

**Policy on
Sexual Misconduct,
Relationship Violence,
Stalking, and
Retaliation**

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SECTION 1 **INTRODUCTION**

1.1 OVERVIEW

The University of Tennessee is committed to creating and maintaining a safe and non-discriminatory learning, living, and working environment free from Sexual Misconduct, Relationship Violence, Stalking, and Retaliation (collectively, "Prohibited Conduct"). Prohibited Conduct will not be tolerated and will be grounds for disciplinary action up to and including expulsion from the University and termination of employment.

The primary purposes of this Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation ("Policy") are to: (1) define, eliminate, prevent, and remedy the effects of Prohibited Conduct; (2) identify care, support, and reporting options for students and employees; (3) explain the obligations of employees to report Prohibited Conduct to the University; and (4) identify the procedures the University will follow to thoroughly, equitably, and promptly investigate and resolve reports of Prohibited Conduct. Additional information about the University's procedures and training and prevention programs relating to Prohibited Conduct can be found online at titleix.utk.edu.

1.2 SCOPE AND APPLICABILITY

1.2.1 Individuals Covered by This Policy

This Policy applies to the conduct of and protects:

- Students of The University of Tennessee, Knoxville and students of The University of Tennessee Institute of Agriculture, as defined in the University's Student Code of Conduct;
- Employees and affiliates of the University;¹ and
- University contractors and third parties participating in a University education program or activity.

This Policy applies regardless of the Complainant's or the Respondent's sex, sexual orientation, gender identity, or gender expression. Prohibited Conduct can occur between strangers or acquaintances and can occur between people of the same or of different sexes, sexual orientations, gender identities, or gender expressions.

- The "Complainant" is the person who may have been subjected to Prohibited Conduct, regardless of whether that person makes a report or seeks action under this Policy.
- The "Respondent" is the person who has been accused of committing Prohibited Conduct.

Those terms do not imply pre-judgment concerning whether Prohibited Conduct occurred. Other key terms used in this Policy are defined in other places in this Policy and are capitalized throughout this Policy.

1.2.2 Jurisdiction

With respect to employees and other non-students, this Policy applies to conduct which: (i) occurs on University-controlled property; (ii) occurs in the context of a University education program or activity, including University employment; and/or (iii) occurs outside the context of a University education program or activity, but has continuing adverse effects or creates a sexually hostile environment on University-controlled property or in any University education program or activity, including University employment.

¹ "University" in this Policy means The University of Tennessee, Knoxville; The University of Tennessee Institute of Agriculture; The University of Tennessee Institute for Public Service; and/or The University of Tennessee System Administration.

The University's jurisdiction concerning misconduct by students is governed by the University's Student Code of Conduct ("Code"). The Code applies to Prohibited Conduct which occurs on University-controlled property. The Code also applies to Prohibited Conduct that occurs off of University-controlled property if it: (1) occurs in connection with a University-affiliated activity including, without limitation, an overseas study program or a clinical, field, internship, or in-service experience; (2) is prohibited by local, state, or federal law, and the conduct was committed within Knox, Anderson, Union, Grainger, Jefferson, Sevier, Blount, Loudon, or Roane County; (3) is fairly attributable to a student organization based on a consideration of the criteria in the Code; (4) is committed against another member of the University community; or (5) threatens, or indicates that the student poses a threat to, the health, safety, or welfare of others or the security of any person's property.

1.2.3 Effective Date

The effective date of this Policy is August 22, 2017. This Policy applies to all Prohibited Conduct reported to have occurred on or after August 22, 2017. If the Prohibited Conduct reportedly occurred prior to August 22, 2017, then: (1) the report will be evaluated using definitions of misconduct contained in applicable university policies in effect at the time of the reported Prohibited Conduct; and (2) other aspects of the University's response to the report (e.g., investigation and resolution procedures) will be based on this Policy.

1.2.4 Other University Policies

Except for University of Tennessee System Safety Policy 0575 (Programs for Minors) (policy.tennessee.edu/safety_policy/sa0575/) and as otherwise provided in this Policy, this Policy takes precedence over other University policies and procedures concerning Prohibited Conduct in the event of a conflict.

Consensual romantic or sexual relationships between members of the University community are subject to other University policies. For example, the University's policy on amorous or sexual relationships between faculty and students can be found in Section 2.2.6 of the UTK Faculty Handbook (provost.utk.edu/faculty/manuals/faculty-handbook/). Even if an amorous or sexual relationship between members of the University community begins as consensual and welcome, it can evolve into situations that lead to allegations of Prohibited Conduct. In addition, depending on the circumstances, a consensual sexual relationship may also violate other University policies, including, without limitation: University of Tennessee System Human Resources Policies 0220 ("Equal Employment Opportunity Affirmative Action and Diversity") (policy.tennessee.edu/hr_policy/hr0220/), 0280 ("Sexual Harassment and Other Discriminatory Harassment") (policy.tennessee.edu/hr_policy/hr0280/), and 0580 ("Code of Conduct") (policy.tennessee.edu/hr_policy/hr0580/).

1.3 ACADEMIC FREEDOM AND FIRST AMENDMENT RIGHTS

This Policy is not intended to, and will not be used to, infringe on academic freedom or to censor or punish students, faculty, or staff who exercise their First Amendment rights, even though such expression may be offensive or unpleasant.

SECTION 2
CARE, SUPPORT, AND REPORTING OPTIONS

2.1 OVERVIEW

Complainants have a wide range of options for care, support, and reporting in response to an incident of Prohibited Conduct. For comprehensive information about those options, students and employees should refer to **Appendix A**. Third parties should contact the University's Title IX Coordinator.

2.2 TITLE IX COORDINATOR/TITLE IX OFFICIALS

The University is subject to the requirements of Title IX of the Education Amendments of 1972, which 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

The University's Title IX Coordinator is responsible for coordinating the University's efforts to comply with and carry out its responsibilities under Title IX, including promptly, thoroughly, and equitably investigating and resolving reports of Prohibited Conduct to eliminate Prohibited Conduct, prevent its recurrence, and remedy its effects.

The University's Title IX Coordinator is:

Ashley Blamey
1817 Melrose Avenue
Knoxville, TN 37996
(865) 974-9600
ashleyblamey@utk.edu
titleix.utk.edu

Reports or complaints of Prohibited Conduct or any other kind of Sex Discrimination, or questions about the University's policies, procedures, resources, or programs concerning any of those issues, may be directed to the University's Title IX Coordinator or other Title IX Officials, who are trained and accessible to members of the University community for consultation and assistance.

The term "Title IX Official" in this Policy means the Title IX Coordinator, a Deputy Title IX Coordinator, or one of their designees.

The responsibilities of Title IX Officials are described in more detail at **titleix.utk.edu**. The Title IX Coordinator is available to meet with any student, employee, or third party to answer questions about this Policy. Inquiries or complaints concerning Title IX also may be referred to the United States Department of Education, Office for Civil Rights, 61 Forsyth Street, S.W., Suite 19T10, Atlanta, GA 30303-8927, (404) 974-9406 (phone), (404) 974-9471 (fax), OCR.Atlanta@ed.gov.

The University’s Deputy Title IX Coordinators are:

NAME	TITLE(S)	CONTACT INFORMATION
Erin Stoner	Senior Deputy Title IX Coordinator	1817 Melrose Avenue Knoxville, TN 37996 (865) 974-9600 estoner@utk.edu titleix.utk.edu
Jenny Richter	Deputy Title IX Coordinator for Human Resources/Office of Equity and Diversity (OED) Associate Vice Chancellor and Director, Office of Equity and Diversity	1840 Melrose Avenue Knoxville, TN 37996 (865) 974-2498 jrichter@utk.edu oed.utk.edu
Sarah Gardner	Deputy Title IX Coordinator for Student Support	1817 Melrose Avenue Knoxville, TN 37996 (865) 974-9600 sgardn15@utk.edu titleix.utk.edu
Laura Bryant	Deputy Title IX Coordinator for Student Prevention Director, Center for Health Education and Wellness	1800 Volunteer Blvd., Suite 201 Knoxville, TN 37996 (865) 974-5725 or (865) 974-HELP lbryant7@utk.edu wellness.utk.edu
Betsy Smith	Deputy Title IX Coordinator for Student Conduct Director, Office of Student Conduct and Community Standards	409 Student Services Building Knoxville, TN 37996 (865) 974-3171 bbsmith@utk.edu studentconduct.utk.edu
Donna Thomas	Deputy Title IX Coordinator for Intercollegiate Athletics Senior Associate Athletics Director/Senior Woman Administrator	Brenda Lawson Athletic Center 1551 Lake Loudon Boulevard Knoxville, TN 37996 (865) 974-0123 dthomas7@utk.edu
Jillian Paciello	Deputy Title IX Coordinator for Law Enforcement and Clery Compliance Clery Compliance Coordinator	University of Tennessee Police Department 1101 Cumberland Avenue Knoxville, Tennessee 37996 (865) 974-0544 jpaciell@utk.edu clery.utk.edu ; utpolice.utk.edu

2.3 DISTINCTION BETWEEN PRIVACY AND CONFIDENTIALITY

Under this Policy, privacy should be distinguished from confidentiality.

- **Confidentiality:** If a Complainant desires to communicate with someone who, by law, can keep information confidential, then the Complainant should contact one of the resources outlined in Section 2.4.
- **Privacy:** Information communicated to a Title IX Official (Section 2.2) or a Mandatory Reporter (Section 2.5.2.1) will not be confidential but will be kept private, which means that the

information will initially be shared only with the University employees whom a Title IX Official determines need to be involved in responding to the incident, except as required or permitted by law. A Title IX Official will not share personally identifiable information with the police for law enforcement purposes.² A Title IX Official will not share information with the Respondent if the University grants a Complainant's Request for Limited Action (Section 2.5.2.4). When speaking with a Title IX Official, Complainants are free to limit the details they share while they decide whether to report an incident to the University.

2.4 CONFIDENTIAL CARE AND SUPPORT

The persons identified below can keep information communicated to them confidential and will not communicate such information to a Title IX Official, the University, the police, or any other third party, unless required or permitted by law, a court order, or a subpoena. Complainants may pursue these confidential care, support, and reporting options regardless of whether they choose to report the incident to the University or the police (Section 2.5).

2.4.1 Confidential Employees

A student or employee may speak with a Confidential Employee if they do not desire action by the University but desire to confide in a University employee confidentially. Confidential Employees are University employees who can keep information confidential because they hold a valid license in a profession for which Tennessee law recognizes a confidential relationship between a professional and a professional's client or patient. **Appendix A** identifies the University's Confidential Employees and explains the limited situations in which Confidential Employees are required or permitted by law to disclose confidential information.

A Confidential Employee can help a Complainant explore options for care and support, provide information on reporting options (Section 2.5) and Interim Measures (Section 2.6), and provide emotional support. A Complainant who at first requests confidentiality may later decide to report the incident to a Title IX Official and/or to the police and have the University and/or the police fully investigate the incident. Confidential Employees can provide the Complainant with assistance in making such reports if the Complainant asks them to do so. Respondents may also communicate with and request assistance from Confidential Employees.

2.4.2 Confidential Care and Support Outside of the University Community

Students and employees also have options to receive confidential care and support from someone who is not affiliated with the University or the police. Those options also are described in **Appendix A**.

2.5 REPORTING OPTIONS

A Complainant has multiple options for reporting Prohibited Conduct. A Complainant may report Prohibited Conduct to the University, to the police, to both, or to neither.

2.5.1 Report to the Police

Prohibited Conduct may constitute both a violation of this Policy and criminal law. Therefore, the University encourages Complainants to report incidents of Prohibited Conduct to the police. Prompt reporting of an

² An employee of the University of Tennessee Police Department (UTPD) participates in the University's Sexual Assault Response Team. However, UTPD will not write a police report unless the Complainant decides to report the incident to the police. A description of the University's Sexual Assault Response Team can be found at titleix.utk.edu.

incident to the police is especially critical for incidents of Nonconsensual Sexual Penetration because the collection and preservation of evidence relating to Nonconsensual Sexual Penetration often is essential for police investigations and criminal prosecutions. A Complainant has the right to decline to report the incident to the police. Even if a Complainant does not report the incident to the police, the Complainant may still request Interim Measures (Section 2.6) by reporting the incident to a Title IX Official. **Appendix A** provides contact information for campus and local police and information about what to expect after reporting an incident to the police. **Appendix A** also provides suggestions about the preservation of evidence relating to Prohibited Conduct.

2.5.2 Report to the University

A person who wants to report Prohibited Conduct to the University should contact a Title IX Official (Section 2.2). If a person reports Prohibited Conduct to a University employee who is not a Title IX Official, then the employee's responsibility to report that information to the University depends on whether the employee is a Mandatory Reporter.

2.5.2.1 Mandatory Reporters

A Mandatory Reporter is a University employee who is required to report information about known or suspected Prohibited Conduct to a Title IX Official, whether the employee received the information by means of a complaint, report, personal observation, or otherwise, including information learned from third parties. **A University employee is almost always a Mandatory Reporter when either the Complainant or Respondent is a student.** Employees who have questions about their reporting responsibilities, or students who have questions about an employee's reporting responsibilities, should contact the Title IX Coordinator.

A University employee is a Mandatory Reporter if either of the following apply:

- (1) The Prohibited Conduct **involves either a Complainant who is a student or a Respondent who is a student.**

OR

- (2) The employee is the **supervisor of either a Complainant who is an employee or a Respondent who is an employee**, or otherwise has the authority to redress the Prohibited Conduct (e.g., human resources administrators, OED employees, Title IX Officials, department heads, deans, vice chancellors, chancellors, vice presidents, campus police).

Exceptions – No Duty to Report:

- The employee is a Confidential Employee (Section 2.4.1) and receives the information while acting in a professional, confidential capacity;
- The employee receives the information during a public awareness event such as "Take Back the Night," candlelight vigils, protests, "survivor speak outs" or other public forums;
- The employee receives the information through a person's participation as a subject in an Institutional Review Board-approved human subjects research protocol;
- The employee receives information through an in-class discussion, a class paper, or other academic assignment; or
- The employee is a student employee (e.g., graduate assistant) and did not receive notice of the incident in the student employee's University employment capacity.

Mandatory Reporters are required to inform a Title IX Official about all information known to them about the Prohibited Conduct. Failure to adhere to one's duty to report Prohibited Conduct to a Title IX Official may result in disciplinary action, up to and including termination of employment. **Appendix E** explains other actions that a Mandatory Reporter must take, should take, and must not take in response to notice of

Prohibited Conduct. Complainants who are Mandatory Reporters are not required to report or take any other action identified in this section with respect to Prohibited Conduct to which they personally have been subjected.

University employees also may have reporting responsibilities under other University policies, such as:

- **Child Abuse:** Employees who receive information about suspected child abuse or child sexual abuse must comply with University of Tennessee System Safety Policy 0575 (Programs for Minors) (policy.tennessee.edu/safety_policy/sa0575/). Safety Policy 0575 takes precedence over this Policy with respect to reporting suspected child abuse and child sexual abuse. Note that under Tennessee law, the obligation to report child abuse or child sexual abuse is not limited to situations involving University-related activities and programs.
- **Campus Security Authorities - Clery Act:** Mandatory Reporters who have been designated by UTPD as Campus Security Authorities for purposes of compliance with the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act ("Clery Act") satisfy their reporting duties with respect to this Policy and the Clery Act if they report the incident to a Title IX Official. The Title IX Official is responsible for timely communicating the appropriate non-personally identifying information to UTPD. **Employees who have been designated as Campus Security Authorities may have an obligation to report misconduct to UTPD even when they do not have an obligation to report the misconduct under this Policy. Questions about the reporting obligations of Campus Security Authorities should be directed to Jillian Paciello, the University's Clery Compliance Coordinator, at jpaciell@utk.edu or (865) 974-0544.**

2.5.2.2 Benefits of Reporting Prohibited Conduct to the University

Reporting Prohibited Conduct to the University empowers Complainants to obtain the support they need and enables the University to respond appropriately, including conducting a prompt, thorough, and equitable investigation and, if warranted, pursuing disciplinary action against a Respondent. Complainants are not required to report Prohibited Conduct if they do not want the University to respond to the incident or assist with Interim Measures (Section 2.6). A Complainant may opt to report an incident of Prohibited Conduct but decline to disclose the identity of the Respondent; in that case, a Title IX Official will offer Interim Measures to the Complainant, but the University's ability to investigate the incident and pursue disciplinary action against the Respondent or take other remedial action will be limited. If an incident is not reported to the University, then the University will not be able to take steps to: identify care and support resources for the Complainant, such as Interim Measures; or promptly, thoroughly, and equitably investigate the incident and/or resolve the situation to eliminate the Prohibited Conduct, prevent its recurrence, and address its effects on the Complainant or the University community.

