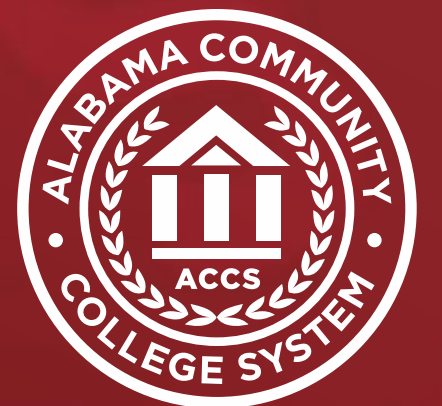


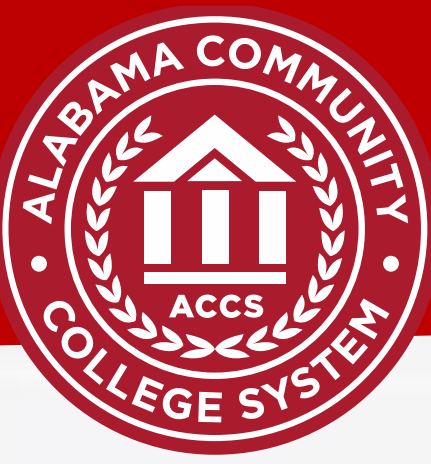
Title IX Investigator Training

Spring 2025

REAL. *Life.* **EDUCATION.**

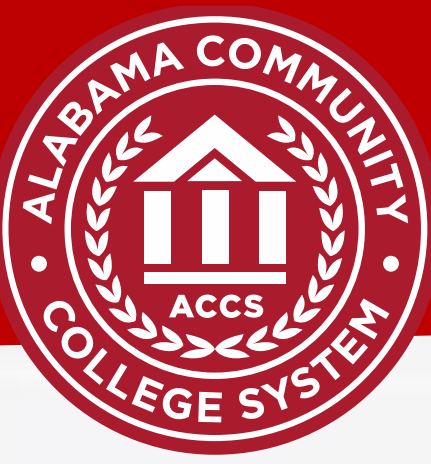


TRAINING AGENDA



- Title IX Law & Current Regulations
- Process & Definitions
- Conflicts of Interest/Bias
- Documentation
- Advisors
- Investigator Pre-Interview Statements
- Conducting the Title IX Investigation
- Privacy vs. Confidentiality
- Recordkeeping
- Retaliation
- Case Studies
- Resources

HOUSEKEEPING ISSUES



- **This presentation refers to topics of high sensitivity, and case studies will include detailed examples of sexual misconduct.**
- **There is an obligation to conduct Title IX matters free from bias and unlawful discrimination. That includes this training.**

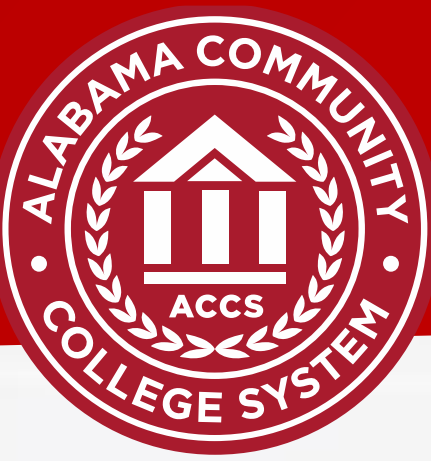
TITLE IX



Title IX is a federal civil rights law that states “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance”.

- Covers not only equity in athletic programming, but all forms of discrimination based on sex.
- Protects students and employees.
- Applies to all institutions that receive federal financial assistance, either directly or indirectly.
- Enforced by the U.S. Department of Education’s Office of Civil Rights.

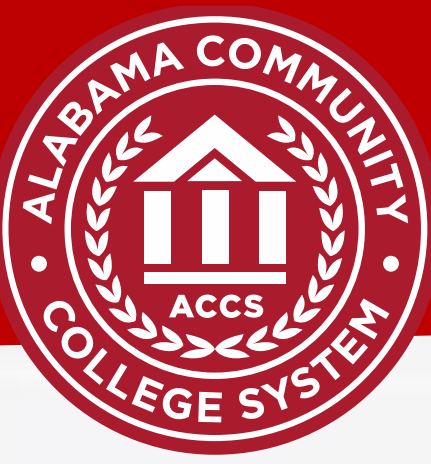
TITLE IX CURRENT REGULATIONS



Current Title IX regulations were published on May 6, 2020, and took effect August 14, 2020

- **Requires schools:**
 - Respond promptly and supportively to persons alleged to be victimized by sexual harassment.
 - Resolve allegations of sexual harassment promptly and accurately under a predictable, fair grievance process that provides due process protections to alleged victims and alleged perpetrators of sexual harassment.
 - Effectively implement remedies for victims.

TITLE IX KEY TERMS



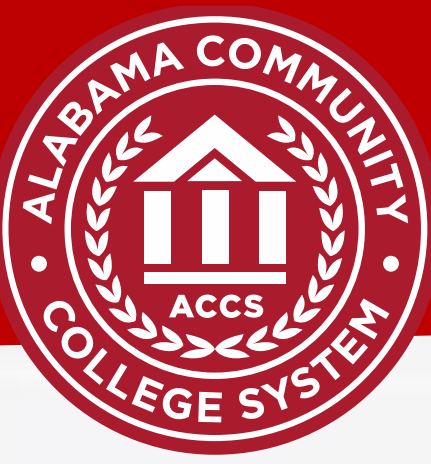
Complainant - An individual who is alleged to be the victim of conduct that could constitute sexual harassment. (The Accuser)

Respondent - An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment. (The Accused)

Formal Title IX Complaint - is a document signed by the Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the College investigate the allegation of sexual harassment.

