

UA System-Cammack Campus
Policy for Discrimination, Harassment, Retaliation
and Sexual Misconduct Complaints

POLICY STATEMENT

The University of Arkansas System-Cammack Campus (“Cammack Campus”) is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based upon race, color, religion, national origin, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, pregnancy, physical or mental disability, gender identity, sexual orientation or genetic information. Such an environment is necessary to a healthy learning, working, and living atmosphere. Accordingly, all acts of discrimination, harassment, retaliation and sexual misconduct as defined by this Policy are prohibited.

JURISDICTION

The Cammack Campus, through its Title IX/EEO office, is responsible for the administration and enforcement of its policies related to nondiscrimination, retaliation and sexual misconduct and for assuring the University’s compliance with applicable laws, including: Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Americans with Disabilities Act (ADA) of 1990 and as amended by ADA Amendments Act of 2008; the Rehabilitation Act of 1973; the Vietnam Era Readjustment Assistance Act; and the Genetic Information Nondiscrimination Act of 2008. These Procedures are intended to comply with the above laws, as well as other applicable federal, state, and local anti-discrimination laws.

Consistent with federal, state and local law, and University policies related to non-discrimination, the Cammack Campus EEO/Title IX Office takes prompt and equitable action in response to reports of:

- Discrimination and harassment on the basis of race, color, national origin, age, religion, disability, sex, sexual orientation, gender identity, gender expression, marital status, pregnancy, veteran status, or genetic information;
- Sexual and gender-based harassment, sexual violence, relationship violence, and stalking;
- Failure to provide reasonable accommodations for disability and religion; and
- Retaliation against any individual or group of individuals involved in an investigation and/or resolution of a report under these Procedures.

All Complaints or any concerns about conduct involving non-eVersity¹ Cammack Campus employees, including all System employees whose primary offices are located on other

¹ eVersity employees and students should follow the policies and procedures set out in eVersity handbooks and publications.

campuses, or students or occurring on Cammack Campus that may violate this Policy should be submitted to the Title IX/EEO Coordinator:

Kim Bradford (Title IX Coordinator)
Director of Institutional Assurance
University of Arkansas System eVersity
2402 N. University Avenue
Little Rock, AR 72207
Direct line 501-371-1290

Charlene Brown, PHR, SHRM-CP (EEO Coordinator)
UA System Administration Building
2404 North University Avenue
Little Rock, AR 72207-3608
(501) number 501-686-2942

SCOPE

This policy applies to any student, applicant for admission, employee, applicant for employment, affiliate, subcontractor, on-site contractual staff, agency employee, third party or community member, visitors to campus and others participating in campus programs or receiving campus services.

NOTICE OF NON-DISCRIMINATION AND COMPLIANCE WITH TITLE IX

Pursuant to Title IX of the Education Amendments of 1972, the University of Arkansas (and Cammack Campus) does not discriminate on the basis of sex in its educational, extracurricular, athletic, or other programs or in the context of employment. Title IX protects Cammack Campus employees and students in connection with all academic, educational, extracurricular, athletic and other University programs, whether those programs take place on University property, in University transportation, at a class or training program sponsored by the UA System at another location or elsewhere. This Policy shall not be construed or applied to restrict academic freedom at the UA System, nor shall it be construed to restrict constitutionally protected expression.

Complaints of Title IX violations should be made to the EEO/Title IX Coordinator as listed above. In addition, contact information for the US Department of Education, Office of Civil Rights, is as follows:

United States Department of Education
Office of Civil Rights
800-421-3481
ocr@ed.gov

FILING REPORT WITH LOCAL LAW ENFORCEMENT

In some instances, sexual misconduct may constitute both a violation of Cammack Campus Policy and criminal activity. The Cammack Campus grievance process is not a substitute for instituting legal action. **The Cammack Campus encourages individuals to report alleged sexual misconduct promptly to campus officials AND to law enforcement authorities,**

where appropriate. Individuals may file a report directly with local law enforcement agencies by dialing 911. Individuals may also contact any of the following for assistance in filing a report with local law enforcement:

Little Rock Police Department
(501) 371-4829 or (501) 371-4830
asklrpd@littlerock.org

PRESERVING EVIDENCE

It is important that evidence of sexual assault be preserved, because it may be needed for prosecuting the criminal case. Victims and others should not alter the scene of the attack. The victim should not change clothes, bathe or shower, drink or eat anything, or brush her/his teeth before reporting the assault. Any items worn by the victim during the assault, but are not currently being worn, and any materials encountered during the assault (i.e., bed sheets, blankets, etc.) should be placed in a paper bag and brought along with the victim to a local hospital emergency department that has kits to collect and preserve evidence of rape and sexual assault.