2.5.2.3 Initial Response and Assessment by the Title IX Coordinator

After receiving a report of Prohibited Conduct, the Title IX Coordinator will take immediate and appropriate steps to:

- Have an appropriate University employee offer to meet with, or otherwise communicate with, the Complainant;
- Implement Interim Measures (Section 2.6) to eliminate and prevent the recurrence of Prohibited Conduct, deter Retaliation, and remedy the effects of Prohibited Conduct through reasonable support services, accommodations, and other assistance;
- In cases of Sexual Assault, Relationship Violence, or Stalking, whether the Prohibited Conduct occurred on or off campus, provide a Complainant with a paper or electronic copy of this Policy

and/or another written publication approved by the Title IX Coordinator that informs the Complainant of the Complainant's rights and options under this Policy (if that has not already been done by a Mandatory Reporter), which will include: (1) notification about counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the University and in the community; and (2) notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures;

- Subject to a Complainant's Request for Limited Action (Section 2.5.2.4), initiate the investigation and resolution procedures outlined in **Appendix C** (reports of student misconduct) or **Appendix D** (reports of employee misconduct) of the Policy if, based on an initial assessment, the alleged conduct meets the definition of Prohibited Conduct and falls within the scope and applicability of this Policy; and
- If the Complainant requests, assist the Complainant in reporting the incident to the police.

The Title IX Coordinator may delegate the authority to take the some or all the steps described above to another Title IX Official.

2.5.2.4 Request for Limited Action

A Complainant has the right to do the following when an incident of Prohibited Conduct is reported to a Title IX Official:

- Request that the report of Prohibited Conduct or the Complainant's contact with a Title IX Official not be disclosed to the Respondent;
- Decline to personally identify the Respondent;
- Decline to respond to communications from a Title IX Official; and/or
- Request that the University not investigate the incident, stop an ongoing investigation, or not pursue or stop the pursuit of disciplinary action against the Respondent.

Such an action is referred to in this Policy as a "**Request for Limited Action.**"

The Title IX Coordinator evaluates Requests for Limited Action, although the Title IX Coordinator may delegate the authority to evaluate Requests for Limited Action to the Deputy Title IX Coordinator for Human Resources/OED in cases involving employees.

If the Complainant makes a Request for Limited Action, then the Title IX Coordinator will seriously weigh the request against the University's obligation to provide a safe, non-discriminatory environment for all members of the University community, including the Complainant. If the Title IX Coordinator honors the Request for Limited Action, then the University's ability to respond fully to the incident (e.g., meaningfully investigate the incident and pursue disciplinary action against the Respondent or take other remedial action) may be limited.

There are limited circumstances in which the Title IX Coordinator may not grant a Request for Limited Action because of the University's commitment to providing a safe and non-discriminatory learning, living, and working environment free from Prohibited Conduct. For example, if the University has credible information that the Respondent has committed one or more other acts of Prohibited Conduct, then the balance of

factors might compel the University to investigate the allegation, and, if appropriate, pursue disciplinary action in a manner that may make known the Complainant's identity to the Respondent.

When evaluating a Request for Limited Action, the Title IX Coordinator will consider a range of factors, including, without limitation, the following factors:

- The risk that the Respondent will commit additional acts of Prohibited Conduct, such as:
 - Whether there have been other reports of Prohibited Conduct or other relevant misconduct concerning the same Respondent, whether or not the incidents occurred while the Respondent was a University student or employee;
 - Whether the Respondent threatened further Prohibited Conduct or other misconduct against the Complainant or others; and
 - Whether the Prohibited Conduct was committed by multiple perpetrators;
- The nature and scope of the Prohibited Conduct, including whether the Prohibited Conduct was perpetrated with a weapon;
- The ages and roles of the Complainant and the Respondent;
- Whether the University can pursue the investigation without the participation of the Complainant (e.g., whether there are other available means to obtain relevant evidence of the Prohibited Conduct such as security cameras or physical evidence);
- Whether the Complainant's report reveals a pattern of perpetration (e.g., perpetration involving illicit use of drugs or alcohol) at a given location or by a particular group; and
- The University's commitment to providing a safe, non-discriminatory environment, including the risk posted to any individual or to the campus community by not proceeding with an investigation.

The presence of one or more of those factors could lead the Title IX Coordinator to deny the Request for Limited Action. If the Title IX Coordinator grants a Request for Limited Action, then the University will take reasonable steps to respond to the report consistent with the Request for Limited Action and will take prompt actions that the University determines are necessary to protect and assist the Complainant while not disclosing the Complainant's identity to the Respondent (e.g., providing the Complainant with Interim Measures).

If the Title IX Coordinator determines not to grant the Request for Limited Action, then the Title IX Coordinator will inform the Complainant of the decision prior to starting/continuing the investigatory/disciplinary process and will, to the extent possible and unless otherwise required by law, only share information with people responsible for handling the University's response. If the Title IX Coordinator determines that the University must disclose the Complainant's identity to the Respondent, then the Title IX Coordinator will inform the Complainant of that determination prior to the disclosure. The University will honor a request by the Complainant that the University inform the Respondent that the Complainant asked the University not to investigate or seek discipline. The University will take ongoing steps that it determines are reasonable and appropriate to protect the Complainant from Retaliation or harm and may work with the Complainant to create a safety plan. The University will also assist the Complainant to access the support resources identified in **Appendix A**, including Interim Measures, and inform the Complainant of the right to report a crime to campus or local law enforcement (and provide the Complainant with assistance in reporting if the Complainant requests it). The University will not tolerate Retaliation against any person, including the Complainant.

Because the University is under a continuing obligation to address the issues of Prohibited Conduct campus-wide, reports of Prohibited Conduct (including non-identifying reports) may also prompt the University to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported Prohibited Conduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting additional climate assessments/victimization surveys; and/or revisiting its policies and practices.

2.5.2.5 *Amnesty*

The University recognizes that a student or employee who is under the influence of alcohol and/or drugs at the time of an incident of Prohibited Conduct may be hesitant to report the incident to the University because of a fear of University disciplinary sanctions for the person's own violation of the University standards of conduct. Because of the importance to the University of responding to incidents of Prohibited Conduct, a student or employee who reports Prohibited Conduct to the University or provides information in a University investigation into alleged Prohibited Conduct will not be subject to disciplinary action by the University for personal consumption of alcohol or other drugs, or minor offenses, at or near the time of the reported incident, but may be responsible for other, more serious conduct that harmed or placed the health or safety of any other person at risk ("Amnesty"). The University may, however, initiate an educational discussion or pursue other educational remedies with the student or employee regarding alcohol or drugs. The Title IX Coordinator has the discretion to grant Amnesty to other persons other than the person who reported Prohibited Conduct (e.g., Complainant, Respondent, witnesses). The Student Code of Conduct, Section 11, also contains a policy on amnesty for individuals acting as good Samaritans and students in need of emergency medical attention. This Section 2.5.2.3 does not apply to reports to the police.

2.5.2.6 *False Reports*

A person who makes a report of Prohibited Conduct to the University that is later found to have been intentionally false or made maliciously without regard for truth may be subject to University disciplinary action. This provision does not apply to reports made in good faith, even if an investigation of the incident does not find a Policy violation. Similarly, a person who intentionally provides false information to the University during a University investigation or disciplinary proceeding action may be subject to disciplinary action.

2.6 INTERIM PROTECTIVE AND REMEDIAL MEASURES

After receiving a report of Prohibited Conduct, the Title IX Coordinator may implement interim protective and remedial measures ("Interim Measures") while the University assesses, investigates, and resolves the report. Interim Measures are designed to eliminate and prevent the recurrence of Prohibited Conduct, deter Retaliation, and remedy the effects of Prohibited Conduct through reasonable support services, accommodations, and other assistance. Interim Measures may be implemented upon request or at the Title IX Coordinator's initiative.

The specific Interim Measures implemented and the process for implementing those measures will usually be determined by the Title IX Coordinator and will vary depending on the facts of each case and the student or employee status of the Complainant and the Respondent. Examples of Interim Measures include, without limitation: issuing no-contact directives; imposing an interim suspension on a student-Respondent (determined by the Vice Chancellor for Student Life); exploring changes in academic, living, transportation, dining, extracurricular, and working arrangements for the Complainant and/or the Respondent; providing medical and counseling services to students; arranging appointments with on-campus support services or off-campus support services; assisting with communications with faculty; and exploring options of re-taking a course, dropping a course, or withdrawing for a semester without financial or academic penalty.

Interim Measures are available:

- Even if the Complainant does not want to report the incident to the police;
- Even if the Complainant has made a Request for Limited Action and the University has granted the Request for Limited Action. (The University may be limited in the Interim Measures it can implement while keeping the identity of the Complainant private, such as: providing support

- services to the Complainant; changing living arrangements or course schedules, assignments, or tests; and providing increased monitoring, supervision, or security at locations or activities where the Prohibited Conduct occurred);
- To the Complainant, the Respondent, and witnesses, when determined to be appropriate by the Title IX Coordinator; and
- Prior to, during, or after the investigation or resolution of a report of Prohibited Conduct.

In implementing Interim Measures, the University attempts to minimize the burden on the Complainant while balancing the due process rights, if any, of the Respondent. If a Complainant requests Interim Measures through a Confidential Employee, then the University may be limited in its ability to provide the Interim Measures depending on how much information the Complainant is willing to share with the Title IX Coordinator. Information about Interim Measures generally will be shared only within the limited circle of those University employees whom the University reasonably needs to involve in providing the Interim Measures. However, information about an Interim Measure for one party (e.g., the Complainant) that directly affects the other party (e.g., the Respondent) will be shared with the affected party (e.g., a no-contact directive).

Individuals are encouraged to report to the Title IX Coordinator concerns about the failure of another person to abide by the terms of an Interim Measure; however, in the event of an immediate health or safety concern individuals should call 911. The University will take immediate and responsive action to enforce a previously implemented Interim Measure and alleged violations will be investigated and addressed by the appropriate office. The Title IX Coordinator has the discretion to issue, modify, or remove any Interim Measure at any time.

With respect to non-student employee Complainants, the Title IX Coordinator has delegated the authority to determine and implement appropriate Interim Measures to the Deputy Title IX Coordinator for Human Resources/OED.

SECTION 3
PROCEDURES USED TO ADDRESS PROHIBITED CONDUCT

The University has specific procedures for addressing reports of Prohibited Conduct after the initial response and assessment by the Title IX Coordinator (Section 2.5.2.3). The procedures the University uses are based on the relationship of the Respondent to the University.

3.1 PROCEDURES WHEN THE RESPONDENT IS A STUDENT

Appendix C describes the procedures the University uses to investigate and resolve allegations of Prohibited Conduct when the Respondent is a student.

3.2 PROCEDURES WHEN THE RESPONDENT IS AN EMPLOYEE

Appendix D describes the procedures the University uses to investigate and resolve allegations of Prohibited Conduct when the Respondent is an employee.

3.3 PROCEDURES WHEN THE RESPONDENT IS BOTH A STUDENT AND AN EMPLOYEE

When the Respondent is both a student and an employee: (1) the Title IX Coordinator will determine the appropriate procedures to use to address the report of Prohibited Conduct based on the facts and circumstances of the situation; and (2) the Respondent may receive sanctions under the University's Student Code of Conduct and/or University disciplinary policies for employees.

3.4 PROCEDURES WHEN THE RESPONDENT IS A THIRD PARTY

Appendix D describes the procedures the University uses to investigate and resolve allegations of Prohibited Conduct when the Respondent is a third party, such as a visitor or vendor. The University's ability to take appropriate disciplinary, remedial, and/or protective measures with respect to a third party will depend on the nature of the relationship between the third party and the University. The Title IX Coordinator (or designee) has the authority to alter the manner of resolving a report of Prohibited Conduct committed by a third party if the procedures in *Appendix D* are not appropriate.

SECTION 4 **PROHIBITED CONDUCT**

This Policy prohibits the following conduct:³

- **Sexual Misconduct**
 - **Sexual Assault**
 - **Nonconsensual Sexual Penetration**
 - **Nonconsensual Sexual Contact**
 - **Sexual Harassment**
 - **Sexual Exploitation**
- **Relationship Violence**
- **Stalking**
- **Retaliation**

4.1 SEXUAL MISCONDUCT

"Sexual Misconduct" is an umbrella term that encompasses Sexual Assault, Sexual Harassment, and Sexual Exploitation.

4.2 SEXUAL ASSAULT

"Sexual Assault" is an umbrella term that encompasses Nonconsensual Sexual Penetration; Nonconsensual Sexual Contact; and conduct that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting program.

4.2.1 NONCONSENSUAL SEXUAL PENETRATION

"Nonconsensual Sexual Penetration" means Sexual Penetration, however slight, performed upon another person that occurs without that person's Consent. "Sexual Penetration" means penetration of a vagina or anus by a penis, object, tongue, finger, or other body part; or contact between the mouth of one person and the genitals or anus of another person.

4.2.2 NONCONSENSUAL SEXUAL CONTACT

"Nonconsensual Sexual Contact" means Sexual Contact, however slight, performed upon another person that occurs without that person's Consent. "Sexual Contact" means intentional physical contact with another person's breasts, buttocks, groin, or genitals, whether clothed or unclothed; intentional contact with another person using one's breasts, buttocks, groin, or genitals, whether clothed or unclothed; causing another

³ The University's Nondiscrimination Statement (oed.utk.edu/statement/) prohibits Sex Discrimination in any University education program or activity, including employment and admissions. Sex Discrimination means conduct directed at a specific person or a group of identifiable persons that subjects the person or group to treatment that adversely affects their employment, education, or ability to participate in or benefit equally in any University program or activity, on the basis of sex. Sex Discrimination may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. Sexual Harassment, Sexual Assault, and Sexual Exploitation are all types of Sex Discrimination. A complaint of Prohibited Conduct will be treated as a complaint of Sex Discrimination in violation of the University's Nondiscrimination Statement if it was based on the sex of the Complainant. Complaints of Sex Discrimination will be handled in accordance with the procedures outlined in Section 3 of this Policy.

person to physically contact oneself with or on the other person's breasts, buttocks, groin, or genitals, whether clothed or unclothed; or any other type of intentional physical contact done in a sexual manner or for the purpose of sexual arousal or gratification, based on the perspective of a Reasonable Person.

4.2.3 CONSENT

"Consent" means an active agreement to participate in Sexual Contact or Sexual Penetration. An active agreement is words and/or conduct that communicate a person's willingness to participate in Sexual Contact or Sexual Penetration.

The following individuals cannot give valid Consent:

- A person who is Incapacitated, if either the person claiming to have obtained Consent knows that the other person is Incapacitated or a Reasonable Person would know that the other person is Incapacitated;
- A person who is Forced to participate in Sexual Contact or Sexual Penetration; or
- A person who is under the age of eighteen (18), unless the person giving Consent is at least the age of thirteen (13) and the other person is less than four (4) years older than the person giving Consent.

Appendix B explains how the University determines whether Consent was obtained. Persons subject to this Policy are responsible for understanding and conforming their conduct to the standards described in this Section 4 and Appendix B.

4.2.4. FORCE

"Force (Forced)" means words and/or conduct that, viewed from the perspective of a Reasonable Person, substantially impair(s) a person's ability to voluntarily choose whether to participate in Sexual Contact or Sexual Penetration.

Examples of Force include, without limitation:

- Physical force (e.g., hitting, punching, slapping, kicking, restraining, choking, kidnapping, using a weapon, blocking access to an exit);
- Words and/or conduct that would cause a Reasonable Person to fear:
 - Physical force or other harm to the person's health, safety, or property, or a third person's health, safety, or property;
 - Loss or impairment of an academic benefit, employment benefit, or money;
 - Disclosure of sensitive personal information or information that would harm a person's reputation;
 - Disclosure of video, audio, or an image that depicts the person's nudity or depicts the person engaging in Sexual Contact or Sexual Penetration; or
 - Other immediate or future physical, emotional, reputational, financial, or other harm to the person or a third person.

Force is something more than seduction or persuasion.

4.2.5. INCAPACITATION

"Incapacitation (Incapacitated)" means a temporary or permanent physical or mental state in which a person cannot make an informed, rational judgment about whether to Consent to Sexual Contact or Sexual Penetration because: (1) the person lacks the physical or mental capacity to understand the nature or consequences of their words and/or conduct (i.e., cannot understand the "who, what, when, where, why, and/or how" of their words and/or conduct); and/or (2) the person is unable to physically and/or verbally communicate and/or withdraw Consent.

Incapacitation can be voluntary or involuntary. Signs of Incapacitation may include, without limitation: sleep; total or intermittent unconsciousness; lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; emotional volatility; combativeness; vomiting; incontinence; unresponsiveness; and inability to communicate coherently. Incapacitation is an individualized determination based on the totality of the circumstances. Alcohol and drugs are common causes of Incapacitation. When alcohol or drugs are involved, Incapacitation is a state beyond mere drunkenness or intoxication.

4.3 SEXUAL HARASSMENT

With respect to conduct by an employee or other non-student, **"Sexual Harassment"** means words and/or conduct of a sexual nature prohibited by University of Tennessee System Human Resources Policy 0280 ("Sexual Harassment and Other Discriminatory Harassment") (policy.tennessee.edu/hrpolicy/hr0280/).