Supportive Measures - non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or the Respondent before or after a filing of a Formal Complaint or where no Formal Complaint is filed designed to restore or preserve equal access to the College's education program or activity without unreasonably burdening the other party.

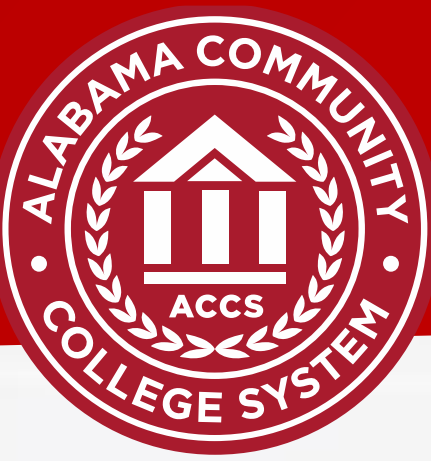
SUPPORTIVE MEASURES



Supportive measures may include, but are not limited to, the following:

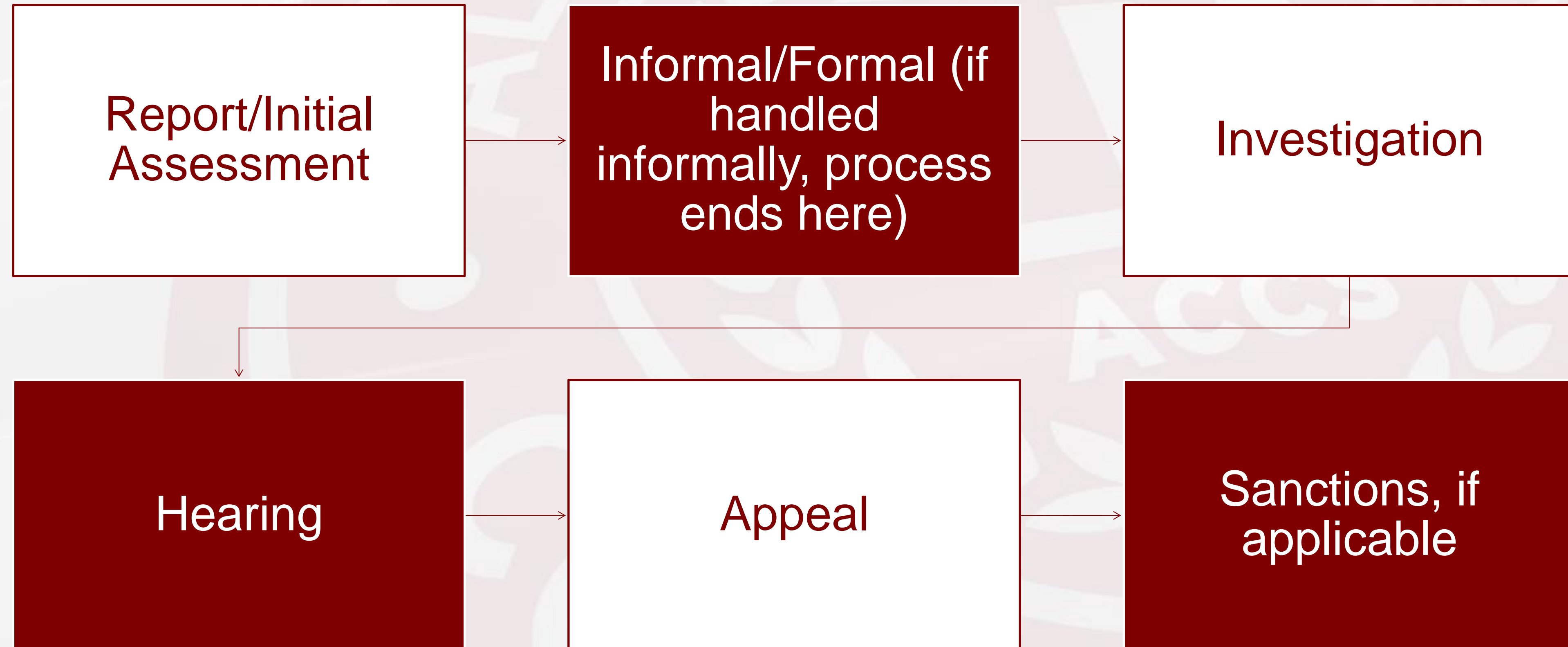
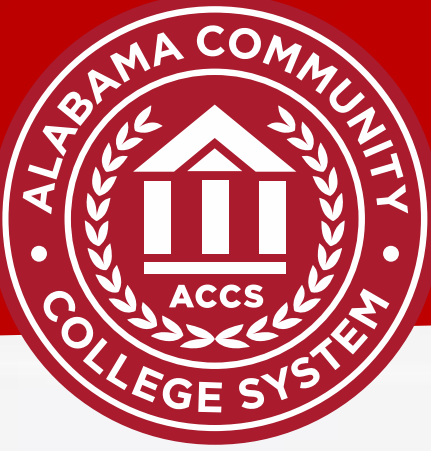
- Counseling
- Extensions of deadlines or other course-related adjustments
- Modifications of work or class schedules
- Campus escort services
- Mutual restrictions on contact between the parties
- Changes in working or housing locations
- Leaves of absence
- Increased security and monitoring of certain areas of the campus.
- Medical Treatment

TITLE IX VS. CRIMINAL PROCESS



- Any criminal investigation is completely independent of any Title IX investigation and may run concurrently.
- The Title IX investigation is looking into alleged violations of the College's Sexual Harassment Policy whereas the criminal investigation is looking into alleged violations of criminal law.
- The Title IX Office generally does not share the outcome of its investigative activity with the police without the consent of the parties involved. However, there are certain instances where the final determination of a Title IX proceeding can be shared without the consent of the parties.
- Because of the differing standards of evidence in each process, it is possible for the Title IX investigation to reach a finding of sexual misconduct based on the "preponderance of evidence" standard even when a criminal case is unable to meet the higher "beyond a reasonable doubt" standard.