STUDENT AND VISITOR RESPONSIBILITY TO REPORT

Students and visitors to the Cammack Campus are strongly encouraged to report allegations of discrimination, harassment, retaliation and sexual misconduct to the Title IX/EEO Coordinator. A report should be made as soon as possible after the incident in order to facilitate an effective response. The longer a report is delayed, the more difficult it will be for the Cammack Campus to investigate. Reports may be made by the person experiencing the misconduct or by a third party, such as a witness or someone who is told of the misconduct.

MANDATORY EMPLOYEE REPORTING

In order to enable the Cammack Campus to respond effectively and to proactively stop instances of discrimination, harassment, retaliation and sexual misconduct at the Cammack Campus, all employees must, within 24 hours of receiving information regarding a potential violation of this Policy, report information to the Title IX/EEO Coordinator. Only employees who are statutorily prohibited from reporting such information (e.g., licensed health-care professionals) are exempt from these reporting requirements. This Policy is not intended to restrict curriculum or prohibit or abridge the use of particular textbooks or curricular materials.

OFF-CAMPUS CONDUCT

Conduct that occurs off campus can be the subject of a Complaint or report and will be evaluated to determine whether it violates this Policy. Allegations of off-campus sexual misconduct should be brought to the Cammack Campus's attention.

CONFIDENTIALITY

Subject to the other provisions of this Policy and the requirements of law, every possible effort will be made to ensure that all information received as part of the Cammack Campus's Complaint/Grievance Procedure is treated discreetly. All parties to the Complaint are required to

maintain the confidentiality of all information received during this process. However, it is not possible to guarantee that all Complaints will remain confidential because of the Cammack Campus's obligation to investigate allegations of misconduct. All requests to maintain confidentiality shall be directed to the Title IX/EEO Coordinator who has the authority to make such determinations.

Except as compelled by law or in the interest of fairness, just resolution or health and safety considerations, disclosure of information contained in Complaints, their substance, procedures and the results of investigations will be limited to the immediate parties, witnesses and other appropriate officials. Limited disclosure may also be necessary to conduct a full and impartial investigation.

AVAILABILITY OF COUNSELING AND ADVOCACY

Counseling and other mental health services for victims of sexual assault are available in the community. Some of the services available are:

RAPE CRISIS HOTLINE | 501-801-2700
SEXUAL ASSAULT CENTER (24 HOUR HOTLINE) | 501-801-2700
PROSECUTOR'S VICTIM ASSISTANCE PROGRAM | 501-340-8000
ARKANSAS VICTIM NOTIFICATION PROGRAM (VINE) | 1-800-510-0415
ARKANSAS COALITION AGAINST SEXUAL ASSAULT (ACASA) | 501-246-3276

EDUCATION AND AWARENESS PROGRAMS

The Cammack Campus's Title IX/EEO Coordinator is responsible for planning and coordinating campus education and awareness programs about all forms of sexual assault, including rape, acquaintance rape, domestic violence, dating violence, and other sex offenses. Programs and updates are provided throughout the year to employees.

POLICY EXPECTATIONS WITH RESPECT TO CONSENSUAL RELATIONSHIPS

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student or supervisor and subordinate employee). These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later charge of a violation of Policy.

The Cammack Campus does not wish to interfere with private choices regarding personal relationships when those relationships do not interfere with the goals and policies of the Cammack Campus. However, for the personal protection of members of this community, relationships in which power differentials are inherent (supervisor and subordinate employee) are prohibited except in extraordinary circumstances.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Therefore, persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisors. This will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or will shift the student or employee out of being supervised or evaluated by someone with whom he or she has established a consensual relationship. Failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee, up to and including termination.