With respect to conduct by a student, **"Sexual Harassment"** means (1) unwelcome words and/or conduct, (2) that are sexual in nature, sex-based, and/or gender-based, (3) that are pervasive, persistent, or sufficiently severe, (4) that are objectively offensive, and (5) that unreasonably deny, unreasonably limit, or unreasonably interfere with a person's ability to participate in or benefit from a University educational program or activity. In no event shall the term "Sexual Harassment" be construed to prohibit speech protected by the First Amendment to the United States Constitution (e.g., mere insulting or offensive speech). Sexual Harassment may include, for example, unwelcome sexual advances, requests for sexual favors, Sexual Assault, and Sexual Exploitation. To determine whether words and/or conduct constitute Sexual Harassment, the University will consider the totality of the circumstances, including without limitation: the context in which the conduct and/or words occurred; and the frequency, nature, and severity of the words and/or conduct. Depending on the severity of the words and/or conduct, a single incident (e.g., Sexual Assault) may be considered Sexual Harassment.

4.4 SEXUAL EXPLOITATION

"Sexual Exploitation" means taking sexual advantage of another person, without that person's active agreement. An active agreement is words and/or conduct that communicate a person's willingness to participate in an act.

Examples of Sexual Exploitation include, without limitation:

- Surreptitiously observing, photographing, audiotaping, videotaping, or recording an image of a person who is engaging in Sexual Contact or Sexual Penetration, or a person's breasts, buttocks, groin, or genitals, when the person being observed/photographed/audiotaped/videotaped/recorded is in a place in which the person has a reasonable expectation of privacy;
- Allowing or enabling a person to surreptitiously observe, photograph, audiotape, videotape, or record an image of another person who is engaging in Sexual Contact or Sexual Penetration, or another person's breasts, buttocks, groin, or genitals, when the person being observed/photographed/audiotaped/videotaped/recorded is in a place in which the person has a reasonable expectation of privacy;
- Showing, posting, or sharing video, audio, or an image that depicts a person who is engaging in Sexual Contact or Sexual Penetration, or a person's breasts, buttocks, groin, or genitals, when the person being observed/photographed/audiotaped/videotaped/recorded is in a place in which the person has a reasonable expectation of privacy, if all persons who are depicted have not agreed to having the video/audio/image shown, posted, or shared;
- Prostituting another person or engaging in sex trafficking; or
- Knowingly exposing another person to a sexually transmitted infection or disease without informing the other person that one has a sexually transmitted infection or disease;

- Forcing a person to participate in Sexual Contact or Sexual Penetration with a person other than oneself; or Forcing a person to expose the person's breasts, buttocks, groin, or genitals;
- Forcing a person to take an action against that person's will by threatening to show, post, or share video, audio, or an image that depicts the person's nudity or depicts the person engaging in Sexual Contact or Sexual Penetration; or
- Forcing a person to take an action against that person's will by threatening to disclose sensitive personal information or information that would harm a person's reputation;
- Causing or requesting an Incapacitated person to expose the person's breasts, buttocks, groin, or genitals.

A person cannot actively agree to an act if: (1) the person is Incapacitated, if either the person claiming to have obtained Consent knows that the other person is Incapacitated or a Reasonable Person would know that the other person is Incapacitated; or (2) the person is Forced to participate in the act.

4.5 RELATIONSHIP VIOLENCE

"Relationship Violence" means an act of violence, or a threat of an act of violence, committed by a person who is or has been in a sexual, dating, spousal, romantic, familial, or other intimate relationship with the Complainant.⁴

- "Act of violence, or a threat of an act of violence" means: causing physical harm to any person; endangering the health, safety, or welfare of any person; engaging in conduct that causes a Reasonable Person to fear harm to their health or safety; or making an oral or written statement that a Reasonable Person hearing or reading the statement would interpret as a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.
- The existence of a sexual, dating, spousal, romantic, familial, or other intimate relationship shall be determined based on the totality of the circumstances including, without limitation: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

Relationship Violence also may be a form of Sex Discrimination prohibited by federal and state antidiscrimination laws, such as Title VII and Title IX, and/or may constitute a crime in Tennessee.

Relationship Violence does not include roommates who do not have an intimate relationship.

4.6 STALKING

"Stalking" means engaging in a course of conduct directed at a specific person, regardless of one's relationship with that person, which would cause a Reasonable Person to: (1) fear for the person's safety or the safety of another person; and/or (2) suffer substantial emotional distress. "Course of conduct" means two or more acts, including, but not limited to, acts in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates with or about another person, or interferes with another person's property. "Substantial emotional distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Acts that may be involved in a course of conduct include, without limitation:

- Cyber-stalking, a particular type of stalking in which electronic media such as the internet, social networks, apps, blogs, texts, cell phones, or a similar action, method, device, or means is used;

⁴ The University also prohibits "domestic violence" and "dating violence" as defined by the Clery Act.

- Following a person;
- Being or remaining in close proximity to a person;
- Entering or remaining on or near a person's property, residence, or place of employment;
- Monitoring, observing, or conducting surveillance of a person;
- Threatening a person (directly or indirectly);
- Giving gifts or objects to, or leaving items for, a person; or
- Damaging or harming a person's property (including pets) or interfering with a person's use of property.

Stalking also may be a form of Sex Discrimination prohibited by federal and state antidiscrimination laws, such as Title VII and Title IX, and/or may constitute a crime in Tennessee.

4.7 RETALIATION

"Retaliation" means an action taken because of a person's participation in a protected activity and that would discourage a Reasonable Person from engaging in protected activity. "Protected activity" means a person's good faith: (1) opposition to Prohibited Conduct or assisting a person who opposes Prohibited Conduct; (2) report of Prohibited Conduct to the University, the police, or to a state or federal agency or assisting a person who reports Prohibited Conduct; (3) participation (or reasonable expectation of participation) in any manner (e.g., in an investigation, proceeding, or hearing relating to Prohibited Conduct) or requesting an Interim Measure under this Policy; and/or (4) exercise of rights or responsibilities under any provision of the Clery Act. An action is not taken in good faith if done with knowing or reckless disregard for information that would negate the accuracy of the report or information. Retaliation is a violation of this Policy regardless of whether the underlying allegation of a violation of this Policy is ultimately found to have merit.

4.8 REASONABLE PERSON

"Reasonable Person" means a sober, objectively reasonable person in the same situation, with ordinary sensitivities, and with similar identities as the person whose words and/or conduct are being evaluated by the University.

APPENDIX A
GUIDE ON CARE, SUPPORT, AND REPORTING OPTIONS

The University of Tennessee is committed to creating and maintaining a safe and non-discriminatory learning, living, and working environment free from Sexual Misconduct, Relationship Violence, Stalking, and Retaliation (collectively, "Prohibited Conduct"). Prohibited Conduct is defined in the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation (the "Policy").

The purpose of this appendix is to provide an overview of care, support, and reporting options, including confidential resources and options for reporting Prohibited Conduct to the police and/or the University.¹ The University has developed a "You Are Not Alone" guide that highlights the areas addressed in this appendix, but this appendix serves as the comprehensive resource.

Section 2 of the Policy identifies the University's Title IX Coordinator and Deputy Title IX Coordinators, who are trained and accessible for consultation and assistance about care, support, and reporting options. The Title IX Coordinator, the Deputy Title IX Coordinators, and their designees are referred to collectively in the Policy and this guide as "Title IX Officials."

SECTION 1. CARE AND SUPPORT RESOURCES

This section describes a variety of counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid assistance, and other services available, both within the University and in the community, for individual who has experienced Prohibited Conduct ("Complainant"). A Complainant may pursue the care and support resources identified in this Section 1 regardless of whether they choose to report the incident to the University or the police.

1.1 Medical Care

The University strongly encourages Complainants who experience Sexual Assault or any other form of interpersonal violence to seek medical care immediately even if they choose not to report the incident. Medical care providers can keep information communicated to them confidential and will not communicate such information to the University, the police, or any other third party, unless required or permitted by law. **Complainants are not required to report an incident to the University or the police to receive medical care.**

Medical care may be obtained from the following:

PLACE	WHEN	CONTACT INFORMATION
UT Student Health Center (for students only)	From 8:00 a.m. – 4:30 p.m., Mondays, Tuesdays, Thursdays, and Fridays, and from 9:00 a.m. – 4:30 p.m. on Wednesdays, except on University holidays, breaks, or closures	(865) 974-2196 1800 Volunteer Blvd Knoxville, TN 37996 <i>studenthealth.utk.edu</i>

¹ Capitalized terms have the same meaning in the Policy and Appendix A.

PLACE	WHEN	CONTACT INFORMATION
Sexual Assault Center of East Tennessee	24 hours, seven days a week	(865) 522-7273 (24 hour crisis line) 2455 Sutherland Avenue, Building B, Knoxville, TN mcnabbcenter.org/sacet
UT Medical Center (or another local hospital)	24 hours, seven days a week	(865) 305-9000 1924 Alcoa Highway Knoxville, TN utmedicalcenter.org

In cases of Sexual Assault, it is important to seek immediate medical attention to determine the presence of physical injury, address pregnancy concerns, determine the possibility of exposure to sexually transmitted diseases, and, if the Complainant later decides to pursue legal options, to obtain evidence to assist in criminal prosecution, a civil action, or in obtaining a civil protection order. **According to the Sexual Assault Center of East Tennessee, the key to success in collecting physical evidence of a Sexual Assault is to collect the evidence as soon as possible after a Sexual Assault (ideally within 24 hours of a Sexual Assault but no later than 72 hours after a Sexual Assault).** Prior to seeking medical care following a Sexual Assault, a Complainant should avoid changing their clothing, bathing, showering, using a douche, using the bathroom, brushing their teeth, drinking liquids, washing their hands or face, or combing their hair. If the Complainant changes their clothes, then the best way to preserve evidence relating to clothing is to put the clothing in a paper (not plastic) bag.

The collection of evidence for use in a criminal prosecution or an order of protection hearing relating to Sexual Assault can only be performed by trained personnel at a hospital emergency room (e.g., UT Medical Center) or at the Sexual Assault Center of East Tennessee; physical examinations by other healthcare providers are likely to impede potential future legal remedies. In cases of Sexual Assault, a medical professional typically will: examine the Complainant; provide appropriate medical treatment; collect evidence of the assault, such as hairs, fluids, and fibers; and, if applicable, talk with the Complainant about the prevention of venereal disease and pregnancy. A medical examination preserves evidence for forensic analysis in case a Complainant wishes to pursue a criminal prosecution or an order of protection. The medical examination likely will be performed by a sexual assault nurse examiner, a SANE (Sexual Assault Nurse Examiner) who is specially trained to collect evidence in cases of Sexual Assault.

If the Complainant chooses not to report the incident to the police at the time of the medical examination, then the medical provider will provide the examination materials to local police with a unique identifying number that will also be provided to the Complainant. The police department with jurisdiction will store the examination materials for up to three (3) years. If in that time the Complainant decides to make a police report, then the Complainant may report to the police department with jurisdiction and refer to the unique identifying number so that the Complainant's examination materials may be matched with the Complainant's police report for evidentiary purposes.

1.2 Confidential Support and Counseling

The University urges Complainants to seek emotional support and counseling immediately after any incident of Prohibited Conduct. The persons identified in this Section 1.2 can keep information communicated to them confidential, which means that they will not communicate such information to the University, the police, or any other third party, unless required or permitted by law, court order, or subpoena. Complainants may pursue the confidential support and counseling options

identified in this Section 1.2 regardless of whether they choose to report the incident to the University or the police.

1.2.1 University "Confidential Employees"

A Complainant may speak with a person identified as a University employee identified as a "Confidential Employee" if a Complainant does not desire action by the University but desires to confide in someone confidentially. Confidential Employees are University employees who can keep information confidential because they hold a valid license in a profession for which Tennessee law recognizes a confidential relationship between a professional and a professional's client or patient.

A Confidential Employee can provide emotional support and help a Complainant explore options for care and support and provide information on reporting options and Interim Measures. A Complainant who at first requests confidentiality may later decide to report the incident to the University and/or to the police and have the incident fully investigated. Confidential Employees can provide the Complainant with assistance in making such reports if the Complainant asks them to do so.

Information communicated to a Confidential Employee does not constitute notice or a report to the University of an incident of Prohibited Conduct. Except in the limited circumstances described in Section 1.2.1.2, information communicated to a Confidential Employee will not be shared with a Title IX Official, and the University therefore will be unable to use such information to investigate alleged Prohibited Conduct or to pursue disciplinary action against the Respondent.

1.2.1.1 Identification of Confidential Employees

Confidential Employee	Who May Access Their Services	How to Contact
A licensed psychologist, psychiatrist, or nurse practitioner in the Student Counseling Center	Students	(865) 974-2196, if calling during the hours of 8:00 a.m. – 5:00 p.m. on Mondays, Tuesdays, Wednesdays, and Fridays, or during the hours of 9:00 a.m. – 5:00 p.m. on Thursdays, except on University holidays, breaks, or closures A student who needs counseling support when the Student Counseling Center is <u>not</u> open may call (865) 974-HELP (4357). <i>counselingcenter.utk.edu</i> Student Health Center, Second floor 1800 Volunteer Blvd. Knoxville, TN 37996 Open from 8:00 a.m. – 5:00 p.m. on Mondays, Tuesdays, Wednesdays, and Fridays, and from 9:00 a.m. – 5:00 p.m. on Thursdays, except on University holidays, breaks, or closures
A licensed physician, registered nurse, or nurse	Students	(865) 974-3648 <i>studenthealth.utk.edu</i> Student Health Center

<p>practitioner in the Student Health Center</p>		<p>1800 Volunteer Blvd. Knoxville, TN 37996</p> <p>Open from 8:00 a.m. – 4:30 p.m., Mondays, Tuesdays, Thursdays, and Fridays, and from 9:00 a.m. – 4:30 p.m. on Wednesdays, except on University holidays, breaks, or closures</p>
<p>A licensed psychologist in the Psychological Clinic</p>	<p>Students and Employees</p>	<p>(865) 974-2161 psychclinic.utk.edu 208 UT Conference Center Bldg 600 Henley Street Knoxville, TN 37996</p> <p>Open from 8:00 a.m. – 5:00 p.m., Monday-Thursday, and 8:00 a.m. – 5:00 p.m. on Fridays, except on University holidays, breaks, or closures</p>
<p>A University employee who holds a valid license in a profession for which Tennessee law recognizes a confidential relationship between a professional and a professional’s client or patient, if the employee is acting within the course and scope of his/her University employment and Tennessee law would recognize the existence of a confidential relationship between the employee and the student in the particular situation</p>	<p>Students and Employees</p>	<p>Varies by employee</p>
<p>Kristen Martin, Team ENHANCE/EXCEL Coordinator</p>	<p>Intercollegiate student-athletes only</p>	<p>kmartin5@tennessee.edu (865) 974-9754</p>
<p>Dr. Chris Klenck, Head Team Physician</p> <p>NOTE: Athletic trainers and other staff members in Sports Medicine are <u>not</u> Confidential Employees. They are Mandatory Reporters of Prohibited Conduct involving students.</p>	<p>Intercollegiate student-athletes only</p>	<p>cklenck@tennessee.edu (865) 974-1147</p>

A University employee identified above is a Confidential Employee only if the individual is communicating with the employee as a patient or client of the employee, as opposed to communicating with the employee in another context (e.g., faculty members in law, psychology, social work, and nursing not acting in a licensed capacity).

Confidential Employees include the persons identified above, University employees working under their supervision (except for Sports Medicine staff), and University employees providing administrative, operational, and/or related support for such persons.

1.2.1.2 Confidentiality Exceptions

In a limited number of circumstances, Confidential Employees are required or permitted by law, court order, or subpoena to disclose confidential information:

- The patient or client signs a written consent permitting the information disclosure;
- Confidential Employees may be required to comply with subpoenas and court orders to testify in legal proceedings;
- Confidential Employees may periodically report non-personally identifiable information about Prohibited Conduct to the Title IX Coordinator or a Deputy Title IX Coordinator to keep that person informed about the general extent and nature of Prohibited Conduct on and off campus;
- Confidential Employees who are "Campus Security Authorities" for purposes of Clery Act compliance are required to report non-personally identifiable information to the University's Clery Compliance Coordinator unless they received the information when acting as a pastoral or professional counselor as defined by the Clery Act regulations, 34 C.F.R. § 668.46(a);
- Confidential Employees are required by Tennessee law to report suspected child abuse or child sexual abuse (Tennessee Code Annotated §§ 37-1-401 et seq.; 37-1-601 et seq.; 37-1-614);
- Confidential Employees are required to report certain injuries to law enforcement (Tennessee Code Annotated § 38-1-101);
- Confidential Employees are required to report threats of serious bodily harm or death against a reasonably identifiable victim or victims (Tennessee Code Annotated §§ 33-3-206; 33-3-210);
- Confidential Employees may be required to report information about a person knowingly exposing another person to sexually transmitted diseases. (Tennessee Code Annotated §§ 68-10-102; 68-10-115); and
- Confidential Employees are required by law to report information that a person age 60 or older, or a person with certain physical and mental disabilities, has been subject to abuse, neglect, or exploitation (Tennessee Code Annotated § 71-6-101 et seq.).