TITLE IX – PROCESS



TITLE IX/SEX-BASED MISCONDUCT



Sexual
Harassment (Quid
Pro Quo, Hostile
Environment)

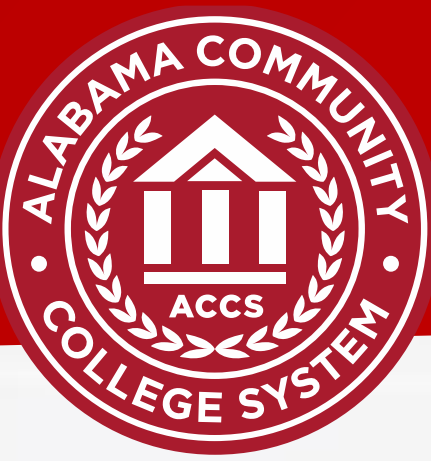
Intimate Partner
Violence
(Dating/Domestic
Violence)

Sexual Assault
(Rape, Fondling,
Incest, Statutory
Rape)

Stalking

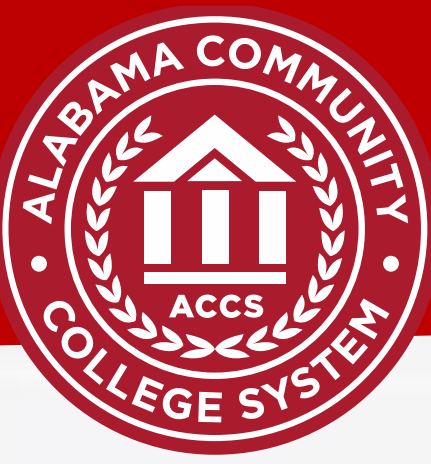
Sex
Discrimination

TITLE IX JURISDICTION



- Locations, events, or circumstances (operations) over which the institution exercises substantial control over both the Respondent AND the context in which the sexual harassment occurs
- Pertains to actions of Prohibited Conduct committed by or against students and employees when:
 - **On campus or property** owned or controlled by the institution, including buildings owned or controlled by a student organization that is officially recognized by the institution
 - **In the context of** an institution's employment or educational program or activity, including, but not limited to, research, online, or internship programs

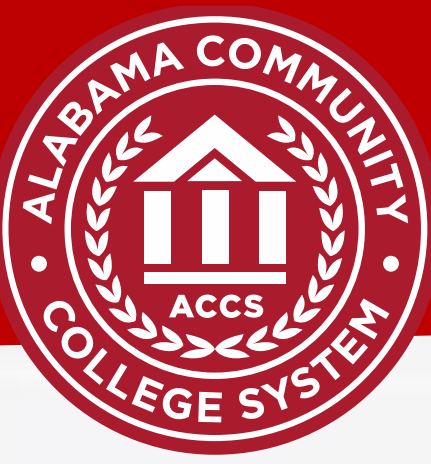
SEXUAL HARASSMENT (QUID PRO QUO)



Quid Pro Quo Sexual Harassment, defined as, an employee conditioning the provision of an aid, benefit, or service of the College on an individual's participation in unwelcome sexual conduct

- Supervisor asking employee out on a date in exchange for something
 - Pay raise
 - Better schedule
 - Grade change

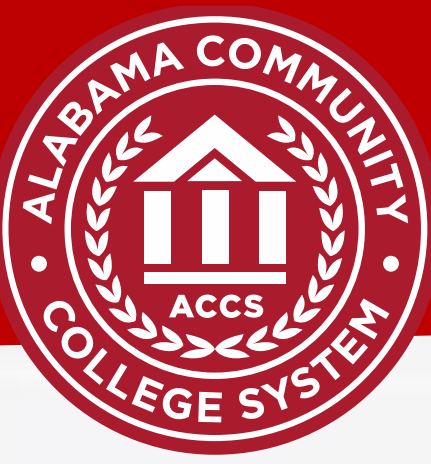
SEXUAL HARASSMENT (HOSTILE ENVIRONMENT)



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

- Examples??

