek to resolve the issue informally through discussions with the complainant, the respondent, and the respondent's supervisor or college. The Title IX Deputy Coordinator shall provide a written summary of the agreed upon informal resolution to the Campus Title IX Coordinator.

If the complainant does not wish to prepare a signed, written complaint, written documentation shall be prepared by the designated Title IX Deputy Coordinator with the assistance of the Director of Employee Relations, or a designee. Such written documentation shall include the nature of the complaint, the date(s) on which the alleged incident(s) occurred, and any witness(es) to the incident(s). The complainant shall be asked to read and sign the written documentation to acknowledge its accuracy; a written acknowledgment will be prepared and may be made in a separate document.

If the complainant refuses to sign the written documentation, the designated Title IX Deputy Coordinator shall note such on the documentation. The designated Title IX Deputy Coordinator, along with the Director of Employee Relations and the Campus Title IX Coordinator, will make a determination of whether the complaint will be investigated despite the complainant's refusal to acknowledge the written documentation.

Written documentation shall be prepared before any informal discussions are held with the respondent and the respondent's supervisor or college. The respondent shall be given an opportunity to read the written documentation that may be edited to protect the anonymity of the complainant and any other collateral witnesses to the process.

3. If the parties are unable to reach a mutually satisfactory agreement after an informal discussion, the option of filing a formal complaint is available.
4. The Informal Complaint Process may also include referral of either or both parties to confidential counseling through UAMS' Employee Assistance Program (EAP). This referral may be made by the designated Title IX Deputy Coordinator, the Director of Employee Relations, or the Campus Title IX Coordinator.
5. The complainant or the designated Title IX Deputy Coordinator may elect to refer the complaint to the Formal Complaint Process at any time as deemed necessary to resolve the complaint in an appropriate and timely manner.

C. Formal Complaint Process

1. When the Informal Complaint Process fails to resolve the complaint, or in instances where the designated Title IX Deputy Coordinator and the Office of Human Resources determines the nature of the allegations requires formal investigation, the Formal Complaint Process will be used. A preponderance of the evidence standard will be used to decide complaints (i.e., it is more likely than not that the allegation occurred). The designated Title IX Deputy Coordinator or a designee in the Office of Human Resources may assist the complainant in preparing his or her complaint, in writing, as necessary.
2. If the complainant wishes to file a formal complaint, he or she must submit a signed, written statement alleging violation of this policy to his or her designated Title IX Deputy Coordinator. The designated Title IX Deputy Coordinator will forward a copy of the statement to the HR Director of Employee Relations and to the Campus Title IX Coordinator. The written statement should include the name of the complainant, the name of the respondent, the nature of the complaint, date(s), witness(es), and any other information relevant to the complaint. If some of this information is not available, the reason(s) of unavailability, if known, should be documented. Upon receipt of the written complaint, the HR Director of Employee Relations will initiate an investigation of the complaint and appoint the investigators. The investigators will meet with the respondent and allow him or her to view the complaint and present a copy of this policy. The respondent will be given an opportunity to respond to the complaint orally and in writing, and may provide evidence and witnesses. The investigators will also explain that there is to be no contact with or retaliation against the complainant. If necessary, interim steps to protect the complainant prior to the final outcome of the investigation may also be taken. The investigators will gather relevant evidence by interviewing the complainant, the victim (if different from the complainant), the respondent, and any witnesses or other individuals deemed appropriate to conduct a thorough investigation. Every effort will be made to ensure an impartial, fair, thorough and timely investigation of the complaint. All parties

will be provided a written status update of the investigation after 30 days. Unless the complexity of the investigation and the severity and extent of the offense requires otherwise, or the allegation involves multiple incidents or multiple complainants, the investigation should be completed sixty (60) calendar days following receipt of the complaint.

3. Following completion of the investigation, the investigators will present their written findings to the Assistant Vice Chancellor of Human Resources and to the Campus Title IX Coordinator. The Assistant Vice Chancellor of Human Resources will prepare a written report, containing a recommended course of action for the complainant's Division Head or Dean (as applicable) and may provide further consultation when necessary. A copy of the report shall be given to the Campus Title IX Coordinator. It is the responsibility of the Division Head or Dean to take action consistent with the written findings. Once a final determination is made by the appropriate Division Head or Dean, both the complainant and the respondent will be notified in writing of the outcome of the complaint, including whether the campus determined that sexual harassment or violence occurred, and in accordance, with federal and state privacy laws, the sanction imposed against a student, employee or third party.
4. The complainant or respondent may appeal a finding, pursuant to the timeframe in the applicable grievance procedure, of whether or not a violation of this policy has occurred. The respondent may also appeal sanctions imposed as a result of a policy violation. All appeals shall be made through the campus grievance procedures (See *Grievance Procedure for Alleged Discrimination, Academic Affairs Policy Number 2.400* and *Employee Grievance Procedure, Administrative Guide Policy Number 4.4.16*). Both parties will be notified concurrently in writing of the outcome of any appeal.
5. Pursuant to FERPA (Family and Educational Rights to Privacy Act), the Clery Act, and VAWA (Violence Against Women Act), student disciplinary records will remain confidential unless the accused consents to release of information, or the sanction impacts the complainant, or there is an allegation of a sex offense, including sexual violence.

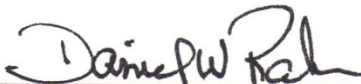
RECORD KEEPING

Each complaint should be documented and kept in a confidential file separate from the personnel or student files normally maintained by the Office of Human Resources or college's Associate Dean. Documentation should include the name of the complainant, the name of the accused, the nature of the complaint, date(s), witnesses, the name(s) of the person(s) who received the complaint, the name(s) of the person(s) who prepared the written documentation and the date of the written documentation, and any other information relevant to the case. If some of this information is not available, the reason(s) for unavailability, if known, should be documented. Such file will be maintained as provided by law.

Questions regarding this policy may be directed to the Title Campus IX Coordinator or Office of Human Resources at (501) 686-5650.

REFERENCES

Title IX of the Education Amendments of 1972, as amended
Title VII of the Civil Rights Act, as amended
Clery Act, as amended
Campus SaVE Act, as amended
Violence Against Women Act (VAWA), as amended
Family and Educational Rights to Privacy Act, as amended
Academic Affairs Policy 2.400, Grievance Procedure for Alleged Discrimination
Administrative Guide Policy 4.4.16, Employee Grievance Procedure

Signature: 

Date: **April 16, 2014**