1.2.2 Confidential Support and Counseling Outside of the University

Complainants who desire to receive confidential support and counseling from someone not affiliated with the University may contact one of the following:

Knoxville-Area Resources

- **Sexual Assault Center of East Tennessee**
(865) 522-7273 (24-7 crisis hotline)
2455 Sutherland Avenue, Building B, Knoxville, TN

mcnabbcenter.org/sacet

To better serve its students and employees, the University has entered into a Memorandum of Understanding with the Sexual Assault Center of East Tennessee (SACET). The primary mission of SACET is to provide excellent and compassionate services for survivors of Sexual Assault and to empower communities through education and social change. SACET is a service of the Helen Ross McNabb Center. **A Complainant does not have to report a Sexual Assault to the police to receive services from SACETN.**

SACET has four program areas: Sexual Assault Nurse Examinations; Advocacy; Therapy; and Education and Outreach. Three of those program areas are described in more detail below.

- Sexual Assault Nurse Examinations. A Sexual Assault Nurse Examiner (SANE) is available 24/7, 365 days a year to provide forensic nursing to Sexual Assault crime victims ages 13 and older. SANE exams can be performed at a local hospital or at SACET's Sexual Assault Forensic Exam (SAFE) Center. All services provided by the SACET are free, including no-cost SANE exams, pregnancy prevention, and testing and preventative treatment for sexually transmitted infections.
- Advocacy. The advocacy program of SACET provides victims of Sexual Assault with the support, information, and resources needed throughout the recovery process. Advocates work to ensure that victims' legal rights are protected, while also empowering victims to make their own decisions. Advocacy assistance includes: accompaniment during SANE exams, police interviews, legal appointments, and University and court proceedings; and assistance filing victim's compensation applications and petitions for orders of protection.
- Therapy. Therapy services are available to victims in crisis, victims of a recent Sexual Assault, and persons who were victims of a Sexual Assault or sexual abuse that happened months or years ago. The goal of SACET is to work collaboratively to address the many concerns and issues associated with sexual violence to promote healing. Therapists at the SACET specialize in treating female, male, and LGBTQ Complainants and offer services to individuals of all ages.
- **University of Tennessee Medical Center** (or another local hospital)
(865) 305-9000
1924 Alcoa Highway
utmedicalcenter.org
The University of Tennessee Medical Center is operated by University Health System, Inc., a separate legal entity from the University of Tennessee. As a result, a report to the University of Tennessee Medical Center does not put The University of Tennessee on notice of Prohibited Conduct.
- **Knoxville Family Justice Center**
(sexual assault and dating/domestic violence)
400 Harriet Tubman Street
Knoxville, TN 37915

(865) 521-6336 (24/7 crisis line)

fjcknoxville.com

The Knoxville Family Justice Center serves domestic violence and sexual assault victims. This comprehensive support center provides a single location for victims to access advocacy and other services, including safety planning, danger assessment, orders of protection, prosecutors, detectives, civil legal assistance, counseling, support groups, access to shelter, clergy, and social service professionals.

- **YWCA – Knoxville – Victim Advocacy Program**

(dating/domestic violence)

(865) 521-6336 (24-7 crisis hotline)

420 West Clinch Avenue or 124 S. Cruze Street

ywcaknox.com

YWCA advocates provide comprehensive support for victims of dating/domestic violence, including safety planning and crisis intervention, education on victim's rights and victim compensation, navigation of the justice system, accompaniment to court, referrals for and assistance accessing essential services, referrals to support group, and follow-up services.

- **Helen Ross McNabb – Family Crisis Center**

(dating/domestic violence)

(865) 637-8000 (24-7 crisis hotline)

mcnabbcenter.org/content/domestic-violence-services

The Kent C. Withers Family Crisis Center is a safe place of refuge for individuals experiencing dating/domestic violence. While at the shelter, victims receive on-site counseling, advocacy and case management. Additionally, the 24-hour crisis hotline provides a number for victims to call for any-time-of-day access to safety planning and information on emergency shelter, support groups and other domestic violence services from caring, knowledgeable staff.

National and state crisis lines available 24 hour/7 days a week

- **Tennessee Coalition to End Domestic & Sexual Violence**

800-356-6767

tncoalition.org

The Tennessee Coalition to End Domestic and Sexual Violence (TCEDS) is a private nonprofit organization composed of diverse community leaders and program members who share a common vision of ending violence in the lives of Tennesseans through public policy, advocacy, education and activities that increase the capacity of programs and communities to address violence. The TCEDS is a stateside organization that serves: Domestic Violence and Sexual Assault programs; community groups and organizations; criminal justice agencies; allied professionals (e.g., medical, legal, mental health professionals); individuals seeking information and resources; and immigrant victims of domestic or sexual violence, Stalking or trafficking.

- **RAINN National Sexual Assault Crisis Hotline**

800-656-HOPE (4673)

rainn.org/get-help/national-sexual-assault-hotline

- **National Domestic Violence Hotline**

800-799-SAFE (7233)

thehotline.org

- **Love is Respect – National Dating Abuse Hotline**
866-331-9474
loveisrespect.org

Other confidential, non-University resources

- A personal attorney
- A clergy member
- A physician or licensed mental health professional who is not an employee or contractor of the University
- A licensed marital or family therapist, licensed professional counselor, or certified clinical pastoral therapist who is not an employee or contractor of the University

Non-University counselors, advocates, and health care providers will maintain confidentiality unless state law requires or permits the disclosure of information.

1.3 Legal Resources

1.3.1 *Orders of Protection, Victim Advocacy Services and Private Legal Assistance*

For assistance in pursuing orders of protection in Knox County Fourth Circuit Court and other legal remedies, a Complainant may contact:

- **Knoxville Family Justice Center**
400 Harriet Tubman Street
Knoxville, TN 37915
(865) 521-6336 (24/7 crisis line)
fjcknoxville.com
- **Knox County Fourth Circuit Court**
City County Building
400 Main Street
Knoxville, TN 37902
(865) 215-2399
knoxcounty.org/fourthcircuitcourt/index.php

A Title IX Official or the police can assist a Complainant with arranging an appointment with the Knoxville Family Justice Center to discuss options for pursuing an order of protection and other legal remedies. The Title IX Coordinator can explore the implementation of University Interim Measures (Section 1.5) to assist with enforcing the terms of an order of protection.

Additional information on orders of protection can be found here:

- The Tennessee Coalition to End Domestic and Sexual Violence provides information about orders of protection on its website: tncoalition.org/documents/orders-of-protection-%28under-faq%29.pdf
- The City of Knoxville provides a list of community resources for victims of dating/domestic violence here: knoxvilletn.gov/government/city_departments_offices/police_department/criminal_investigations/special_crimes_unit/domestic_violence_help
- The Knox County Fourth Circuit Court provides information on domestic violence and orders of protection here: knoxcounty.org/fourthcircuitcourt/domestic_violence.php

The University does not provide advocacy services or private legal assistance to students or employees.

The Knoxville Bar Association provides assistance with finding an attorney in the greater Knoxville area: knoxbar.org/index.cfm?pg=hiring-a-lawyer.

The American Bar Association also provides information on finding legal services by state: apps.americanbar.org/legalservices/findlegalhelp/home.cfm.

The Tennessee Coalition to End Domestic and Sexual Violence (tncoalition.org) operates a Sexual Assault Legal Clinic, which offers direct legal services to sexual assault victims who may have legal questions and needs related to their victimization. The Sexual Assault Legal Clinic assists with: family law matters; orders of protection; victim's compensation; housing; employment; administrative hearings; referrals for civil cases; and other legal matters relating to sexual assault. The Sexual Assault Legal Clinic can be reached at (615) 386-9406 or 800-289-9018.

1.3.2 Visa and Immigration Assistance

International students and employees who are Complainants receive the same rights under Title IX and the Clery Act as other Complainants, regardless of their immigration and visa status. For victims of Sexual Assault, Relationship Violence, and Stalking, there may be other visa options, including U and T Visas.

The University's International Student and Scholar Services can provide useful information regarding immigration status, although the office does not provide legal advice:

International Student and Scholar Services
1620 Melrose Avenue
Knoxville, TN 37996-3531
Phone: (865) 974-3177
Fax: (865) 974-2985

International students and employees with questions about their immigration and visa status should seek the assistance of an immigration attorney. Immigration lawyers are licensed attorneys who specialize in the field of immigration law. They function as the client's advocate, and can represent them before immigration agencies, both in immigration court as well as in filing applications for immigration benefits. The attorney can give general advice and can discuss immigration options. Like

all attorneys, immigration attorneys are bound by professional ethical and legal requirements to keep client discussions confidential.

The Tennessee Coalition to End Domestic and Sexual Violence (tncoalition.org) operates an Immigrant Legal Clinic (tncoalition.org/documents/ilc-english-brochure.pdf), which provides legal advice and representation to immigrant and trafficked victims of domestic or sexual violence throughout Tennessee. The Immigrant Legal Clinic was created to address the unique problems faced by immigrant victims of domestic or sexual violence. There are no restrictions on what type of immigration case the clinic takes, nor are there strict income guidelines. However, all the clients must be victims of domestic or sexual violence and unable to afford an attorney on their own. Case acceptance is handled on a case-by-case basis and determined on the merits of the case and whether relief is available. To inquire about receiving the services of the Immigrant Legal Clinic, an individual may call (615) 386-9406 or 800-289-9018.

U.S. Citizenship and Immigration Services (USCIS) (uscis.gov/about-us/find-uscis-office), a bureau of the Department of Homeland Security (DHS), offers two sites to help individuals find free or low-cost legal representation:

USCIS Find Help in your Community Webpage: uscis.gov/citizenship/learners/find-help-your-community

USCIS Find Legal Services Webpage:
uscis.gov/avoid-scams/find-legal-services

The Board of Immigration Appeals (justice.gov/eoir/board-of-immigration-appeals) provides a listing of attorneys by state who provide free or low cost immigration services: justice.gov/eoir/list-pro-bono-legal-service-providers-map.

The American Immigration Lawyers Association (aila.org) offers an online immigration lawyer referral service (ailalawyer.org) that can help a student or employee find an immigration lawyer.

1.4 Student Financial Aid

Students who need assistance with financial aid issues may contact a Title IX Official or One Stop Student Express Services (onestop.utk.edu/financial-aid/).

1.5 Interim Protective and Remedial Measures Implemented by the University

After receiving a report of Prohibited Conduct, the Title IX Coordinator will implement interim protective and remedial measures ("Interim Measures") while the University assesses, investigates, and resolves the report. Interim measures are designed to eliminate and prevent the recurrence of Prohibited Conduct, deter Retaliation, and remedy the effects of Prohibited Conduct through reasonable appropriate support services, accommodations, and other assistance. Interim Measures may be implemented upon request or at the Title IX Coordinator's initiative. In accordance with the Clery Act, the Title IX Coordinator must implement academic, living, transportation, and working situations or protective measures if the Complainant requests them and if they are reasonably available.

1.5.1 Availability of Interim Measures

Interim Measures are available:

- Even if the Complainant does not want to report the incident to the police;

- Even if the Complainant has made a Request for Limited Action and the University has granted the Request for Limited Action (Section 2.3.4). (The University may be limited in the Interim Measures it can implement while keeping the identity of the Complainant confidential, such as: providing support services to the Complainant; changing living arrangements or course schedules, assignments, or tests; and providing increased monitoring, supervision, or security at locations or activities where the Prohibited Conduct occurred);
- To the Complainant, the Respondent, and witnesses, when determined to be appropriate by the Title IX Coordinator; and
- Prior to, during, or after the investigation or resolution of a report of Prohibited Conduct.

If a Complainant requests Interim Measures through a Confidential Employee, then the University may be limited in its ability to provide the Interim Measures depending on how much information the Complainant is willing to share with the Title IX Coordinator.

1.5.2 Examples of Interim Measures

The following are examples of Interim Measures:

- Issuing an interim administrative action under Section 6.4 of the Student Code of Conduct, including:
 - Issuing a no-contact directive, which prohibits a student (e.g., the Respondent) from having verbal, physical, written, and/or electronic contact with another person (e.g., the Complainant) and/or from being present on designated University-controlled property for a definite or indefinite period of time (no-contact directives may be mutual, e.g., the Complainant may also receive a directive to not contact the Respondent); and/or
 - Imposing interim restrictions on the Respondent (e.g., an interim suspension if the Vice Chancellor for Student Life has reasonable cause to believe that a Respondent's continued presence on University-controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health, safety, or welfare of others);
- Informing the Complainant of the right to report the incident to the police for criminal investigation and prosecution and offering to assist the Complainant in reporting an incident to the police;
- Putting a Respondent (if an employee) on leave, in accordance with other applicable University policies, prior to the conclusion of the investigation and resolution of a report of Prohibited Conduct;
- Assisting the Complainant in obtaining medical, advocacy, and counseling services;
- Exploring changes in living, transportation, dining, and working arrangements;
- Providing an escort to ensure that a Complainant who is a student can move safely between classes and activities;
- Arranging appointments for a Complainant with follow-up on-campus support services or off-campus support services, such as those identified in this Section 1 (e.g., arranging an appointment with the Knoxville Family Justice Center to discuss options for pursuing an order of protection in Knox County Fourth Circuit Court);
- Exploring changes in class and extracurricular schedules, including adjustments so that the Complainant and the Respondent do not share the same classes;
- Assisting the Complainant in communicating with faculty;

- Reviewing any disciplinary action(s) taken against the Complainant to see if there is a causal connection between the Respondent's misconduct and the misconduct that may have resulted in the Complainant being disciplined;
- Assisting the Complainant in requesting that directory information be removed from public sources by contacting the Office of the University Registrar;
- Accessing academic support for the Complainant, including tutoring;
- Assisting with requesting academic accommodations such as re-scheduling exams, obtaining extensions of time for assignments, re-taking a course, dropping a course, or withdrawing for a semester without financial or academic penalty.

1.5.3 Determination of Interim Measures

The specific Interim Measures implemented and the process for implementing those measures will usually be determined by the Title IX Coordinator² and will vary depending on the facts of each case and the student or employee status of the Complainant and the Respondent. The Title IX Coordinator will consider a number of factors in determining what Interim Measures the University will take, including, for example: the specific desire(s) expressed by the person who will benefit from the Interim Measures (e.g., the Complainant); whether the Complainant has made a Request for Limited Action (Section 2.3.4); the age of the persons involved; the severity or pervasiveness of the allegations; any continuing effects on the Complainant; whether the Complainant and Respondent share the same residence hall, dining hall, classes, extracurricular activities, transportation, or job location; and whether judicial measures have been taken to protect the Complainant (e.g., civil protection orders). In implementing Interim Measures, the University attempts to minimize the burden on the Complainant while balancing the due process rights, if any, of the Respondent.

1.5.4 Privacy

Under the Policy, privacy should be distinguished from confidentiality.

- Confidentiality: If a Complainant desires to communicate with someone who, by law, can keep information confidential, then the Complainant should contact one of the resources outlined in Section 1.2.
- Privacy: Information communicated to the University (Section 2.3) through a Title IX Official or a Mandatory Reporter will not be confidential but will be kept private, which means that the information will initially be shared only with the University employees whom a Title IX Official determines need to be involved in responding to the incident, except as required or permitted by law. A Title IX Official will not share personally identifiable information with the police for law enforcement purposes.³ A Title IX Official will not share information with the Respondent if the University grants a Complainant's Request for Limited Action (Section 2.3.4). When speaking with a Title

² With respect to non-student employee Complainants, the Title IX Coordinator has delegated the authority to determine and implement appropriate Interim Measures to the Deputy Title IX Coordinator for Human Resources/OED.

³ An employee of the University of Tennessee Police Department (UTPD) participates in the University's Sexual Assault Response Team. However, UTPD will not write a police report unless the Complainant decides to report the incident to the police. A description of the University's Sexual Assault Response Team can be found at titleix.utk.edu.

IX Official, Complainants are free to limit the details they share while they decide whether to report an incident to the University.

1.5.5 Subsequent Communications with the University Concerning Interim Measures

The University will strive to maintain consistent contact with the Complainant and the Respondent to ensure that all safety, emotional, and physical well-being concerns are being addressed. Persons are encouraged to report to the Title IX Coordinator concerns about the failure of another person to abide by the terms of an Interim Measure; however, in the event of an immediate health or safety concern individuals should call 911. The University will take immediate and responsive action to enforce a previously implemented Interim Measure and alleged violations will be investigated and addressed by the appropriate office. The Title IX Coordinator has the discretion to issue, modify, or remove any Interim Measure at any time.