DATING/DOMESTIC VIOLENCE

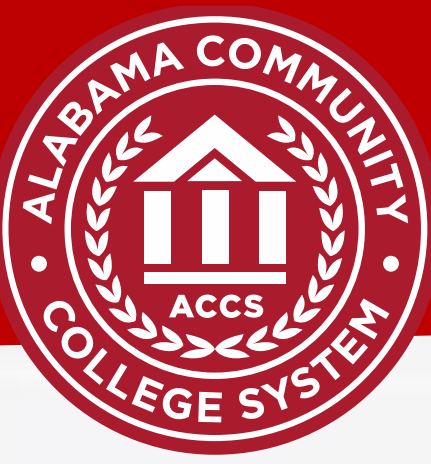


Domestic Violence - Violence or the threat of violence committed by a current or former spouse, a person with whom the Complainant shares a child in common, or by a person cohabitating with or has cohabitated with the Complainant as a spouse

Dating Violence - Violence or the threat of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant

- The existence of such a relationship will be determined based on
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship

SEXUAL ASSAULT



Any sexual act directed against another person, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity

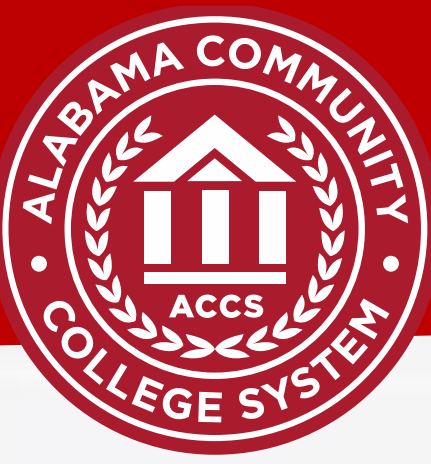
Sexual Assault by Penetration (rape)

- **The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the Complainant.**

Sexual Assault by Contact (fondling of unwanted touching of intimate body parts)

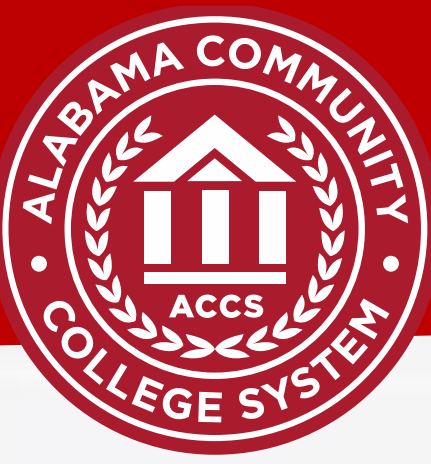
- **The touching of the private body parts (breasts, buttocks, groin) of another person for the purpose of sexual gratification without the consent of the Complainant, including instances where the Complainant is incapable of giving consent**

STALKING



- Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.
- Course of Conduct means two or more acts, including, but not limited to, acts in which the individual 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.
- Reasonable Person means a reasonable person under similar circumstances and with similar identities to the Complainant.
- Substantial Emotional Distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

SEX DISCRIMINATION



Discrimination – Conduct directed at a specific individual or a group of identifiable individuals that subjects the individual or group to treatment that adversely affects their education or employment because of their sex and/or gender.

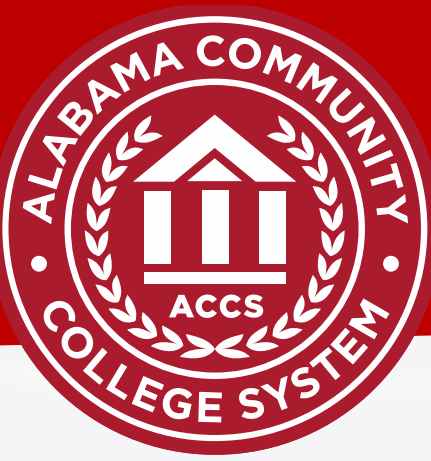
Harassment – Verbal and/or physical conduct that is severe or pervasive, that is based on an individual's sex and/or gender, and that unreasonably interferes with the individual's work or academic activities, or that creates an environment that a reasonable person would consider intimidating, hostile, or offensive.

CONFLICT OF INTEREST



- All Title IX Team members shall not have a conflict of interest for or against Complainants or Respondents generally or an individual Complainant or Respondent. All Title IX matters should be handled impartially.
- Conflict of interest - occurs when an individual's personal interests - family, friendships, financial, or social factors - could compromise their judgment, decisions, or actions in the workplace.
- Any Investigator who believes they may have a potential conflict of interest should notify the Title IX Coordinator as soon as possible.

BIAS



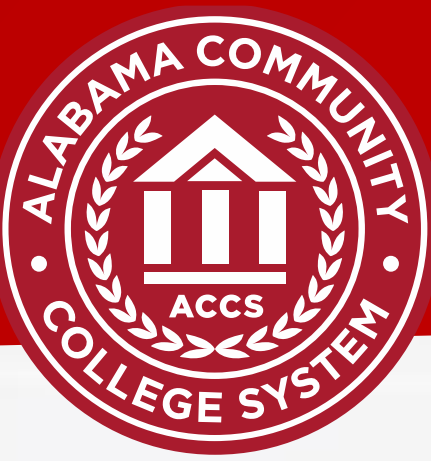
- All Title IX Team members shall not have a bias for or against Complainants or Respondents generally or an individual Complainant or Respondent. All Title IX matters should be handled impartially.
- Bias - prejudice in favor of or against one thing, person, or group compared with another, usually in a way considered to be unfair
- Any Decisionmaker who believes they may have a potential bias should notify the Title IX Coordinator as soon as possible.