COMPLAINT/GRIEVANCE PROCEDURE

These procedures are intended to apply to all grievances involving discrimination, harassment, retaliation and sexual misconduct as described in this Policy, including but not limited to those brought by a Cammack Campus employee against a fellow Cammack Campus employee, a third party against a Cammack Campus employee and/or a student against a Cammack Campus employee. All complaints against a student, faculty or staff member who attends and/or is employed by another Cammack Campus institution is governed by the institutional policy for which the student attends and/or the faculty or staff member is employed. Additionally, all other grievances or complaints by students, employees or third parties against Cammack Campus employees shall be addressed through other grievance procedures. The Cammack Campus benefits from formal and informal procedures that encourage prompt resolution of Complaints and concerns raised by members of the Cammack Campus community.

INFORMAL COMPLAINT PROCESS

The Cammack Campus does not require a Complainant to utilize the Informal Complaint Process if doing so is impracticable or unsafe, or if the Complainant believes that the conduct cannot be effectively addressed through informal means. For example, the Informal Complaint Process should not be used to address allegations of sexual assault. However, in other circumstances where it is practical and safe to do so, every reasonable effort should be made to constructively resolve issues with students, faculty, staff and administrators before pursuing the Formal Complaint Process.

Under the Informal Complaint Process, a Complainant may elect to resolve his/her Complaint by discussing it with the offending party. If the offending party is an employee and satisfactory resolution cannot be reached after discussion, the Complainant may also contact the individual's direct supervisor to resolve the Complaint. If these efforts are unsuccessful or impractical, the Formal Complaint Process may be initiated.

FORMAL COMPLAINT PROCESS

Upon receiving a report of alleged or possible violation of this Policy, the Title IX/EEO Coordinator will evaluate the information received and determine what further actions should be taken. The Title IX/EEO Coordinator will follow the procedures described in this Policy. The

Title IX/EEO Coordinator will take steps, either directly with the complainant or through a reporting employee, to provide information about the Cammack Campus's Complaint/Grievance Procedure, as well as available health and advocacy resources and options for criminal reporting.

INVESTIGATION

The Title IX/EEO Coordinator and investigator will be responsible for overseeing the prompt, fair, and impartial investigation and resolution of Complaints filed with the Cammack Campus, and will recommend any accommodations or other remedial short-term actions necessary in light of the individual circumstances presented.

The Title IX/EEO Coordinator or investigator will apprise the head of the appropriate division or department of the Complaint.

The investigator, who will have been properly trained, will:

- Identify the correct policies allegedly violated;
- Conduct an immediate initial investigation to determine if there is reasonable cause to charge the Respondent(s);
- Meet with the Complainant to finalize the Complaint
- Prepare the notice of charges on the basis of initial investigation;
- Develop a strategic investigation plan which may include a witness list, an evidence list, an intended timeframe, and an order of interviews for all witnesses, including the Respondent;
- Conduct a thorough, reliable and impartial investigation during which witnesses may or may not be given notice prior to the interview;
- Complete the investigation promptly, and without unreasonable deviation from the intended timeline;
- Make a written finding on the case, based on a preponderance of the evidence, which indicates that it is more likely than not that a Policy violation has or has not occurred, and identifies appropriate remedies and/or sanctions, if any; and
- Prepare a complete report on the investigation and findings.

As noted above, an investigation of the Complaint will be conducted by the Title IX/EEO Coordinator unless it is clear from the face of the Complaint or the Title IX/EEO Coordinator's initial meetings with the parties that no reasonable grounds exist for believing that the conduct at issue violates this Policy.

In the event that the Complaint was made by someone other than the alleged victim, the Title IX/EEO Coordinator will consider the following factors in determining whether it is reasonable to investigate the Complaint:

- 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 information,
- Whether the alleged victims can be identified, and
- Whether those individuals wish to pursue the matter.

In the event that the Title IX Coordinator determines that an investigation of the Complaint should not be conducted, he/she will determine and document (in consultation, as necessary, with the alleged victim, the Respondent and any other Cammack Campus administrators) the appropriate resolution of the Complaint and inform the parties of the same.

With all Complaints, if the Title IX/EEO Coordinator determines that an investigation should be conducted, the Title IX/EEO Coordinator will promptly investigate the matter. The existence of concurrent criminal investigations or proceedings shall not delay the investigation of any Complaint filed under this Policy.

If another individual is designated to investigate the matter, the Title IX/EEO Coordinator will share the investigator's name and contact information with the alleged victim and the Respondent and will forward the Complaint to the investigator. Within three (3) days of such appointment, the investigator, the alleged victim or the Respondent may identify to the Title IX/EEO Coordinator in writing any real or perceived conflicts of interest posed by assigning such investigator to the matter. The Title IX/EEO Coordinator will carefully consider such statements and will assign a different individual as investigator if it is determined that a material conflict of interest exists.