SECTION 2. REPORTING PROHIBITED CONDUCT

The University encourages students who have experienced, have knowledge of, or have witnessed Prohibited Conduct to promptly report the incident to the police or the University.⁴ Those reporting options are not mutually exclusive. A student may report Prohibited Conduct to the University, to the police, to both, or to neither. This Section 2 describes reporting options in detail so that students can make informed choices about whether and how to report Prohibited Conduct.

2.1 Preservation of Evidence

The University recognizes that a Complainant may need time to decide whether to report an incident of Prohibited Conduct to the police and/or the University. The purpose of this section is to provide Complainants with suggestions on preserving evidence while they decide whether to report an incident.

The University strongly encourages Complainants, as soon as possible after experiencing Prohibited Conduct, to take steps to preserve evidence of the Prohibited Conduct, such as:

- Have a forensic sexual assault nurse examination performed as soon as possible after the incident, but no later than 72 hours after the incident (Section 1.1);
- When possible, prior to having a forensic sexual assault nurse examination performed, avoid: changing clothing, bathing, showering, using a douche, using the bathroom, brushing one's teeth, drinking liquids, washing one's hands or face, or combing one's hair;
- Preserve any clothing, sheets, or other materials (items containing bodily fluids should be stored in cardboard boxes or paper bags);
- Preserve or capture electronic communications such as text messages, e-mails, social media posts or exchanges (e.g., Snapchat, Facebook, Twitter);
- Preserve or capture video, audio (e.g., voice mail messages), or photographs, including those stored on smartphones or other devices; and
- Preserve any other physical, documentary, and/or electronic data that might be helpful to an investigator.

⁴ Student-employees who are Mandatory Reporters (Section 2.3.1) are required to report information they receive about Prohibited Conduct.

2.2 Reporting to the Police

Prohibited Conduct may constitute both a violation of the Policy and criminal law. Therefore, the University encourages Complainants to report Prohibited Conduct to the police immediately. Prompt reporting of an incident to the police is especially critical for incidents of Nonconsensual Sexual Penetration because the collection and preservation of evidence relating to Nonconsensual Sexual Penetration often is essential for police investigations and criminal prosecutions. Complainants should report Prohibited Conduct to the police because the police have unique legal authority to investigate and respond to Prohibited Conduct, including the power to seek and execute search warrants, collect forensic evidence, make arrests, and assist in seeking emergency protective orders.

A Complainant has the right to decline to report the incident to the police. Even if a Complainant does not report the incident to the police, the Complainant may still request Interim Measures from the University by reporting the incident to a Title IX Official.

2.2.1 Contact Information for Police

A Complainant may report Prohibited Conduct to the police 24 hours a day, seven days a week:

INCIDENT LOCATION	CONTACT
Regardless of where the incident occurred	Call 911 in an emergency or UTPD 1101 Cumberland Avenue, Knoxville, TN (865) 974-3111 utpolice.utk.edu
In the City of Knoxville	Knoxville Police Department (KPD) 800 Howard Baker, Jr. Avenue, Knoxville, TN (865) 215-4010 knoxvilletn.gov/government/city_departments_offices/police_department/ or UTPD 1101 Cumberland Avenue, Knoxville, TN (865) 974-3111 utpolice.utk.edu
In Knox County but outside of the City of Knoxville	Knox County Sheriff 400 Main Street, Suite L165, Knoxville, TN 37902 (865) 215-2243 knoxsheriff.org or UTPD 1101 Cumberland Avenue, Knoxville, TN (865) 974-3111

	utpolice.utk.edu
Outside of Knox County	Contact the police department that has jurisdiction over the location where the incident occurred or Contact UTPD for assistance in contacting another jurisdiction's police department

Upon the Complainant's request, a Title IX Official will assist a Complainant in contacting UTPD or another appropriate local police department.

Employees of UTPD are Mandatory Reporters for reports of Prohibited Conduct involving students. Accordingly, if a person reports an incident to UTPD, and the incident has not been previously reported to a Mandatory Reporter outside of UTPD, then UTPD will contact the Title IX Coordinator. The Title IX Coordinator will contact the Complainant regarding the University's response to the report. In contrast, if a Complainant reports the incident to the Knoxville Police Department or another police department other than UTPD, then the Complainant also will need to report the incident to a Title IX Official (Section 2.3) if the Complainant wants the University to take any action under the Policy.

2.2.2 What to Expect after Reporting Prohibited Conduct to the Police

Even if a Complainant is unsure whether to pursue criminal prosecution or an order of protection, the University recommends that the Complainant report the incident to the police as soon as possible. In most cases, after addressing a Complainant's immediate safety needs and/or needs for medical care, a police officer will meet with the Complainant and take a statement about what occurred. In cases of Sexual Assault, in addition to taking a statement, the police officer may ask to examine the scene of the incident and collect bedding, clothing, or other items of evidentiary value. A police officer also will conduct a thorough interview to record as many details as possible and as precisely as possible, which may take as long as several hours, depending on the circumstances of the case. Due to the traumatic effects of Sexual Assaults, multiple interviews may be required to get all of the pertinent details of the assault. When UTPD conducts the police interview, the UTPD police officer typically will ask the Complainant whether they want UTPD to call on on-call victim advocate from the Sexual Assault Center of East Tennessee to be present during the Complainant's interview(s).

If the police determine that a crime occurred after concluding its investigation, then the police will refer the matter to the district attorney. **The district attorney will decide whether to pursue criminal prosecution; however, it is unusual for cases to proceed without the cooperation of the Complainant. Reporting the incident to the police does not obligate the Complainant to cooperate with the district attorney's criminal prosecution.** If criminal prosecution is pursued, however, the likelihood of success will be much higher if the Complainant reported and allowed evidence to be collected immediately after the incident of Prohibited Conduct.

2.2.3 How University Policies/Procedures Relate to Criminal Law/Procedures

The University will cooperate with law enforcement if a Complainant decides to pursue the criminal process, to the extent permitted by law. However, the University's Policy and procedures may differ in significant respects from criminal law. A Complainant may seek resolution through the University's procedures outlined in the Policy, may pursue criminal action, may choose one but not the other,

may choose both, or may choose neither. Neither law enforcement's determination whether to prosecute a Respondent nor the outcome of any criminal prosecution is determinative of whether Prohibited Conduct occurred in violation of the Policy. Procedures under the Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. The University normally does not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing Interim Measures, and/or taking other appropriate action. Although the University may need to delay temporarily the fact-finding portion of its investigation while law enforcement is gathering evidence, the University will implement appropriate Interim Measures to support the Complainant during such a delay. Decisions made or penalties imposed by the University are not based on a result of criminal or civil charges against a Respondent arising from the same incident being dismissed, reduced, rejected, sustained, or not prosecuted; however, a Respondent's plea or a finding against a Respondent in a criminal or civil proceeding may, at the University's discretion, be used by the University in a University disciplinary proceeding.

2.2.4 Anonymous Reporting to the Police

Persons may report a crime anonymously to the Knoxville Police Department by calling 865-215-7212. Persons may report a crime anonymously to the Knox County Sheriff by visiting knoxsheriff.org/tip/index.php, by calling (865) 215-2243, or by texting the word **Knox** to **Crimes 274637**. **Texting is not an alternative to calling 911; in an emergency, call 911.**

2.3 Reporting to the University

Reporting Prohibited Conduct to the University empowers Complainants to obtain the support they need and enables the University to respond appropriately, including conducting a prompt, thorough, and equitable investigation and, if warranted, taking disciplinary action against a Respondent. Complainants are not required to report Prohibited Conduct to the University if they do not want the University to respond to the incident or assist with Interim Measures. A Complainant may opt to report an incident of Prohibited Conduct to the University but decline to disclose the identity of the Respondent; in that case, the University will offer Interim Measures to the Complainant, but the University's ability to investigate the incident and pursue disciplinary action against the Respondent or take other remedial action will be limited. If an incident is not reported to the University, then the University will not be able to take steps to: identify resources for the Complainant, such as Interim Measures; or promptly, thoroughly, and equitably investigate the incident and/or resolve the situation in order to eliminate the Prohibited Conduct, prevent its recurrence, and address its effects on the Complainant or the University community.

If a person reports an incident of Prohibited Conduct to the University, there is no requirement that the Complainant pursue criminal prosecution or University discipline against a Respondent. The University recognizes that a Complainant's decision on how to proceed after a report is filed is a process that may unfold over time; thus, at the time a report is made to the University, a Complainant does not have to decide whether to request any particular course of action.

2.3.1 Whom to Contact at the University

Students are encouraged to report Prohibited Conduct to a Title IX Official, who are trained to support Complainants:

The University's Title IX Coordinator is:

Ashley Blamey
 1817 Melrose Avenue
 Knoxville, TN 37996
 (865) 974-9600
ashleyblamey@utk.edu
titleix.utk.edu

The University's Deputy Title IX Coordinators are:

NAME	TITLE(S)	CONTACT INFORMATION
Erin Stoner	Senior Deputy Title IX Coordinator	1817 Melrose Avenue Knoxville, TN 37996 (865) 974-9600 estoner@utk.edu titleix.utk.edu
Jenny Richter	Deputy Title IX Coordinator for Human Resources/Office of Equity and Diversity Associate Vice Chancellor and Director, Office of Equity and Diversity	1840 Melrose Avenue Knoxville, TN 37996 (865) 974-2498 jrichter@utk.edu oed.utk.edu
Sarah Gardner	Deputy Title IX Coordinator for Student Support	1817 Melrose Avenue Knoxville, TN 37996 (865) 974-9600 sgardn15@utk.edu titleix.utk.edu
Laura Bryant	Deputy Title IX Coordinator for Student Prevention Director, Center for Health Education and Wellness	1800 Volunteer Blvd., Suite 201 Knoxville, TN 37996 (865) 974-5725 or (865) 974-HELP lbryant7@utk.edu wellness.utk.edu
Betsy Smith	Deputy Title IX Coordinator for Student Conduct Director, Office of Student Conduct and Community Standards	409 Student Services Building Knoxville, TN 37996 (865) 974-3171 bbsmith@utk.edu studentconduct.utk.edu
Donna Thomas	Deputy Title IX Coordinator for Intercollegiate Athletics Senior Associate Athletics Director/Senior Woman Administrator	Brenda Lawson Athletic Center 1551 Lake Loudon Boulevard Knoxville, TN 37996 (865) 974-0123 dthomas7@utk.edu

NAME	TITLE(S)	CONTACT INFORMATION
Jillian Paciello	Deputy Title IX Coordinator for Law Enforcement and Clery Compliance Clery Compliance Coordinator	University of Tennessee Police Department 1101 Cumberland Avenue Knoxville, Tennessee 37996 (865) 974-0544 jpaciell@utk.edu clery.utk.edu ; utpolice.utk.edu

Privacy under this Policy is different than confidentiality. If a Complainant desires to communicate with someone who, by law, can keep information confidential, then the Complainant should contact one of the resources outlined in Section 2.4. Information communicated to a Title IX Official or a Mandatory Reporter will be kept private, which means that the information will initially be shared only with the University employees whom a Title IX Official determines need to be involved in responding to the incident,⁵ except as required or permitted by law. A Title IX Official will not share personally identifiable information with the police for law enforcement purposes. A Title IX Official will not share information with the Respondent if the University grants a Complainant’s Request for Limited Action (Section 2.3.4).

When speaking with a Title IX Official, Complainants are free to limit the details they share while they decide whether to report an incident to the University.

If a student discloses information about Prohibited Conduct to a University employee who is not a Title IX Official, then the University employee’s duty to report the information to a Title IX Official will depend on whether the University employee is a Mandatory Reporter. All Mandatory Reporters are required to report information about Prohibited Conduct to a Title IX Official.

A University employee is a Mandatory Reporter if either of the following apply:

- (1) The Prohibited Conduct **involves either a Complainant who is a student or a Respondent who is a student.**

OR

- (2) The employee is the **supervisor of either a Complainant who is an employee or a Respondent who is an employee**, or otherwise has the authority to redress the Prohibited Conduct (e.g., human resources administrators, OED employees, Title IX Officials, department heads, deans, vice chancellors, chancellors, vice presidents, campus police).

Exceptions – No Duty to Report:

- The employee is a Confidential Employee (Section 1.2.1) and receives the information while acting in a professional, confidential capacity;
- The employee receives the information during a public awareness event such as “Take Back the Night,” candlelight vigils, protests, “survivor speak outs” or other public forums;

⁵ The University of Tennessee Police Department (UTPD) participates in the University’s Sexual Assault Response Team. However, UTPD will not write a police report unless the Complainant decides to report the incident to the police.

- The employee receives the information through a person's participation as a subject in an Institutional Review Board-approved human subjects research protocol;
- The employee receives information through an in-class discussion, a class paper, or other academic assignment; or
- The employee is a student employee (e.g., graduate assistant) and did not receive notice of the incident in the student employee's University employment capacity.

Mandatory Reporters are required to inform a Title IX Official about all information known to them about the Prohibited Conduct. Failure to adhere to one's duty to report Prohibited Conduct to a Title IX Official may result in disciplinary action, up to and including termination of employment. **Appendix E** explains other actions that a Mandatory Reporter must take, should take, and must not take in response to notice of Prohibited Conduct. Complainants who are Mandatory Reporters are not required to report or take any other action identified in this section with respect to Prohibited Conduct to which they personally have been subjected.

2.3.2 Benefits of Reporting Prohibited Conduct to the University

Reporting Prohibited Conduct to the University empowers Complainants to obtain the support they need and enables the University to respond appropriately, including conducting a prompt, thorough, and equitable investigation and, if warranted, pursuing disciplinary action against a Respondent. Complainants are not required to report Prohibited Conduct if they do not want the University to respond to the incident or assist with Interim Measures. A Complainant may opt to report an incident of Prohibited Conduct but decline to disclose the identity of the Respondent; in that case, a Title IX Official will offer Interim Measures to the Complainant, but the University's ability to investigate the incident and pursue disciplinary action against the Respondent or take other remedial action will be limited. If an incident is not reported to the University, then the University will not be able to take steps to: identify care and support resources for the Complainant, such as Interim Measures; or promptly, thoroughly, and equitably investigate the incident and/or resolve the situation to eliminate the Prohibited Conduct, prevent its recurrence, and address its effects on the Complainant or the University community.

2.3.3 Initial Response and Assessment by the Title IX Coordinator

After receiving a report of Prohibited Conduct, the Title IX Coordinator will take immediate and appropriate steps to:

- Have an appropriate University employee offer to meet with, or otherwise communicate with, the Complainant;
- Implement interim protective and remedial measures (Section 1.5) to eliminate and prevent the recurrence of Prohibited Conduct, deter Retaliation, and remedy the effects of Prohibited Conduct through reasonable support services, accommodations, and other assistance;
- In cases of Sexual Assault, Relationship Violence, or Stalking, whether the Prohibited Conduct occurred on or off campus, provide a Complainant with a paper or electronic copy of this Policy and/or another written publication approved by the Title IX Coordinator that informs the Complainant of the Complainant's rights and options under this Policy (if that has not already been done by a Mandatory Title IX Reporter), which will include: (1) notification about counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and

other services available for victims, both within the University and in the community; and (2) notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures;

- Subject to a Complainant's Request for Limited Action (Section 2.3.4), initiate the investigation and resolution procedures outlined in **Appendix C** (reports of student misconduct) or **Appendix D** (reports of employee misconduct) of the Policy if, based on an initial assessment, the alleged conduct meets the definition of Prohibited Conduct and falls within the scope and applicability of this Policy; and
- If the Complainant requests, assist the Complainant in reporting the incident to the police.

The Title IX Coordinator may delegate the authority to take the some or all the steps described above to another Title IX Official.

2.3.4 Complainant's Right to Make a Request for Limited Action

A Complainant has the right to do the following when an incident of Prohibited Conduct is reported to a Title IX Official:

- Request that the report of Prohibited Conduct or the Complainant's contact with a Title IX Official not be disclosed to the Respondent;
- Decline to personally identify the Respondent;
- Decline to respond to communications from a Title IX Official; and/or
- Request that the University not investigate the incident, stop an ongoing investigation, or not pursue or stop the pursuit of disciplinary action against the Respondent.

Such an action is referred to in this Policy as a "**Request for Limited Action.**"

The Title IX Coordinator evaluates Requests for Limited Action, although the Title IX Coordinator may delegate the authority to evaluate Requests for Limited Action to the Deputy Title IX Coordinator for Human Resources/OED in cases involving employees.

If the Complainant makes a Request for Limited Action, then the Title IX Coordinator will seriously weigh the request against the University's obligation to provide a safe, non-discriminatory environment for all members of the University community, including the Complainant. If the Title IX Coordinator honors the Request for Limited Action, then the University's ability to respond fully to the incident (e.g., meaningfully investigate the incident and pursue disciplinary action against the Respondent or take other remedial action) may be limited.