BIAS



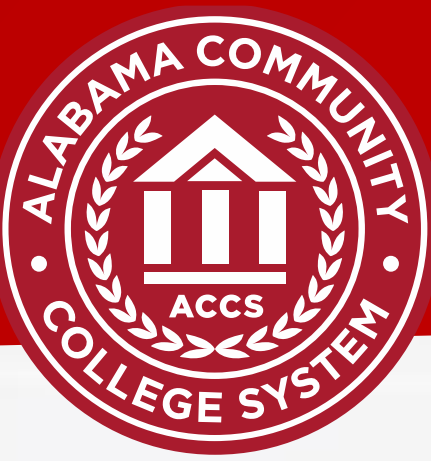
- **Explicit Bias – refers to the attitudes and beliefs we have about a person or group on a conscious level**
 - Expressed directly
 - Aware of bias
 - Operates consciously
- **Implicit Bias – refers to the attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner**
 - Expressed indirectly
 - Unaware of bias
 - Operates subconsciously

TITLE IX DOCUMENTATION



- Interview Recordings & Transcripts/Summaries of Interviews
- Keep all emails
- Investigator Notes
- Outreach Logs for Phone Calls, Walk in Interactions
- Procedural History and Timelines

INTERACTIONS WITH ADVISORS



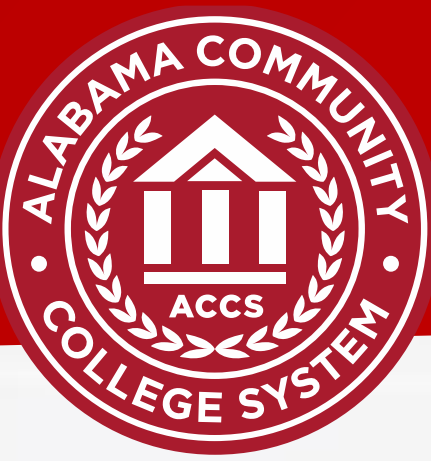
- Make sure you communicate with the party and advisor on what the role of the advisor is.
- Make sure to address all written correspondence to the party, even if it is the advisor making contact.
- Make sure you check to see how much information the party wants the advisor to have.
 - CC'ed on emails?
 - Copies of all documents?
- Report any issues or problems with any advisor to the Title IX Coordinator. Advisors can be removed by the Title IX Coordinator if they do not adhere to the policies and procedures.

PRESUMPTION OF NON RESPONSIBILITY



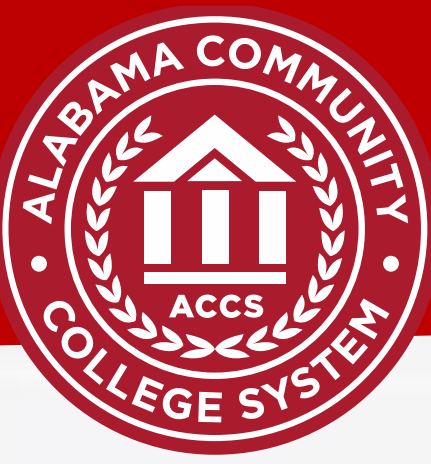
- **“The Respondent is presumed not responsible for the alleged sexual harassment until a determination is made at the conclusion of the grievance procedures... and that prior to the determination, the parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial Decisionmaker;”**

INVESTIGATOR STATEMENTS BEFORE INTERVIEW



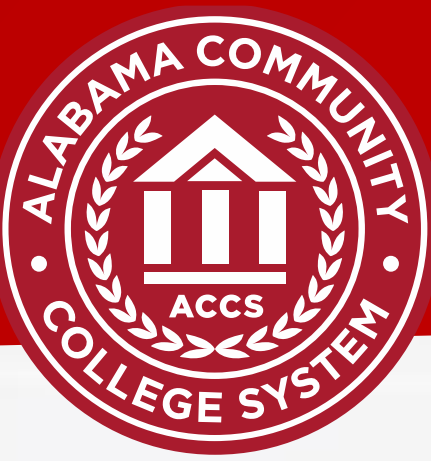
- Introduce yourself and explain your role (will not make determination)
- Mention supportive measures and point of contact
- Review the Advisor's role in the investigation
- Review the Investigation process
 - Difference between Title IX investigation vs. criminal investigation
- Review retaliation policy
- Review how interview questioning will look like
- Review recording procedures (if your institution records)
- Review privacy expectations on both ends of the investigation

INTERVIEWING TECHNIQUES



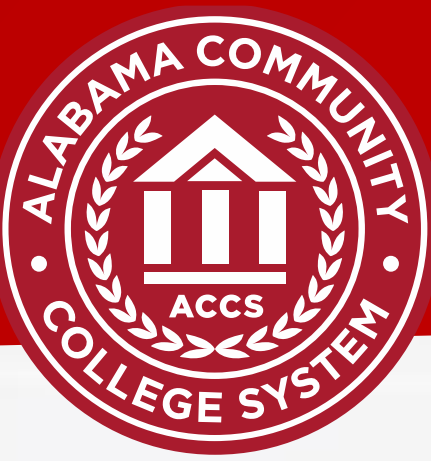
- Inform party that questions may be difficult, okay if they can't remember everything
- Let them "tell their story" free of interruption
 - Tell me about your experience that led you here today. (Complainant)
 - Do you have a response to the allegations? (Respondent)
 - Can you tell me what you know about the allegations? (Witness)
- Establish a timeline
- Ask as many open-ended questions as possible
- Use "mirroring" language
- Ask them to define unfamiliar terms or phrases
- Address contradictions or differing statements
 - Tell me more about...
 - Can you help me understand...
 - Do you remember...