Upon receipt of the Complaint, the Title IX/EEO Coordinator will promptly begin the investigation, which shall include but is not limited to the following:

- Conducting interviews with the Complainant, the alleged victim (if not the Complainant), the Respondent, and third-party witnesses (including expert witnesses, where applicable) and summarizing such interviews in written form;
- Visiting, inspecting, and taking photographs at relevant sites; and
- Where applicable, collecting and preserving relevant evidence (in cases of corresponding criminal reports, this step may be coordinated with law enforcement agencies).

Throughout the investigation, the Title IX/EEO Coordinator will remain neutral. The Title IX/EEO Coordinator should obtain, where applicable and where possible, the written consent of any third-party witnesses to the disclosure, as contemplated by this Policy, of any personally identifiable information contained in the Complaint, the Investigative Report, and for any other documents the disclosure of which is contemplated by this Policy in order to further the resolution of the Complaints.

Initial Meeting with Complainant and/or Alleged Victim. As soon as is practicable, the Title IX/EEO Coordinator will contact the Complainant and the alleged victim (if not the Complainant) to schedule an initial meeting to, as applicable:

- Provide a copy of this Policy;
- Provide a copy of the Discrimination, Harassment and Sexual Misconduct Complaint Form (a copy of which is attached as Exhibit A) on which the Complainant may, if he or she agrees to disclose the information, provide details regarding the allegation, including the name of the accused individual and the date, location and general nature of the alleged violation of Policy (the Complaint Form may be completed by Complainant or dictated to the Title IX/EEO Coordinator, who will confirm the accuracy of his or her documentation with the Complainant);
- Explain avenues for resolution;
- Explain the steps involved in an investigation under this Policy;
- Discuss confidentiality standards and concerns;
- Determine whether the Complainant or the alleged victim (if not the Complainant) wish to pursue a resolution through the Cammack Campus's or no resolution of any kind;
- Refer to law enforcement, counseling, medical, academic or other resources, as appropriate; and
- Discuss, as appropriate, possible interim measures that can be provided during the pendency of the investigative and resolution processes.

Interim Measures. Unless circumstances dictate otherwise, the Title IX/EEO Coordinator will promptly issue a "No Contact" order to all parties upon notice of any sexual assault Complaint. In all cases, the Cammack Campus may implement any necessary interim measures, deemed appropriate and reasonably available, regardless of whether a Complaint has been filed (with either campus administrators or law enforcement agencies) or whether an investigation has commenced (by either campus administrators or law enforcement agencies). Interim measures may include, but are not limited to:

- Issuing no-contact orders;
- Providing an escort to ensure that an individual can move safely between work and/or activities;
- Changing work duties, arrangements or location;
- Providing information about counseling services; and
- Providing academic support services.

Following the initial meeting with the Complainant and the alleged victim (if not the Complainant), the Title IX/EEO Coordinator will, if applicable, promptly determine the interim measures to be provided to the alleged victim. Such determination will be promptly communicated to the alleged victim, and no later than the point at which it is communicated to the Respondent.

Initial Meeting with Respondent. If the Complainant or alleged victim (if not the Complainant) wishes to pursue resolution through the Cammack Campus or if the Cammack Campus otherwise deems that a further investigation is warranted, as soon as is reasonably practicable after the Title IX/EEO Coordinator's initial meeting with the Complainant (and, if applicable, the alleged victim), the Title IX/EEO Coordinator will schedule an initial meeting with the Respondent. During the initial meeting with the Respondent, the investigator will, as applicable:

- Provide sufficient written information, consistent with privacy laws and any request for confidentiality, to allow Respondent to address the allegation (e.g., the name of the Complainant/alleged victim, the date, location, nature of the alleged violation of Policy, etc.);
- Provide a copy of this Policy;
- Explain the Cammack Campus's procedures for resolution of the Complaint;
- Explain the steps involved in an investigation under this Policy;
- Discuss confidentiality standards and concerns;
- Discuss non-retaliation requirements;
- Inform of any interim measures already determined and being provided to the Complainant and/or the alleged victim that would directly affect the Respondent;
- Refer to law enforcement, counseling, medical, academic or other resources, as appropriate; and
- Discuss, as appropriate, possible interim measures that can be provided to the Respondent during the pendency of the investigative and resolution processes.