There are limited circumstances in which the Title IX Coordinator may not grant a Request for Limited Action because of the University commitment to providing a safe and non-discriminatory learning, living, and working environment free from Prohibited Conduct. For example, if the University has credible information that the Respondent has committed one or more other acts of Prohibited Conduct, then the balance of factors might compel the University to investigate the allegation, and,

if appropriate, pursue disciplinary action in a manner that may make known the Complainant's identity to the Respondent.

When evaluating a Request for Limited Action, the Title IX Coordinator will consider a range of factors, including, without limitation, the following factors:

- The risk that the Respondent will commit additional acts of Prohibited Conduct, such as:
 - Whether there have been other reports of Prohibited Conduct or other relevant misconduct concerning the same Respondent, whether or not the incidents occurred while the Respondent was a University student or employee;
 - Whether the Respondent threatened further Prohibited Conduct or other misconduct against the Complainant or others; and
 - Whether the Prohibited Conduct was committed by multiple perpetrators;
- The nature and scope of the Prohibited Conduct, including whether the Prohibited Conduct was perpetrated with a weapon;
- The ages and roles of the Complainant and the Respondent;
- Whether the University can pursue the investigation without the participation of the Complainant (e.g., whether there are other available means to obtain relevant evidence of the Prohibited Conduct such as security cameras or physical evidence);
- Whether the Complainant's report reveals a pattern of perpetration (e.g., perpetration involving illicit use of drugs or alcohol) at a given location or by a particular group; and
- The University's commitment to providing a safe, non-discriminatory environment, including the risk posted to any individual or to the campus community by not proceeding with an investigation.

The presence of one or more of those factors could lead the Title IX Coordinator to deny the Request for Limited Action. If the Title IX Coordinator grants a Request for Limited Action, then the University will take reasonable steps to respond to the report consistent with the Request for Limited Action and will take prompt actions that the University determines are necessary to protect and assist the Complainant while not disclosing the Complainant's identity to the Respondent (e.g., providing the Complainant with Interim Measures).

If the Title IX Coordinator determines not to grant the Request for Limited Action, then the Title IX Coordinator will inform the Complainant of the decision prior to starting an investigation and will, to the extent possible and unless otherwise required by law, only share information with people responsible for handling the University's response. If the Title IX Coordinator determines that the University must disclose the Complainant's identity to the Respondent, then the Title IX Coordinator will inform the Complainant of that determination prior to the disclosure. The University will honor a request by the Complainant that the University inform the Respondent that the Complainant asked the University not to investigate or seek discipline. The University will take ongoing steps that it determines are reasonable and appropriate to protect the Complainant from Retaliation or harm and may work with the Complainant to create a safety plan. The University will also assist the Complainant to access the support resources identified in this guide, including Interim Measures, and inform the Complainant of the right to report a crime to campus or local law enforcement (and provide the Complainant with assistance in reporting if the Complainant requests it). The University will not tolerate Retaliation against any person, including the Complainant.

Because the University is under a continuing obligation to address the issues of Prohibited Conduct campus-wide, reports of Prohibited Conduct (including non-identifying reports) may also prompt the

University to consider broader remedial action – such as increased monitoring, supervision or security at locations where the reported Prohibited Conduct occurred; increasing education and prevention efforts, including to targeted population groups; conducting additional climate assessments/victimization surveys; and/or revisiting its policies and practices.

2.3.5 Complainant's Participation in an Investigation or Disciplinary Proceeding

The University will not require a Complainant to participate in any investigation, or a hearing before the Student Disciplinary Board. A Complainant may be required to participate in a disciplinary hearing held pursuant to the Uniform Administrative Procedures Act if the Complainant receives a subpoena.

2.3.6 Amnesty for Students Who Report Prohibited Conduct to the University⁶

The University recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident may be hesitant to report an incident to the University because of a fear of University disciplinary penalties for student's own violation of the Standards of Conduct. Because of the importance to the University of responding to incidents of Prohibited Conduct, a student who reports Prohibited Conduct to the University or provides information in a University investigation into alleged Prohibited Conduct will not be subject to disciplinary action by the University for personal consumption of alcohol or other drugs, or minor offenses, at or near the time of the reported incident, but may be responsible for other, more serious conduct that harmed or placed the health or safety of any other person at risk. The University may, however, initiate an educational discussion or pursue other educational remedies with the student regarding alcohol or drugs.

2.3.7 The University's Disclosure Obligations under Federal and Tennessee Law Relating to Reports of Prohibited Conduct

Clery Act

Certain University employees, called Campus Security Authorities, have a duty to report certain incidents of Prohibited Conduct to UTPD to comply with the Clery Act. Campus Security Authorities are not required to report personally identifiable information to UTPD for Clery Act purposes, but statistical information must be sent to UTPD regarding the type of incident that occurred and its general location (e.g., on or off-campus) for publication in an annual report of crime statistics, called the Annual Security Report. Statistics published in the Annual Security Report help to provide the campus community with a clearer picture of the extent and nature of campus crime, **but the statistics do not personally identify Complainants or Respondents**. Reports by Campus Security Authorities are not official police reports and do not initiate criminal investigations.

In addition to the Annual Security Report and in compliance with the Clery Act, UTPD maintains a daily crime log that includes entries for all crimes and alleged crimes that occurred within the University's Clery Geography or the patrol jurisdiction of UTPD. The crime log does not include personally identifying information about the Complainant or the Respondent.

Complainants of Prohibited Conduct also should be aware that the Clery Act requires the University to: issue timely warnings for crimes reported to UTPD or Campus Security Authorities that pose a substantial threat of bodily harm or danger to members of the campus community. The University

⁶ This Section 2.3.5 does not apply to reports to the police. The amnesty provision applies only to discipline for violations of the University's Code of Conduct.

will undertake reasonable efforts to avoid disclosing a Complainant's name and other identifying information, while still providing enough information for community members to make safety decisions in light of the potential danger.

FERPA

In accordance with FERPA, personally identifiable information about a Complainant, Respondent, or Reporter who is a student that has been communicated to a Mandatory Reporter regarding Prohibited Conduct will be shared within the University only with Title IX Officials and those University employees who "need to know" in order to assist with the University's response to the Prohibited Conduct. Personally identifiable information concerning a Complainant or Respondent who is a student will not be disclosed by the University to third parties unaffiliated with the University without the consent of the student except in response to a lawfully issued subpoena, court order, or as otherwise required or allowed by law. If, during a University's investigation or resolution of Prohibited Conduct, a Respondent who is a student makes a request to review documents concerning the investigation, the University will be required by FERPA to grant the Respondent's request to inspect and review records that relate specifically to the Respondent, but the University will redact the Complainant's name and any other identifying information to the maximum extent allowed by law.

Tennessee Public Records Act

Incident reports prepared by UTPD for law enforcement purposes are generally considered public records under the Tennessee Public Records Act (Tennessee Code Annotated § 10-7-503 *et seq.*) and are not protected by FERPA, which means the University is obligated by law to make them available to any Tennessee citizen upon request unless the report is part of an ongoing criminal investigation. Local law enforcement agencies may also be required to make their records available under similar circumstances. In addition, investigative reports prepared by other University officials that do not contain personally identifiable student information also are generally considered public records under the Tennessee Public Records Act.

Robert (Robbie) Nottingham Campus Crime Scene Investigation Act

The Robert (Robbie) Nottingham Campus Crime Scene Investigation Act (Nottingham Act), Tennessee Code Annotated § 49-7-129, requires UTPD to notify the Knoxville Police Department upon UTPD's receipt of a report from a victim alleging that any degree of rape has occurred on University property. The Nottingham Act requires UTPD and the Knoxville Police Department to participate in a joint investigation of the rape, with UTPD leading the investigation.

The Nottingham Act also requires sexual assault programs and services on campus to report annually to UTPD the number of requests for assistance received from persons who were raped on or in the vicinity of campus during the preceding calendar year. Personally identifiable information is not provided to UTPD in connection with that report.

Due Process

After the University has formally accused a Respondent of violating this policy, the Respondent may have a constitutionally-protected due process right to be informed of the nature of the allegations, including the identity of the Complainant.

APPENDIX B
CONSENT

The University of Tennessee is committed to creating and maintaining a safe and non-discriminatory learning, living, and working environment free from Sexual Misconduct, Relationship Violence, Stalking, and Retaliation (collectively, "Prohibited Conduct"). Prohibited Conduct is defined in the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation (the "Policy").¹

The purpose of this Appendix B is to inform students, employees, and third parties about how the University, in investigations and disciplinary hearings,² will determine whether Sexual Contact or Sexual Penetration occurred without Consent.

- "Consent" means an active agreement to participate in Sexual Contact or Sexual Penetration. An active agreement is words and/or conduct that communicate a person's willingness to participate in Sexual Contact or Sexual Penetration.
- The following individuals cannot give valid Consent:
 - A person who is Incapacitated, if either the person claiming to have obtained Consent knows that the other person is Incapacitated or a Reasonable Person would know that the other person is Incapacitated;
 - A person who is Forced to participate in Sexual Contact or Sexual Penetration; or
 - A person who is under the age of eighteen (18), unless the person giving Consent is at least the age of thirteen (13) and the other person is less than four (4) years older than the person giving Consent.
- During a sexual encounter, each person has responsibility for obtaining Consent from the other person. **During a University investigation or disciplinary hearing, the University has the burden of proving that Sexual Contact or Sexual Penetration occurred without Consent (and it is not a Respondent's burden to prove Consent).**
- Whether a person has communicated Consent to participate in Sexual Contact or Sexual Penetration generally is evaluated from the perspective of what a Reasonable Person who perceived the individual's words and/or non-verbal conduct would have understood; however, in the context of a relationship that has involved sexual activity and a pattern of communicating Consent, whether Consent has been communicated may be evaluated based on a subjective standard (i.e., what did the specific person who initiated the Sexual Contact or Sexual Penetration conclude based on the pattern of communication?).
- A verbal "no" (or words equivalent to "no") or the nonverbal communication of "no," even if it sounds or appears insincere or indecisive, means that Consent has not been communicated, or if previously communicated has been withdrawn. The absence of a verbal "no" or the absence of a nonverbal communication of "no" does not necessarily mean that Consent has been communicated.
- Consent must exist from the beginning to the end of each sexual encounter and for each act of Sexual Contact and Sexual Penetration that occurs during a sexual encounter. A person has a right to change their mind; thus, Consent to participate in an act of Sexual Contact or Sexual Penetration may be withdrawn at any time. A withdrawal of Consent is communicated through clear words and/or conduct that indicate that a person no longer agrees to participate in an act of Sexual Contact or Sexual Penetration. Once a person's withdrawal of Consent has been communicated, the other person must cease the sexual act for which Consent was withdrawn and must obtain Consent before reinitiating

¹ Capitalized terms have the same meaning in the Policy and Appendix B.

² Including contested case proceedings under the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-101 *et seq.* ("UAPA").

that sexual act. Consent is automatically withdrawn when a person becomes Incapacitated or is Forced to participate in Sexual Contact or Sexual Penetration.

- Consent to one type of Sexual Contact or Sexual Penetration (e.g., oral sex) does not constitute or imply Consent for another type of Sexual Contact or Sexual Penetration (e.g., vaginal intercourse), whether during a sexual encounter or based on a previous sexual encounter.
- The following do not communicate a person's willingness to participate in Sexual Contact or Sexual Penetration:
 - Silence, unless accompanied by non-verbal conduct conveying a willingness to participate in Sexual Contact or Sexual Penetration;
 - Consent communicated by the person on a previous occasion;
 - Consent communicated to a third person;
 - The person's failure to resist physical force (however, for purposes of the Policy, the person's resistance to physical force will be viewed as a clear demonstration that the person has not communicated Consent);
 - A current or previous dating, romantic, intimate, or sexual relationship with the other person;
 - Currently or previously cohabitating with the other person;
 - The person's attire, reputation, giving or acceptance of gifts, sexual arousal, or extension or acceptance of an invitation to go to a private residence, room, or other location.
- One's own use of alcohol, drugs, or other substances does not diminish one's responsibility to obtain Consent from the other person. Another person's use of alcohol, drugs, or other substances does not diminish one's responsibility to obtain Consent from that person.

Recommendations on Consent

- The University urges individuals to communicate with one another before and throughout a sexual encounter to ensure Consent exists for every sexual act. Because interpreting non-verbal conduct may lead to misunderstanding and a violation of the Policy, persons subject to the Policy are strongly encouraged to err on the side of caution and not rely solely on the non-verbal conduct of another person in concluding that the other person has communicated Consent.
- The University urges individuals to be cautious before engaging in sexual activity when either person has been consuming alcohol or using other drugs. Alcohol and other drugs impair a person's ability to give Consent and impair a person's ability to determine whether Consent has been given.

APPENDIX C
**PROCEDURES FOR INVESTIGATING AND RESOLVING ALLEGATIONS OF PROHIBITED
CONDUCT WHEN THE RESPONDENT IS A STUDENT**

The University of Tennessee is committed to creating and maintaining a safe and non-discriminatory learning, living, and working environment free from Sexual Misconduct, Relationship Violence, Stalking, and Retaliation (collectively, "Prohibited Conduct"). Prohibited Conduct is defined in the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation (the "Policy").¹

Disciplinary proceedings² relating to Prohibited Conduct when the Respondent is a student will be handled by the University in accordance with the Student Code of Conduct ("Code"), as modified and/or clarified by this Appendix C in compliance with Clery Act regulations, 34 C.F.R. § 668.46. A copy of the Code is included in this Appendix C.

HOW TO FILE A COMPLAINT OF PROHIBITED CONDUCT

Prohibited Conduct may be reported to any Title IX Official identified in Section 2 of the Policy.

TRAINING FOR UNIVERSITY OFFICIALS

Disciplinary proceedings relating to Prohibited Conduct will be conducted by persons who, at a minimum, receive annual training on the issues related to Prohibited Conduct, and on how to conduct an investigation and hearing process that protects the safety of Complainants and promotes accountability.

CONFLICT OF INTEREST OR BIAS OF UNIVERSITY OFFICIALS

Disciplinary proceedings relating to Prohibited Conduct will be conducted by persons who do not have a conflict of interest or bias for or against the Complainant or the Respondent.

PROMPT, FAIR, AND IMPARTIAL PROCESS

Disciplinary proceedings will be conducted in a prompt, fair, and impartial manner from the initial investigation to the final result.

STANDARD OF PROOF

The standard of proof used in disciplinary proceedings is the preponderance of the evidence, i.e., whether it is more likely than not that the Respondent violated the Standards of Conduct by engaging in Prohibited Conduct. In a University disciplinary proceeding, the University has the burden of proving that Prohibited Conduct occurred. It is not a Respondent's burden to prove that Prohibited Conduct did not occur.

¹ Capitalized terms have the same meaning in the Policy and Appendix C.

² "Disciplinary proceeding" means all activities related to the University's non-criminal resolution of a report to the University of Prohibited Conduct, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings. "Disciplinary proceeding" does not include communications and meetings between Title IX Officials and a Complainant concerning accommodations or protective measures to be provided to a Complainants.

DISCIPLINARY PROCEEDINGS

Sections V-VIII of the Code describe the types of disciplinary proceedings that may be used in cases of Prohibited Conduct, including the steps, decision-making process, and how the University determines which type of proceeding to use. Disciplinary proceedings generally have three steps, unless a Request for Limited Action³ is granted:

Step	Description	Policy Reference	Anticipated Timeline
Title IX Assessment	An initial assessment by the Title IX Coordinator, including implementation of interim protective and remedial measures	Policy, Section 2.5.2.3	Within five (5) business days of Title IX Coordinator's receipt of report of Prohibited Conduct
Student Conduct Process: Initial Stages/Investigation	SCCS ⁴ conducts a prompt, thorough, and equitable investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the Complainant, the Respondent, and any witnesses. As part of the investigation, SCCS will provide an equal opportunity for the Complainant and the Respondent to be heard, to submit information, and to identify witnesses and other evidence. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available.	Code, Sections 6.2, 6.6, 6.7, and 7.4.1	Within sixty (60) business days after SCCS begins an investigation
Student Conduct Process: Resolution	Allegations of Prohibited Conduct may be resolved through: <ul style="list-style-type: none"> • a Resolution Agreement; • a Formal Hearing, including appeals; • an Alternative Resolution; • a No Action Determination; or • another type of resolution outlined in Section 7.4 of the Code 	Code, Sections 7.1-7.4	Within thirty (30) business days of the issuance of a Notice of Allegations, if issued ⁵

³ See Section 2.5.2.4 of the Policy.

⁴ Investigations of reports of Prohibited Conduct are usually performed by SCCS. However, for good cause, the Title IX Coordinator may select an investigator(s) external to SCCS, provided that the investigator has specific training and experience investigating allegations of Prohibited Conduct. Any investigator(s) chosen to conduct the investigation must be impartial and free of any conflict of interest. The investigator(s) may be a University employee, a team of University employees, an external investigator(s) engaged to assist the University, or a team of investigators that pairs an external investigator(s) with a University employee.