TITLE IX DEFINITIONS – CONSENT



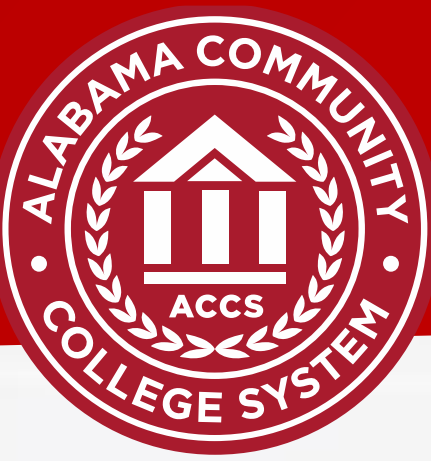
Consent must be informed, voluntary, and mutual and can be withdrawn at any time. There is no consent where there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether or not a person has taken advantage of a position of influence over another person may be a factor in determining consent. Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

TITLE IX INVESTIGATIONS - CONSENT



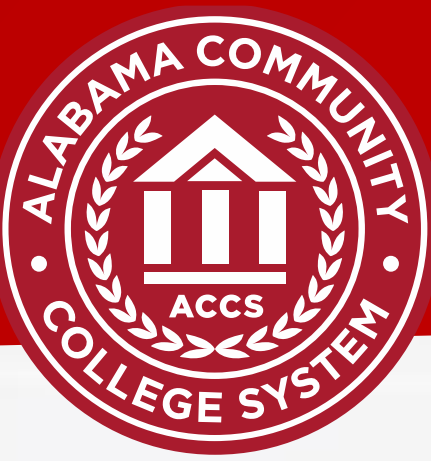
- Questions regarding consent should be addressed to both the Complainant and Respondent
- The initiator of the sexual act is responsible for obtaining consent.
 - Parties' statements may differ on who was the initiator of the sexual act. You will need to address any differing statements between the parties in your investigation report.
- Consent should be obtained for every sexual act.

TITLE IX DEFINITIONS – INCAPACITATION



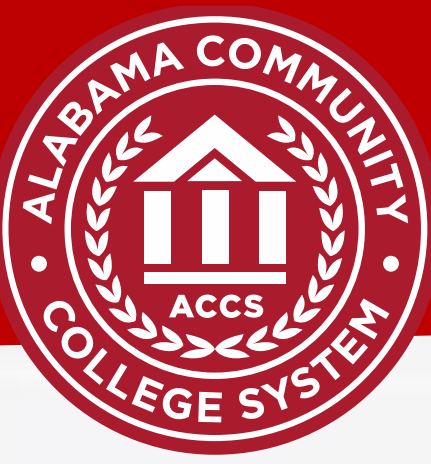
An individual who is incapacitated is unable to give consent to sexual contact. States of incapacitation include sleep, unconsciousness, intermittent consciousness, intoxication, or any other state where the individual is unaware that sexual contact is occurring or is otherwise unable to give informed and voluntarily that impairs the ability to consent to sexual contact. Example: A person who is taking pain medication and falls asleep under the influence of the medication can be incapacitated and not be able to give consent to sexual contact.

TITLE IX INVESTIGATIONS - INCAPACITATION



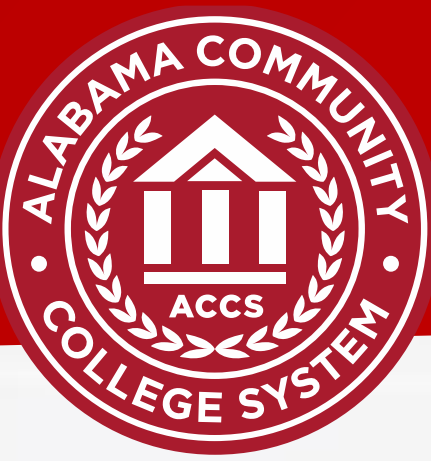
- Ask questions regarding their behavior due to alcohol consumption.
- Ask questions on whether the consumption of alcohol affected their ability to recall details of the incident.

TITLE IX INVESTIGATIONS – INCAPACITATION



- **Questions regarding possible alcohol consumption should be addressed with parties and witnesses.**
 - Be as specific as possible.
 - Ask for pictures or screenshots if needed.
- **Any differing statements on alcohol consumption should be addressed in your investigation report.**
- **Alcohol consumption does not automatically mean incapacitation.**
- **Ask parties/witnesses to define terms or phrases.**
 - "blacked out"; "passed out"; "drunk"; "tipsy"; "buzzed", etc.