Investigative Report. The Title IX/EEO Coordinator shall complete a written investigative report ("Investigative Report") that shall include the following items:

- The name and sex of the alleged victim, and, if different, the name and sex of the person reporting the allegation (it should also include any other relevant protected class characteristics if the Complaint involves a violation of this Policy based on a protected status other than gender);
- A statement of the allegation, a description of the incident(s), and the date(s) and time(s) (if known) of the alleged incident(s);
- The date that the Complaint or other report was made;
- The date the Complainant and alleged victim (if not the Complainant) were interviewed;
- The date the Respondent was interviewed;
- The names and sex of all persons alleged to have committed the alleged violation of this Policy (it should also include any other relevant protected status characteristics if the Complaint involves a violation of this Policy based on a protected status other than gender);
- The names and sex of all known witnesses to the alleged incident(s);

- The dates that any relevant documentary evidence (including cell phone and other records as appropriate) was obtained;
- Any written statements of the Complainant (or victim, if different from the Complainant), the Respondent and any witnesses;
- Summaries of all interviews conducted, photographs, and descriptions of relevant evidence, summaries of relevant electronic records, and a detailed report of the events in question;
- A written finding on the case, based on a preponderance of the evidence which indicates whether or not it is more likely than not that a Policy violation has occurred;
- The policy or policies violated and, in consultation, as necessary, with the Complainant, alleged victim (if different than the Complainant), Respondent, and other Cammack Campus officials, any remedial and/or disciplinary action deemed appropriate under the circumstances;
- The response of Cammack Campus personnel, including any interim measures and permanent steps taken with respect to the Complainant, alleged victim (if different than the Complainant) and the Respondent; and
- A narrative of all action taken to prevent recurrence of any harassing incident(s), including any written documentation.

If the Title IX/EEO Coordinator is unable to obtain the consent of third-party witnesses, he or she will redact the Investigative Report to the extent necessary to avoid inappropriate disclosure of such witness's personally identifiable information, while ensuring that such redaction does not prevent resolution of the Complaint.

If the Title IX/EEO Coordinator determines and documents, based on the investigation, that reasonable grounds exist to believe that the conduct at issue constitutes a violation of this Policy, the Title IX/EEO Coordinator will recommend a remedy and/or sanction to be imposed by the appropriate supervisor and will include the recommended remedy and/or sanction in the Investigative Report. Imposition of the appropriate remedy and/or sanction will be imposed only after all appeals have been exhausted.

In determining the appropriate remedy and/or sanction, the Cammack Campus will act to end the discrimination, harassment, retaliation or sexual misconduct, prevent its recurrence and remedy its effects on the victim and/or the Cammack Campus community. Sanctions will depend upon the nature and gravity of the misconduct, any record of prior discipline for a violation of this Policy, or both. Sanctions may include, without limitation, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, disciplinary probation, mandated counseling and/or training as deemed appropriate.

In the context of student-on- student and employee-on-student matters governed by Title IX, the Title IX coordinator shall complete and distribute the Investigative Report, the Title IX/EEO Coordinator shall complete and distribute the Investigative Report, concurrently, to the alleged

victim and Respondent within thirty (30) calendar days following receipt of a Complaint. All parties to whom the Investigative Report is distributed pursuant to this Policy should maintain it in confidence. The Investigative Report may only be disclosed as contemplated by this Policy. On all employee-on-employee matters subject to Title VII or other anti-discrimination statutes or policies, the EEO Coordinator shall complete the investigation and distribute a summary report to the alleged victim and respondent stating whether there is a finding of policy violation. To the extent any portion of the report is considered a job evaluation record that portion shall only be provided to the employee being evaluated.

If the Title IX/EEO Coordinator finds no reasonable grounds to believe that the conduct at issue constitutes a violation of this Policy, then the Title IX/EEO Coordinator will determine and document the appropriate resolution of the Complaint in the Investigative Report and will promptly notify the parties of that determination.

APPEAL

All appeals where the Respondent is a Cammack Campus employee shall be made to the Cammack Campus President or his/her designee. Both the alleged victim and the Respondent may appeal any or all of the Title IX/EEO Coordinator's decision in writing to the President or his/her designee within ten (10) days of receipt of the Investigative Report. The appealing party must also provide a copy of the appeal to the Title IX/EEO Coordinator within the same time period. The appeal should include a brief statement describing any or all parts of the Investigative Report that is being appealed and the reason for the appeal. Acceptable means of notification include email, facsimile, hand delivered notification or postal delivery. The Title IX/EEO Coordinator will promptly inform the other party of the appeal.