⁵ This timeline does not apply if a Respondent exercises the right to have a hearing conducted under state law, the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-101 *et seq.* ("UAPA"). If a Respondent exercises a right to a UAPA hearing, then an administrative law judge will be appointed by the University's Agency Head within five (5) business days of the Respondent's request for a UAPA hearing. The timelines for a UAPA hearing are governed by the UAPA. The UAPA hearing typically lasts a minimum of four (4) months.

ANTICIPATED TIMELINES

Although the University strives to adhere to the timelines described above, in each case the University will balance the need to complete a prompt disciplinary proceeding with the need to conduct a thorough disciplinary proceeding that complies with due process and, when applicable the UAPA. Thus, the actual time to complete a disciplinary proceeding may require a reasonable adjustment of the time frames in these procedures depending on many factors, including, without limitation: the complexity of the allegations; the complexity of the disciplinary proceeding; the severity and extent of the alleged misconduct; the number of parties, witnesses, and the types of other evidence (e.g., forensic evidence) involved; the availability of the parties, witnesses, and evidence (e.g., forensic evidence); a request by a Complainant to delay the disciplinary proceeding or conduct a disciplinary proceeding at a slower pace; the effect of a concurrent criminal investigation or proceeding; a request by a district attorney to delay interviewing a witness; a witness' compliance with the instruction of a district attorney not to participate in a University disciplinary proceeding; intervening University holidays, breaks, or other closures; and/or other unforeseen circumstances. In the event that the need arises to significantly adjust the timelines described above or those previously communicated to the Complainant and the Respondent for good cause, the University will notify the Complainant and the Respondent in writing of the reason for the delay and the expected adjustment in timelines.

RIGHT TO AN ADVISOR

The Complainant and the Respondent have the right to be assisted by an advisor during all stages of a disciplinary proceeding. The University provides the Complainant and the Respondent with the same opportunities to have others present during a University disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice. The University will not limit the choice of an advisor or the advisor's presence for either the Complainant or the Respondent in any meeting or disciplinary proceeding; however, Section 5.3.2 of the Code explains the limitations on the role of an advisor, which apply equally to the Complainant and the Respondent.

SIMULTANEOUS NOTIFICATION OF RESULTS

The Complainant and the Respondent have the right to receive a copy of a notice of an initial, interim, or final decision, or a change in such a decision, issued by the Vice Chancellor for Student Life, SCCS, a Student Life Hearing Officer, the Student Conduct Board, Appellate Board (e.g., Notice of Allegations, Notice of Decision, Notice of Final Decision), simultaneously with the other party's receipt of a copy of the notice of the decision, to the extent allowed by law. Notification of an initial, interim, or final decision must include any sanctions imposed by the University and the rationale for the decision and sanctions (if any).

PREVENTATIVE, PROTECTIVE, AND REMEDIAL MEASURES

Section 2.6 of the Policy describes interim protective and remedial measures that the University may offer to a Complainant to prevent the recurrence of Prohibited Conduct, deter Retaliation, and remedy the effects of Prohibited Conduct through reasonable support services, accommodations, and other assistance.

After the conclusion of a disciplinary proceeding, the University also may implement protective and remedial measures, including: issuing a no-contact directive to the Respondent; providing medical and counseling services to the Complainant (for a student Complainant); exploring changes in living, transportation, dining, and working arrangements for the Complainant and the Respondent; providing an escort to ensure that the Complainant can move safely between classes and activities; exploring changes in class and extracurricular schedules, including adjustments so that the Complainant and the Respondent do not share the same classes; assisting the Complainant in communicating with faculty; providing academic support for the Complainant, including tutoring; and exploring options for re-taking a course, dropping a course, or withdrawing for a semester without financial or academic penalty.

In order to be proactive in preventing Prohibited Conduct, following a report of Prohibited Conduct that has a substantial nexus to the activities of a registered student organization (or its members) or another University-affiliated student group, the Title IX Coordinator may coordinate with the Division of Student Life to provide the leaders of the registered student organization or University-affiliated student group and/or active members in good standing of a registered student organization or University-affiliated student group with prevention and awareness programming concerning Prohibited Conduct (e.g., programming about bystander intervention; programming about Consent) at the University's expense. Such efforts should not be interpreted as a University finding that the student organization or group engaged in wrongful conduct.

POSSIBLE SANCTIONS

Following a final determination under the Code that a student committed Prohibited Conduct (e.g., after appeals have been exhausted), the University will take prompt and effective steps reasonably calculated to end the misconduct, prevent the misconduct from recurring, and address its effects. Section IX of the Code identifies the possible sanctions that the University may impose if, after the conclusion of the student conduct process, a Respondent is found responsible for engaging in Prohibited Conduct. Possible sanctions include: warning; disciplinary probation; deferred suspension; suspension; expulsion; withholding of degree; disciplinary probation for student organizations; social probation for student organizations; revocation or suspension of University registration for student organizations; educational activities; restitution; supervised work/service; loss or restriction of privileges; University housing reassignment or removal; and/or mandatory education.

ALTERNATIVE RESOLUTION

Section 7.3 of the Code provides that SCCS may propose to the Respondent and the Complainant that they attempt to resolve the allegations against the Respondent through an alternative resolution process. In cases involving Prohibited Conduct, however, the Title IX Coordinator (rather than SCCS) will determine whether exploration of an alternative resolution is appropriate (including a determination whether the Complainant has been pressured by others to pursue alternative resolution). If the Title IX Coordinator determines that the exploration of an alternative resolution is appropriate, then the Title IX Coordinator will serve as an impartial facilitator (or designate another trained employee to do so) so that the Complainant and the Respondent do not have direct contact (unless both parties consent to direct contact). The University will not compel a Complainant or a Respondent to participate in an alternative resolution process. At any time during an alternative resolution process, either the Complainant or the Respondent may request that the process cease and the investigation and resolution process continue. The Title IX Coordinator will not approve an alternative resolution unless the Complainant and the Respondent agree to the alternative resolution in writing as provided in Section 7.3.3 of the Code. The Title IX Coordinator will ensure that any proposed alternative resolution

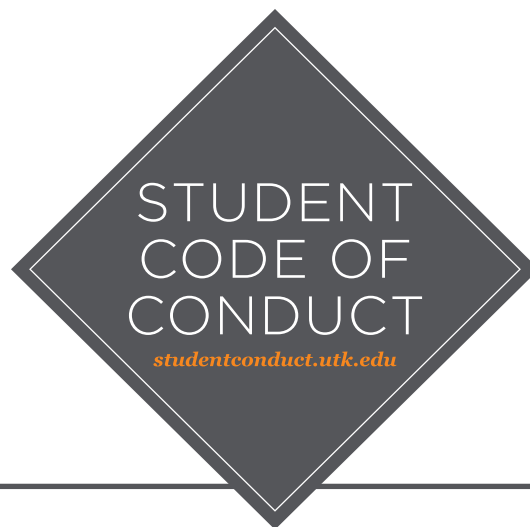
is consistent with the University's Title IX obligations. If no alternative resolution is reached, then the University will continue with the investigation and resolution process. The Title IX Coordinator will not use mediation to resolve reports of Sexual Assault.

COMPLAINANT'S RIGHT TO APPEAL A NO ACTION DETERMINATION

If a disciplinary proceeding concludes with SCCS making a final determination that no action will be taken with respect to a report of Prohibited Conduct, then the Complainant may appeal that determination to the Title IX Coordinator, in writing, within five (5) business days of the date that SCCS transmitted notice of the no action determination to the Complainant. The Title IX Coordinator will provide the Respondent with a copy of the Complainant's appeal and an opportunity to respond to the appeal within five (5) business days. A decision of the Title IX Coordinator to affirm the no action determination is final and may not be appealed.

UNIFORM ADMINISTRATIVE PROCEDURES ACT

Chapter 1720-1-5 of the Rules of the University of Tennessee (share.tn.gov/sos/rules/1720/1720-01/1720-01-05.pdf) sets forth the University's procedures for conducting a contested case hearing pursuant to the Uniform Administrative Procedures Act, Tennessee Code Annotated, § 4-5-301 *et seq.* In a case involving alleged Prohibited Conduct, the administrative law judge or hearing officer must modify those procedures when required to comply with federal law, including without limitation, Title IX and the Clery Act.



STUDENT CONDUCT & COMMUNITY STANDARDS (SCCS)

The University of Tennessee has a Student Code of Conduct, which was significantly updated in 2017. Students are responsible for conducting themselves in a lawful manner and in compliance with the guidelines set forth in the Code. This document is meant to serve as an overview of the Student Code of Conduct; please visit studentconduct.utk.edu or call the Office of Student Conduct (865-974-3171) for more information.

STANDARDS OF CONDUCT

Students are prohibited from engaging in the following types of misconduct:

The full Standards of Conduct can be found in the Student Code of Conduct on page 5.

1. Academic Dishonesty
2. Providing False Information
3. Misuse of Information in Connection with University Investigation or Hearing
4. Misconduct Related to Records or Identification
5. Causing Harm to Others
6. Harassment
7. Sexual Misconduct, Relationship Violence, Stalking, and/or Retaliation
8. Invasion of Privacy
9. Theft, Unauthorized Use, and/or Vandalism of Private or Public Property
10. Hazing
11. Disorderly Conduct
12. Lewd, Indecent, or Obscene Conduct
13. Engaging in Imminent Lawless Action
14. Misconduct Related to Fire Safety
15. Unauthorized Use or Possession of University Keys, Access Cards, and Identification
16. Misconduct Related to Information Technology
17. Unauthorized Weapon Possession on University Property or in Connection with University Activity
18. Alcohol Related Misconduct on University Property or in Connection with University Activities
19. Alcohol Related Conduct Prohibited by Law
20. Providing Alcohol to Underage Person(s)
21. Conduct Related to Drugs and Drug Paraphernalia if Prohibited by Law
22. Failure to Fulfill a University Financial Obligation
23. Failure to Respond, Comply, or Identify of Oneself
24. Failure to Appear at a University Hearing
25. Violation of Interim Administrative Actions, Disciplinary Sanctions, or Condition of Re-Enrollment
26. Obstruction or Disruption of University Activity
27. Violation of University Policy or Rule
28. Act Prohibited by Law
29. Attempted Violation; Accessory to Violation
30. Retaliation

SANCTIONS FOR VIOLATING THE STANDARDS OF CONDUCT

The purposes of sanctions are to educate, promote personal and professional development, discourage violations, and protect the University community.

The full explanation of the Administrative and Developmental Sanctions may be found in the Student Code of Conduct on page 19.

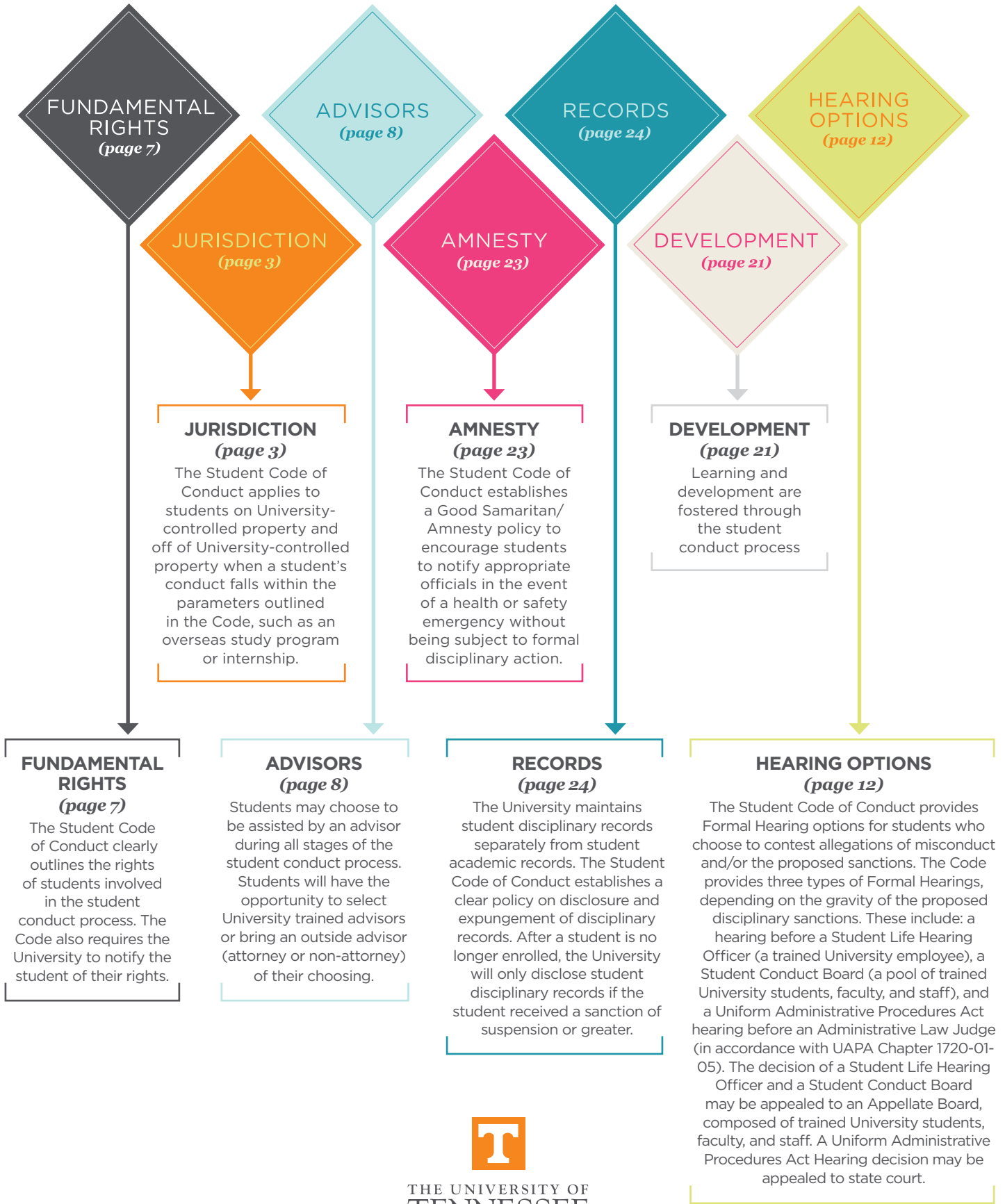
ADMINISTRATIVE SANCTIONS

1. Warning
2. Disciplinary Probation
3. Deferred Suspension
4. Suspension
5. Expulsion
6. Withholding of Degree
7. Revocation of Degree
8. Student Organizations
 - Disciplinary Probation for Student Organizations
 - Social Probation for Student Organizations
 - Revocation or Suspension of University Registration

DEVELOPMENTAL SANCTIONS

1. Educational Activities
2. Restitution for Loss, Damage, and/or Injury
3. Supervised Work/Service
4. Loss or Restriction of Privileges
5. University Housing Reassignment or Removal
6. Mandatory Education

The major changes to the Student Code of Conduct include the following:



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APPENDIX D

PROCEDURES FOR INVESTIGATING AND RESOLVING ALLEGATIONS OF PROHIBITED CONDUCT WHEN THE RESPONDENT IS AN EMPLOYEE OR THIRD PARTY

The University of Tennessee, Knoxville welcomes and honors people of all races, sexes, sexual orientations, creeds, and cultures. In keeping with those values, any employee, student, applicant for admission or employment, or other participant in University programs or activities who believes that he or she has been discriminated against on the basis race, color, sex (including sexual misconduct, sexual assault, sexual exploitation, sexual orientation, gender identity, pregnancy, marital status, and parental status), religion, national origin, age, disability or veteran status is encouraged to bring the matter to the University's attention. University policy prohibits retaliation against any person who in good faith opposes a practice that he or she believes to be discriminatory, who assists someone with a report of discrimination, or who participates in an investigation of a complaint. The University will take steps to prevent the recurrence of any action prohibited by its policies against discrimination and retaliation and to correct any effects of such policy violations on the Complainant and others, if appropriate. This Procedure is designed to provide a prompt, fair, and impartial resolution to complaints.

Scope of OED Authority

This Procedure applies when the individual accused of violating University policy (the Respondent) is a University employee or someone unaffiliated with the University, such as a visitor to campus or University contractor (although the University's ability to investigate and implement any necessary corrective action may be limited). When the Respondent is a University student, see titleix.utk.edu to report allegations of sex discrimination (including sexual assault, sexual exploitation, sexual harassment, and other sexual misconduct). Concerns about other types of student conduct should be reported to the Office of Student Conduct and Community Standards, (865) 974-3171, studentconduct.utk.edu.

This Procedure applies to behavior by University employees and others unaffiliated with the University that allegedly violates the University's Equal Employment Opportunity Policies, including HR0220, Equal Employment Opportunity (policy.tennessee.edu/hr_policy/hr0220/), HR0280, Sexual Harassment & Other Discriminatory Harassment (policy.tennessee.edu/hr_policy/hr0280/), and ***Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation***; or federal or state civil rights law, including prohibitions on retaliation (e.g., threats, intimidation, reprisals, or adverse actions) because a person (1) made a report of discrimination in good faith, (2) assisted someone with a report of discrimination, or (3) participated in any manner in an investigation or resolution of a report of discrimination.