PRESERVATION OF EVIDENCE & MEDICAL SUPPORT



Medical Exam

Don't Shower

Don't Throw Away Items

Don't Wash Clothes or Sheets

Save Electronic Evidence

Videos

Text Messages

Email Messages

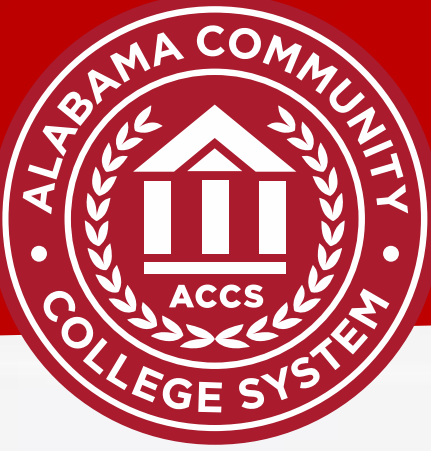
Social Media Materials

Report Incident

Title IX Coordinator

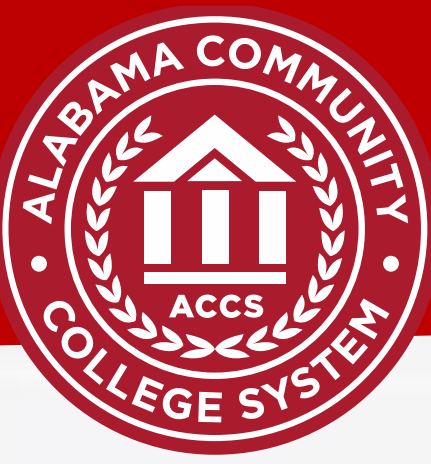
Local Law Enforcement Agency

COMMUNICATIONS WITH PARTIES & WITNESSES



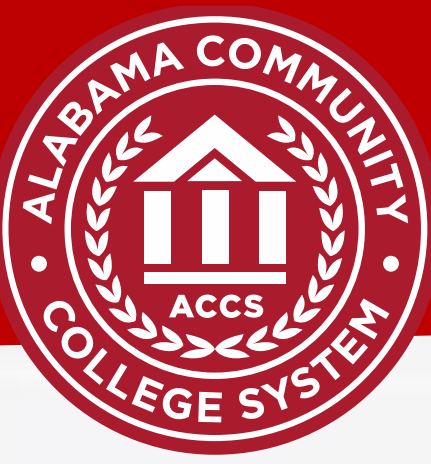
- Official Written Communications
 - Notice of Formal Complaint, Notice of Allegations/Investigation, Notice of Issuance of No Contact Order, Notice of Emergency Removal, Notice of Opportunity to Review Draft Investigation Report and Evidence, Notice of Hearing, Notice of Appeal, Notice of Delay
 - Templates
 - Sent to both parties
- “Unofficial” Communications
 - Email outreaches and responses, phone calls, walk in interactions

GATHERING EVIDENCE



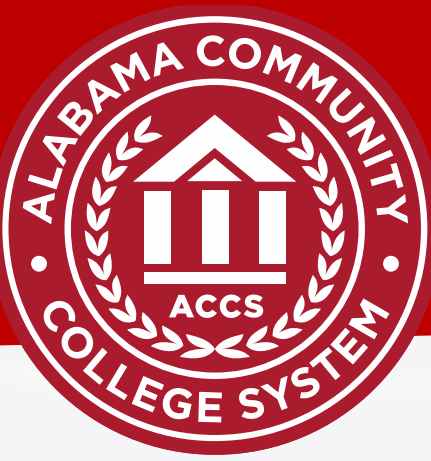
- **Burden of proof and gathering evidence rests on the College and not the parties.**
- **Send out evidence requests.**
- **Be specific and general in the information/evidence requested.**
- **Investigators should make reasonable efforts to collect evidence/information themselves.**
 - **Badge Access Records**
 - **Sign in Sheets**
 - **Video Footage**
 - **Text Message Records**

GATHERING EVIDENCE



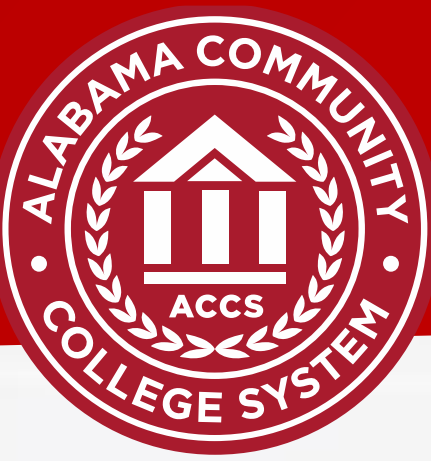
- Investigators have discretion to determine relevance of all evidence collected.
- Use a labeling system for all evidence when included in the investigation report.
- If you requested evidence, but did not receive it, document the attempts made.
- Social Media Evidence
 - Make sure messages, videos, etc. are time and date stamped
 - Ask party to verify evidence provided from other party and/or witnesses

RELEVANCY



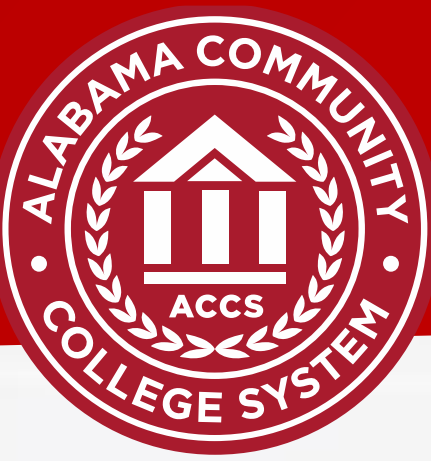
- Not defined in the 2020 regulations
- Does the evidence tend to make a fact more or less likely to be true
- “Relevant means related to the allegations of sex discrimination under investigation as part of the grievance procedures... Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a Decisionmaker in determining whether the alleged sex discrimination occurred.” (2024)
- Relevance related to questions
- Relevance related to evidence

THE INVESTIGATION REPORT



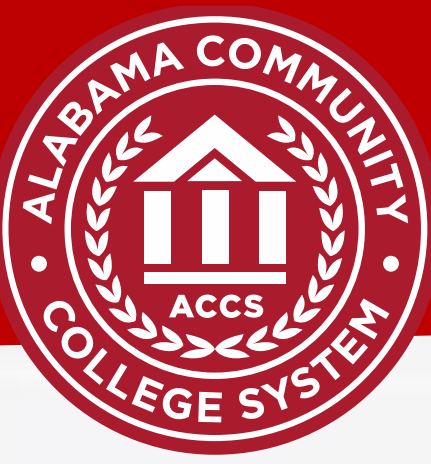
- Use a template for all investigation reports
- Include summaries of all interviews all relevant evidence
- Draft Investigation Report
 - 10 days to submit responses
- Final Investigation Report
 - Include party responses, if any