Within thirty (30) days of receipt of the appeal, the President or his/her designee will make a final determination as to whether the Complaint should be closed, whether a violation of Policy has occurred, and/or whether any additional or different remedial action or sanctions are warranted. The President or his/her designee will concurrently notify the alleged victim and the Respondent of his/her decision.

Nothing in this Policy shall create an expectation of continued employment with the Cammack Campus or be construed to prevent or delay the Cammack Campus from taking any disciplinary action deemed appropriate (including suspension and immediate termination of employment) for any violation of state law, federal law or policies which govern the Cammack Campus.

TIME PERIODS

The Cammack Campus will make every reasonable effort to ensure that the investigation and resolution of a Complaint occurs in as timely and efficient a manner as possible. The Cammack Campus's investigation and resolution of a Complaint (including an appeal, if applicable) will generally be completed within 60 calendar days of the receipt of the Complaint, absent extenuating circumstances.

Any party may request an extension of any deadline by providing the Title IX/EEO Coordinator with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Title IX/EEO Coordinator may also modify any deadlines contained in this Policy as necessary and for good cause.

For purposes of calculating all time periods set forth in this Complaint and Grievance Policy, a business day is defined to mean normal operating hours, excluding recognized national and state holidays and Cammack Campus office closings.

ACKNOWLEDGEMENT OF RESPONSIBILITY

At any time prior to the issuance of the Investigative Report, the Respondent may elect to acknowledge his/her actions and take responsibility for the alleged policy violation. In such situations, the Title IX/EEO Coordinator will propose sanctions. If either party objects to the proposed sanction(s), they may appeal the sanction pursuant to this Policy.

NO RETALIATION

Retaliation against any person who files a Complaint, participates in an investigation, or opposes a discriminatory employment or educational practice or policy is prohibited. A person who believes retaliation has occurred should notify the Title IX/EEO Coordinator as soon as possible.

FALSE REPORTS

Willfully making a false report of any type of discrimination, harassment, retaliation, or sexual misconduct is prohibited by University policy is a violation of Cammack Campus policy and is a serious offense. Any person who willfully makes or participates in making a false or frivolous report of discrimination, harassment, retaliation or sexual misconduct will be subject to disciplinary action. False reporting may also violate state criminal statutes and civil defamation laws.

OFFICE OF CIVIL RIGHTS COMPLAINT

Although Complainants are encouraged to resolve their grievances related to discrimination by utilizing this Complaint/Grievance Procedure, they have the right to file a complaint directly with the U.S. Department of Education, Office for Civil Rights (OCR). Information regarding applicable timelines and procedures is available from OCR. You may call 1-800-421-3481 to obtain further information about filing a complaint with OCR.

EFFECTIVE DATE

The Cammack Campus reserves the right to make changes and amendments to this Policy as needed, with appropriate notice to the community. However, the Policy in force at the time that a Complaint is filed will be the Policy used throughout the investigation, hearing and any appeals that are heard.

DOCUMENTATION

The Cammack Campus will retain documentation (including but not limited to the written Complaint, notifications, the Investigative Report, any written findings of fact, petitions for appeal, and any written communication between the parties), for at least three (3) years. Documentation pertaining to suspensions or terminations of employment may be retained indefinitely.

DEFINITION OF TERMS

Complainant: Any party who makes a Complaint against a student, employee, staff member or campus visitor.

Consent: Consent is a clear, knowing and voluntary decision to engage in sexual activity.

Because consent is voluntary, it is given without coercion, force, threats, or intimidation. It is given with positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will.

Consent is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions consist of an affirmative, unambiguous, conscious decision by each participant to engage in mutually agreed-upon sexual activity.

Consent is revocable, meaning consent can be withdrawn at any time. Thus, consent must be ongoing throughout a sexual encounter. Once consent has been revoked, sexual activity must stop immediately.

Consent can be limited, meaning consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity. Use of alcohol or other drugs will never function as a defense to a violation of this Policy. Further, previous relationships or prior consent cannot imply consent to future sexual acts.