Rude, inappropriate, or offensive behavior that is not based on characteristics protected under state or federal law should be addressed by the appropriate supervisor or through appropriate administrative channels, and in accordance with any other applicable policies, including but not limited to, Human Resources Policies (policy.tennessee.edu/hr_policy/), HR0580, Code of Conduct (policy.tennessee.edu/hr_policy/hr0580/) and HR0525, Disciplinary Action (policy.tennessee.edu/hr_policy/hr0525/). If a complaint does not fall within the scope of OED's authority, OED will refer the Complainant to the appropriate office.

Complaints of discrimination should be directed to the Office of Equity and Diversity, (865) 974-2498, oed.utk.edu and made within 300 calendar days of the alleged discriminatory action. Formal complaints may be submitted on a ***Discrimination Complaint Form***. Formal complaints by employees should be in writing. In certain circumstances, at the discretion of OED, complaints filed outside the 300 day time limit or not submitted in writing may be investigated.

Privacy and Requests for Limited Action

Information communicated to OED will be kept as private as possible and will be shared only as necessary to conduct a thorough and effective investigation and to comply with federal and state civil rights laws. In addition, the University may need to release certain documents in response to a public records act request.

A Complainant may request that the Complainant's contact with OED not be disclosed to the Respondent, that no investigation be conducted, or that no disciplinary action be taken. When a Complainant makes a request that the University take such limited action, the University will seriously weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all members of the University community, including Complainant. In cases of Sexual Misconduct (including Sexual Assault, Sexual Harassment, and Sexual Exploitation), Relationship Violence, Stalking, and Retaliation prohibited by the Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation, will be evaluated consistent with Section 2.5.2.4 of that policy. For example, if the University has credible information that the Respondent has violated the University's policy against discriminatory harassment, the University may decide that it should investigate the allegation, and, if appropriate, pursue disciplinary action in a manner that may make known the Complainant's identity to Respondent.

Informal Complaints and Resolution

Complainants are encouraged, but not required, to attempt to resolve issues through the administrative structure of the employment unit or academic department. OED is available to provide assistance to the Complainant and employment unit or academic department.

If a Complainant does not wish to seek resolution directly with the employment unit or academic department, he or she may decide to seek either an informal or formal resolution with OED. A Complainant who chooses an informal resolution process may decide to proceed with a formal complaint at any time during the informal process or after completion of the informal process if a mutually acceptable resolution is not reached.

The goal of the informal process is to attempt to reach a resolution that is acceptable to both the Complainant and the Respondent. The University does not make a determination as to whether a Respondent has violated University policy. Instead, OED attempts to facilitate a mutually acceptable resolution. In the informal process, OED will speak to those people whose involvement is necessary to facilitate a resolution. Frequently, this includes only the Complainant and Respondent, followed by notification to the supervisor(s) or appropriate administrator(s) to help implement a resolution. Possible informal resolutions might include, but are not limited to: (1) an agreement by Respondent to cease the behavior; (2) assisting the Respondent to better understand the effects of his or her conduct and ways in which the behavior might be changed; or (3) participation in education programs about equal opportunity or diversity.

Formal Complaints -- Where, When, and How to File

The goal of the formal complaint process is to reach a determination as to whether a Respondent has violated one or more University policies prohibiting discrimination and unlawful harassment. All investigations and proceedings, including any disciplinary proceedings, will be conducted using a "preponderance of the evidence" standard. As a part of the formal complaint process, OED will conduct an investigation into the allegations and prepare a written report. OED will consider requests for privacy and other limited action as discussed above but may not be able to honor such requests during the formal complaint process.

1. An employee making a formal complaint must include the name of the Complainant, a description of the complained of action or conduct, and the person or department that is responsible for the action. The Complainant should identify witnesses and other evidence the Complainant wants OED to consider in its investigation. OED may request that the Complainant identify resolutions that might be acceptable. The Respondent and the appropriate administrator with supervisory responsibility will be notified of the complaint.

2. OED will conduct an investigation into whether Respondent violated University policy. OED will determine the nature and scope of the investigation on a case-by-case basis. The investigation may include any or all of the following, as well as such other action as OED deems appropriate: interviewing the Complainant, interviewing the Respondent, interviewing witnesses, submitting questions to or taking statements from parties or witnesses, and reviewing documents and recordings. In rare cases, OED may set up an investigative committee to conduct an investigation in accordance with this Procedure.

3. Following its investigation, OED will prepare a written report that includes findings and recommendations as to whether Respondent should be found in violation of University policy. The report will include the rationale for the findings and recommendations and may include other information, such as recommended corrective and/or remedial actions. OED will provide the report to the appropriate administrator(s) and will simultaneously provide a copy to the Complainant and Respondent.

4. The appropriate administrator is responsible for reviewing the OED report and making a written Determination whether Respondent violated one or more University policies. The Determination will include the rationale for the findings and recommendations and may include a description of remedial and/or corrective measures that the University will implement. The appropriate administrator will simultaneously provide a copy of the Determination to the Complainant, Respondent, and OED.

5. Appeals

(a) Employees: A Complainant or Respondent who is an employee who is not satisfied with the Determination may appeal in accordance with applicable University policies and procedures, including Human Resources Policy HR0525, Human Resources Policy HR0640, and the Faculty Handbook. For situations involving sex discrimination (including Sexual Misconduct (including Sexual Assault, Sexual Harassment, and Sexual Exploitation), Relationship Violence, Stalking, and Retaliation), if the applicable policy or practice does not provide Complainant and Respondent with the same ability to appeal, the University will offer an appeal to both parties consistent with the appeal opportunities offered in policy.

- (b) Students: Within seven (7) business days after receipt of the Determination, a Complainant who is a student and who is not satisfied with the Determination may appeal in writing to the next higher administrative level. The Determination will identify the person to whom an appeal may be made. The Complainant and Respondent will have the same opportunity to provide information to the reviewer during an appeal and will also receive notice of the outcome of any appeal. Decisions on appeals shall be provided in writing to the Complainant and Respondent.

For complaints involving allegations of sex discrimination, OED will ensure that the Title IX Coordinator is appropriately informed.

Advisors

Both the Complainant and Respondent are permitted to bring an advisor (who is not a party or witness) of their choice to any University meetings and hearings, but the advisor's role is limited to providing advice, guidance, and/or support for the Complainant or Respondent. An advisor is not permitted to act as a participant or advocate (except in a TUAPA hearing, in which a Complainant and Respondent may retain an attorney to advocate on their behalf).

Timing of Investigation Stages

OED will conduct the investigation as promptly as possible under the circumstances, taking into account the complexity of the allegations, the complexity of the investigation and resolution, the severity and extent of the alleged misconduct, the number and availability of witnesses, the University's calendar, and/or other unforeseen circumstances. In each case, however, the University will balance the need to complete a prompt investigation and resolution with the need to conduct a thorough and fair investigation.

The University will attempt to follow the following timeframes:

- Completion of OED's investigation, findings, and recommendations; transmission of OED report to appropriate administrator: within sixty (60) business days of receipt of complaint
- Review by appropriate administrator and issuance of Determination: within fifteen (15) business days of receipt of report from OED

If the University is unable to complete these steps within the timeframes stated, the timeframes may be extended, and both the Complainant and Respondent will receive notice of the extension and the reasons for delay.

Disciplinary Action

The University's actions to correct and prevent the recurrence of any policy violations may include, but not be limited to, taking disciplinary action, up to and including termination, against employees who are found to have violated University policy. The University generally determines which policies and procedures will be followed based on the employment status of the employee being disciplined (e.g., faculty, staff, student, graduate student). The policies and procedures (including steps and anticipated timelines) applicable to disciplinary processes may be found here:

- Staff employees: Human Resources Policies (policy.tennessee.edu/hr_policy/); HR0580, Code of Conduct (policy.tennessee.edu/hr_policy/hr0580/); and HR0525, Disciplinary Action (policy.tennessee.edu/hr_policy/hr0525/)
- Faculty: BT006, Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure (policy.tennessee.edu/bot_policy/bt0006/); Faculty Handbook (provost.utk.edu/faculty-handbook/)
- Student employees: Hilltopics (hilltopics.utk.edu/campus-policies-procedures/)

In the event that employment status is unclear, (e.g., the employee has more than one status), the appropriate administrator will determine which policies and procedures are applicable.

Employee Responsibilities Upon Learning of Sexual and Other Unlawful Harassment

An employee who learns of sexual harassment or other discriminatory harassment of an employee must report the conduct to OED (or in the case of sexual harassment, a report can be made to the Title IX Coordinator) if the employee who learns of the conduct is a supervisor of either a Complainant or Respondent or otherwise has the authority to redress the harassment (e.g., human resources administrators, OED employees, department heads, deans, vice chancellors, chancellors, vice presidents). Other employees are encouraged to report the conduct to OED/Title IX Coordinator.

Employees who learn that a student may have been subjected to sexual misconduct, relationship violence, stalking, or retaliation must report that information to the Title IX Coordinator in accordance with Section 3 of the ***Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation***.

Employees who receive information about suspected child abuse or child sexual abuse must report it in accordance with University of Tennessee System Safety Policy 0575 (Programs for Minors) (policy.tennessee.edu/safety_policy/sa0575/).

Contact Information

Title IX Coordinator
Ashley Blamey
1817 Melrose Avenue
Knoxville, TN 37996
(865) 974-9600
ashleyblamey@utk.edu
titleix@utk.edu

ADA/Section 504/Title VI
Coordinator
Jenny Richter
1840 Melrose Avenue
Knoxville, TN 37996
(865) 974-2498
jrictcher@utk.edu
oed@utk.edu

United States Department of Education
Office for Civil Rights
61 Forsyth Street, S.W., Suite 19T10
Atlanta, GA 30303-8927
(404) 974-9406
Ocr.atlanta@ed.gov

APPENDIX E
GUIDE FOR MANDATORY REPORTERS

The University of Tennessee is committed to creating and maintaining a safe and non-discriminatory learning, living, and working environment free from Sexual Misconduct, Relationship Violence, Stalking, and Retaliation (collectively, "Prohibited Conduct"). Prohibited Conduct is defined in the University's Policy on Sexual Misconduct, Relationship Violence, Stalking, and Retaliation (the "Policy").¹

The purposes of this guide are to: (1) assist employees in determining whether they are Mandatory Reporters with respect to information they receive about Prohibited Conduct; and (2) assist Mandatory Reporters in determining how to respond to a report of Prohibited Conduct.

SECTION 1. QUESTIONS TO ASK TO DETERMINE WHETHER YOU ARE A MANDATORY REPORTER

(1) Are you a Confidential Employee, or do you work under the supervision of a Confidential Employee? If you do not know the answer to this question, then you are most likely not a Confidential Employee. Confidential Employees are University employees who can keep information confidential because they hold a valid license in a profession for which Tennessee law recognizes a confidential relationship between a professional and a professional's client or patient. ***(Refer to Section 1.2.1 of Appendix A or contact the Title IX Coordinator if you are not sure whether you are a Confidential Employee)***

- If yes, and if you received the information about Prohibited Conduct in the context of a confidential relationship, then you are not a Mandatory Reporter. You should help a Complainant explore options for care and support and provide information on reporting options and interim measures, and provide emotional support.
- If no, proceed with asking Question 2.

(2) Is the Complainant a child (under age 18)?

- If yes, and the incident involves suspected child abuse or child sexual abuse, then you must report the incident in accordance with University of Tennessee Safety Policy 0575.
- If no, proceed with asking Question 3.

(3) Is either the Complainant or the Respondent a student?

- If yes, then you must report the incident to a Title IX Official² unless:
 - You received the information about Prohibited Conduct during a public awareness event such as "Take Back the Night," candlelight vigil, protest, "survivor speak outs" or other public forum;
 - You received notice of the incident during the student's participation as a subject in an Institutional Review Board-approved human subjects research protocol;
 - You received notice through an in-class discussion, a class paper, or other academic assignment; or
 - You are a student employee (e.g., graduate assistant) and you did not receive notice of the incident in your University employment capacity.
- If no, proceed with asking Question 4.

¹ Capitalized terms have the same meaning in the Policy and Appendix E.

² The names and contact information for Title IX Officials are listed in Section 2 of the Policy.

(4) Are you the supervisor of either the Complainant or the Respondent, or do you otherwise have the authority to redress the Prohibited Conduct?

- If yes, then you must report the incident to a Title IX Official unless you received the information about Prohibited Conduct during a public awareness event such as “Take Back the Night,” candlelight vigil, protest, “survivor speak outs” or other public forum, or you received notice of the incident during a person’s participation as a subject in an Institutional Review Board-approved human subjects research protocol;
- If no, then the University strongly encourages you to report the information to a Title IX Official even though you are not a Mandatory Reporter with respect to the incident. Employees who have been designated by The University of Tennessee Police Department (“UTPD”) as Campus Security Authorities for purposes of compliance with the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (“Clery Act”) should evaluate whether they have an independent obligation to report misconduct to UTPD. Questions about the reporting obligations of Campus Security Authorities should be directed to Jillian Paciello, the University’s Clery Compliance Coordinator, at jpaciell@utk.edu or (865) 974-0544.

SECTION 2. ACTIONS THAT MANDATORY REPORTERS MUST TAKE

A Mandatory Reporter who receives information concerning an incident of Prohibited Conduct must:

(1) Support the Complainant by:

- Assisting the Complainant with obtaining medical assistance (if needed or requested) or accessing other on- or off-campus resources (if requested); and
- Encouraging the Complainant to report the incident to law enforcement and assist the Complainant in contacting law enforcement if requested by the Complainant (call 911 in an emergency); and

(2) Report the incident to the University:

- Report the incident to a Title IX Official promptly after receiving notice of the incident (no later than 48 hours³ after receiving the report).⁴ The Mandatory Reporter must communicate: (1) all details known about the alleged incident; and (2) if applicable, communicate to a Title IX Official that a Complainant has made a Request for Limited Action; or
- If the incident involves suspected child abuse or child sexual abuse, comply with University of Tennessee Safety Policy 0575.

³ If the end of the 48-hour reporting window falls on a weekend or a University holiday, then the Mandatory Reporter should report the incident as soon as possible on the next University business day.

⁴ A Mandatory Reporter may also inform his/her supervisor of the incident. With the prior approval of the Title IX Coordinator, a University unit may adopt a policy that requires a Mandatory Reporter in the unit to report an incident of Prohibited Conduct to his/her supervisor or other designee within the unit, who, in lieu of the Mandatory Reporter who received notice of the incident, must promptly report the incident to a Title IX Official.

SECTION 3. ACTIONS THAT MANDATORY REPORTERS SHOULD TAKE

Before a Complainant reveals information to the Mandatory Reporter that the Complainant may wish to keep confidential, the University recommends that a Mandatory Reporter use his/her best efforts to ensure that the Complainant understands:

- (1) The employee's obligation to report the names of a Respondent and a Complainant involved in the alleged Prohibited Conduct, as well as other relevant facts regarding the alleged incident, to a Title IX Official;
- (2) A Complainant's ability to share the information confidentially with certain on- and off-campus resources (**Appendix A** of the Policy);
- (3) A Complainant's option under the Policy to make a Request for Limited Action to the Title IX Coordinator, if the person indicates that he/she wants to disclose information to the Mandatory Reporter but wishes to maintain confidentiality or does not want the University to investigate the incident or pursue disciplinary action against the Respondent; and
- (4) If the person indicates hesitancy to report an incident to the University, inform the person that the University prohibits Retaliation and will not only take steps to prevent Retaliation but also take strong responsive action if Retaliation occurs.

After a Complainant reveals information about Prohibited Conduct to the Mandatory Reporter, the University recommends that a Mandatory Reporter take the following actions (in addition to the actions in Section 2):

- (1) Provide emotional support to the Complainant;
- (2) Encourage the Complainant to preserve any evidence (see **Appendix A** of the Policy for tips on the preservation of evidence);
- (3) Inform the Complainant that the employee will be reporting the incident to a Title IX Official, who will contact the Complainant to provide further guidance and assistance; and
- (4) Provide a Complainant with a copy of **Appendix A** of the Policy or the **You Are Not Alone** guide.

SECTION 4. ACTIONS THAT MANDATORY REPORTERS MUST NOT TAKE

A Mandatory Reporter who receives notice of an incident of Prohibited Conduct must not:

- (1) Guarantee a Complainant that the employee will keep information confidential and not share the information with anyone else, including a Title IX Official;
- (2) Share information about the incident with a person who does not have a University-related need to know;
- (3) Share personally identifiable information about the incident with law enforcement (including UTPD) without the Complainant's consent; and/or

- (4) Investigate or otherwise attempt to resolve reports of Prohibited Conduct without the approval of a Title IX Official (this provision does not apply to UTPD), other than taking an action required or recommended in Section 2 or Section 3.

OFFICE OF TITLE IX

1817 Melrose Avenue
Knoxville, TN 37996
865-974-9600
titleix@utk.edu

titleix.utk.edu