TITLE IX INVESTIGATION – REDACTIONS



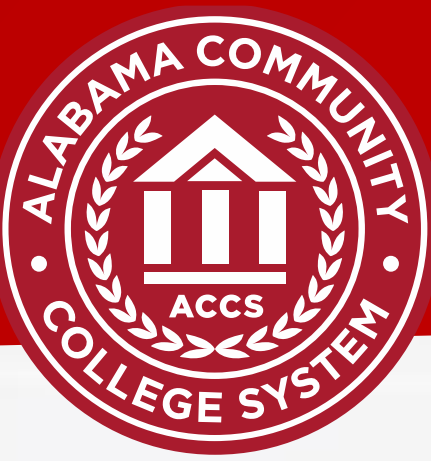
- Make sure to review all documents and evidence to be included in the investigation report for information that should be redacted.
 - Social Security Numbers
 - Student Identification Numbers
 - Address/Phone Numbers
 - Date of Birth

PRIVACY VS. CONFIDENTIALITY



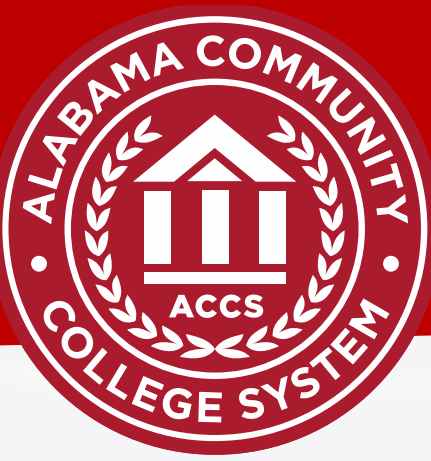
- The Title IX Office/Coordinator is a private resource. Only those with an “absolute need to know” will be made aware of a Title IX matter.
- Information related to a Title IX report will be shared with a limited circle of College employees who need to know in order to assist in the assessment, investigation, and resolution of the report.
- Please make parties, advisors, and witnesses aware of the differences between privacy and confidentiality as it relates to a Title IX process.

TITLE IX INVESTIGATION – EVIDENCE REVIEW



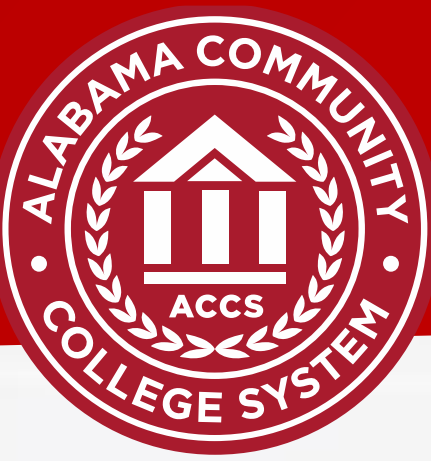
- How do you currently conduct your parties review of the evidence?
- Most institutions use some form of document sharing system (Box, Dropbox, shared drive) that allows the parties and their advisors access to electronic copies of the investigation report and evidence.
 - At your institution, are parties given hard copies of the documents?
 - At your institution, are parties able to print the documents?

HEARING



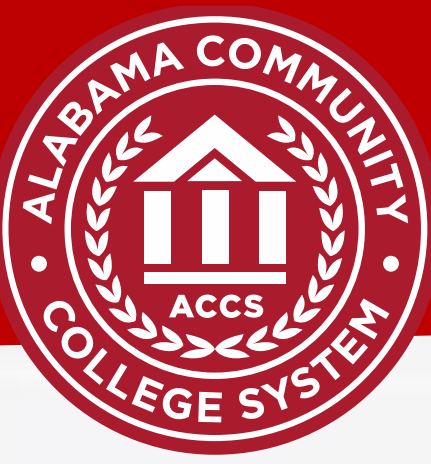
- **“A recipient (College) must provide a process that enables the Decisionmaker to question parties and witnesses to adequately assess a party’s or witness’s credibility to the extent credibility is both in dispute and relevant to evaluating one or more allegations of sex discrimination.”**
- **The Decisionmaker may be the Hearing Officer and will direct the hearing.**
- **The Investigator may be called as a witness during the hearing. The investigator may be asked questions by the Decisionmaker as well as the parties’ advisors pertaining to their investigation and the investigative report.**

RECORD KEEPING



- All documents related to Title IX reports, investigation, adjudication, appeals, etc. should be kept for seven years.
- All Title IX documents are a part of the student/employee record. Student records are protected by FERPA. If a third party requests your records, the student will need to waive their FERPA rights for the release of the information.
 - Make sure to redact any of the identifying information for the other party and/or witnesses before release of information, unless the other party and/or witness has waived their FERPA rights as well.
- You should have some type of system for document keeping.
 - Paper files
 - Case Management system
 - Shared Drive

RETALIATION

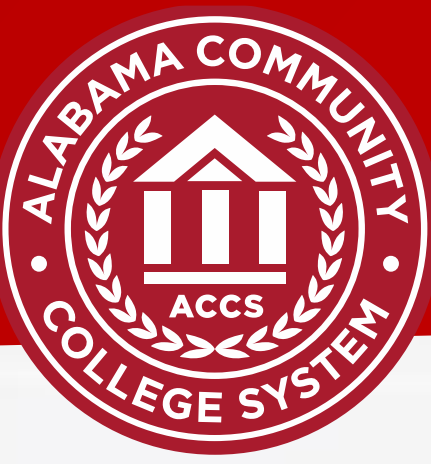


PROHIBITED

Neither the institution nor other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing conducted under the sexual harassment policy.

Retaliatory acts could include:

- giving students failing grades
- preventing students from participating in school activities
- threatening expulsion



Questions?