Consent cannot be given when a person is incapacitated, such as when a person is physically or mentally unable to make informed, rational judgments, or lacks the ability to understand the “who, what, when, where and how” related to the sexual activity. States of incapacitation include, but are not limited to, unconsciousness and sleep. Where alcohol or drugs are involved, incapacitation is determined by how the alcohol or other drugs have impacted a person’s decision-making capacity, awareness of consequences, and/or ability to make fully informed judgments.

In sum:

1. Silence does not equal consent.
2. Lack of verbal resistance does not constitute consent.
3. Lack of physical resistance does not constitute consent.
4. There is no consent when there is force, coercion, intimidation, threats or duress.
5. Consent may be withdrawn at any time, and sexual activity must cease when consent is withdrawn unless or until additional consent is given.
6. Consent to one form of sexual activity does not indicate consent to another form of sexual activity.
7. A prior sexual relationship does not indicate current or future consent.
8. Minors cannot give consent.
9. Physically or mentally incapacitated persons cannot give consent.
10. Consent may be determined by whether the accused knew, or a reasonable person should have known, that the alleged victim was incapacitated.

Dating violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the alleged victim. It includes any unwelcome physical violence such as hitting, pulling, shoving, kicking, biting or throwing things; and sexual assault, sexual exploitation and sexual harassment.

Discrimination (general definition): Conduct that is based upon an individual's race, color, religion, national origin, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, pregnancy, physical or mental disability or genetic information that excludes an individual from participation, denies the individual benefits of, treats the individual differently or otherwise adversely affects a term or condition of an individual's employment, education, living environment or participation in a Cammack Campus program or activity. This includes failing to provide reasonable accommodation, consistent with state and federal law, to persons with disabilities.

Discriminatory Harassment: Detrimental action based on an individual's race, color, religion, national origin, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, pregnancy, physical or mental disability or genetic information. Harassing conduct may take various forms, including name-calling, graphic or written statements (including the use of cell phones or the Internet), or other conduct that may be physically threatening, harmful, or humiliating. Harassment does not have to include intent to harm, be directed at a specific target or involve repeated incidents. Gender-based harassment includes sexual harassment.

Domestic Violence: Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; or any sexual conduct between family or household members, whether minors or adults, that constitutes a crime under the laws of this state. Family or household members means spouses, former spouses, parents and children, persons related by blood within the fourth degree of consanguinity, any children residing in the household, persons who presently or in the past have resided or cohabitated together, persons who have or have had a child in common, and persons

who are presently or in the past have been in a dating relationship together. See also, Arkansas Code Annotated § 9-15-103 – “Domestic Abuse”).

Hostile Environment: A hostile environment exists when there is harassing conduct based on race, color, religion, national origin, service in the uniformed services (as defined in state and federal law), veteran status, sex, age, pregnancy, physical or mental disability or genetic information that is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive to deny or limit a person’s ability to participate in or benefit from Cammack Campus’s programs, services, opportunities or activities; or when such conduct has the purpose or effect of unreasonably interfering with an individual’s employment. Harassment that creates a hostile environment (“hostile environment harassment”) violates this Policy.

Non-Consensual Sexual Contact: Any intentional sexual touching, however slight, with any object by a male or female upon a male or female that is without consent and/or by force. Sexual Contact includes intentional contact with the breasts, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; any intentional bodily contact in a sexual manner, though not involving contact with/of/by breasts, buttocks, groin, genitals, mouth or other orifice.

Non-Consensual Sexual Intercourse: Any sexual intercourse however slight, by a male or female upon a male or a female that is without consent and/or by force. Intercourse includes vaginal penetration by a penis, object, tongue or finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth to genital contact or genital to mouth contact), no matter how slight the penetration or contact.

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

Retaliation: Action taken by an accused individual or 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 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.

Sexual Assault: An actual or attempted sexual contact with another person without that person’s consent. Sexual assault includes, but is not limited to involvement in any sexual contact when the victim is unable to consent; intentional and unwelcome touching of, or coercing, forcing, or attempting to coerce or force another to touch a person’s intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast); and sexual intercourse without consent, including acts commonly referred to as “rape.”

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 other sexual misconduct offenses. Examples of behavior that could rise to the level of sexual exploitation include, but are not limited to:

- Invading sexual privacy;
- Prostituting another person;
- Non-consensual video or audio-taping of sexual activity;
- Going beyond the boundaries of consent (e.g., allowing others to watch consensual sex without that party's knowledge or consent);
- Engaging in voyeurism;
- Non-consensual distribution of photos, other images, or information of an individual's sexual activity, intimate body parts, or nakedness, with the intent to or having the effect of embarrassing an individual who is the subject of such images or information;
- Knowingly transmitting an STI, such as HIV, to another without disclosing your STI status;
- Exposing one's genitals in non-consensual circumstances or inducing another to expose his or her genitals; or
- Possessing, distributing, viewing or forcing others to view illegal pornography.

Sexually-based stalking and/or bullying may also be forms of sexual exploitation.

Sexual Harassment: Unwelcome, gender-based spoken, written or symbolic action or physical conduct that is sufficiently severe, persistent or pervasive that it has the effect of unreasonably interfering with, limiting or denying someone the ability to participate in or benefit from Cammack Campus programs, activities or employment. The unwelcome behavior may be based on power differentials, the creation of a hostile environment or retaliation.

For the purpose of this Policy, sexual harassment includes stalking or 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. Sexual harassment also includes quid pro quo sexual harassment which exists when there are unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature and submission to or rejection of such conduct results in adverse educational or employment action.

Not all workplace or educational conduct that may be described as "harassment" affects the terms, conditions or privileges of employment or education. For example, a mere utterance of an ethnic, gender-based or racial epithet which creates offensive feelings in an employee or student would not normally affect the terms and conditions of their employment or limit a student's

ability to participate in or benefit from the Cammack Campus's educational programs or activities.

Sexual Misconduct: Includes sexual assault, inducing incapacitation for sexual purposes, sexual exploitation and dating and domestic violence.

Stalking: Stalking occurs when a person engages in a course of conduct or repeatedly commits acts, displays or communications toward another person under circumstances that demonstrate either of the following: Placing the person in reasonable fear for one's safety; or Reasonably causing substantial injury or emotional distress to the person.

Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used to pursue, harass, or make unwelcome contact with another person in an unsolicited fashion.

Prohibited stalking may take the form of (but is not limited to) intentionally following another person; attempting to contact a person through telephone, emails, text messages, or social media; extortion of money or valuables; repeated oral or written threats; or unwelcome/unsolicited communications about a person, their family, friends, and/or coworkers.

Status: Any employee of the Cammack Campus will be considered an "employee" for the purposes of this Policy, regardless of whether he/she is working less than full-time. Any student who is a part-time employee will be considered a "student" for the purposes of this Policy unless the incident under consideration occurred in connection with his/her employment.

Exhibit A

**UA SYSTEM (CAMMACK CAMPUS)
DISCRIMINATION, RETALIATION AND SEXUAL MISCONDUCT POLICY AND
PROCEDURES
COMPLAINT FORM**

Today's date: _____

INFORMATION REGARDING THE COMPLAINANT:

Name of the Complainant:

Complainant's Phone Number:

The Complainant is (please check one):

a faculty member a student a staff member not affiliated with UA
System

For faculty, staff and students, indicate whether: current or former

**INFORMATION REGARDING THE VICTIM (IF HE OR SHE IS NOT THE
COMPLAINANT):**

Name of the victim:

The victim is (please check one):

a faculty member a student a staff member not affiliated with
Cammack Campus

For faculty, staff and students, indicate whether: current or former

INFORMATION REGARDING THE RESPONDENT:

Name of the Respondent:

The Respondent is (please check one):

a faculty member a student a staff member not affiliated with
Cammack Campus

For faculty, staff and students, indicate whether: current or former

INFORMATION REGARDING THE ALLEGED POLICY VIOLATION:

Alleged policy violation(s):

discrimination harassment retaliation sexual misconduct

If discrimination/harassment, please check all that apply:

race color religion national origin military service/veteran
status

sex age pregnancy disability gender identity genetic information

**If retaliation, please state the activity you engaged in that resulted in the alleged
retaliation:**

Time and date of each alleged policy violation:

Location of alleged policy violations:

Witnesses or third parties who may have information regarding the alleged policy violation(s):

Please provide a brief description of the alleged policy violation(s):

You may wish to consider including, among other things, some or all the following information in your description: the gender of the parties, the relationship between the parties, whether one or more of the parties were under the influence of alcohol or drugs at the time of the alleged policy violation, whether the Respondent used pressure or force (physical or otherwise) in the course of any alleged sexual misconduct, and the frequency (if applicable) of the alleged policy violation.
