

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

August 19, 2019

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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](http://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;<sup>1</sup> 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 individuals regardless of their relationship status 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 reported to have engaged in 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.

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 in certain situations, including Prohibited Conduct which: (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, Roane County,

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<sup>1</sup> “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.

Coffee County (UTSI students), or Franklin County (UTSI students); (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. The University may address Prohibited Conduct that occurs off-campus regardless of whether the University has a duty under Title IX to address the conduct.

### **1.2.3 Effective Date**

The effective date of this Policy is August 20, 2019. This Policy applies to all Prohibited Conduct reported to have occurred on or after August 20, 2019. If the Prohibited Conduct reportedly occurred prior to August 20, 2019, then: (1) the report will be evaluated using definitions of misconduct contained in applicable university policies in effect on the date the reported Prohibited Conduct occurred; 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/](http://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/](http://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/hro220/](http://policy.tennessee.edu/hr_policy/hro220/)), 0280 ("Sexual Harassment and Other Discriminatory Harassment") ([policy.tennessee.edu/hr\\_policy/hro280/](http://policy.tennessee.edu/hr_policy/hro280/)), and 0580 ("Code of Conduct") ([policy.tennessee.edu/hr\\_policy/hro580/](http://policy.tennessee.edu/hr_policy/hro580/)).

## **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](mailto:ashleyblamey@utk.edu)  
[titleix.utk.edu](http://titleix.utk.edu)

Reports or complaints of Prohibited Conduct or any other kind of Sex Discrimination<sup>2</sup>, 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](http://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](mailto:OCR.Atlanta@ed.gov).

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<sup>2</sup> The University’s Nondiscrimination Statement ([oed.utk.edu/searches/statement](http://oed.utk.edu/searches/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.

The University’s Deputy Title IX Coordinators are:

NAME	TITLE(S)	CONTACT INFORMATION
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 <a href="mailto:jrichter@utk.edu">jrichter@utk.edu</a> <a href="http://oed.utk.edu">oed.utk.edu</a>
Sarah Thomas	Deputy Title IX Coordinator for Student Support	1817 Melrose Avenue Knoxville, TN 37996 (865) 974-9600 <a href="mailto:sarahthomas@utk.edu">sarahthomas@utk.edu</a> <a href="http://titleix.utk.edu">titleix.utk.edu</a>
Laura Bryant	Deputy Title IX Coordinator for Prevention, Training, and Evaluation	1817 Melrose Avenue Knoxville, TN 37996 (865) 974-9600 <a href="mailto:lbryant7@utk.edu">lbryant7@utk.edu</a> <a href="http://titleix.utk.edu">titleix.utk.edu</a>
Betsy Smith	Deputy Title IX Coordinator for Student Conduct  Director, Office of Student Conduct and Community Standards	405 Student Services Building Knoxville, TN 37996 (865) 974-3171 <a href="mailto:bbsmith@utk.edu">bbsmith@utk.edu</a> <a href="http://studentconduct.utk.edu">studentconduct.utk.edu</a>
Tara Brooks	Deputy Title IX Coordinator for Intercollegiate Athletics  Director of Internal Operations and Special Projects	Brenda Lawson Athletic Center 1551 Lake Loudon Boulevard Knoxville, TN 37996 (865) 974-6122 <a href="mailto:tbrooks3@utk.edu">tbrooks3@utk.edu</a>
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 <a href="mailto:jpaciell@utk.edu">jpaciell@utk.edu</a> <a href="http://clery.utk.edu">clery.utk.edu</a> ; <a href="http://utpolice.utk.edu">utpolice.utk.edu</a>

### 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 as private as possible, 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.<sup>3</sup> 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.

<sup>3</sup> An employee of the University of Tennessee Police Department (UTPD) participates in the University’s Title IX 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 Title IX Response Team can be found at [titleix.utk.edu](http://titleix.utk.edu).

## **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. 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.

### **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. These confidential 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 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**, Sections 1.1 and 2.1, also provide 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.

The Title IX Coordinator or designee will evaluate allegations that a Mandatory Reporter failed to report Prohibited Conduct to a Title IX Official. In evaluating those allegations, the Title IX Coordinator or designee may meet with the Complainant, the Mandatory Reporter, the Mandatory Reporter’s supervisor or campus unit, and other witnesses who can provide information. The Title IX Coordinator or designee will determine whether further investigation is warranted on a case-by-case basis, including but not limited to, the Mandatory Reporter’s role within the University; the nature and scope of the suspected Prohibited Conduct; and the risk to the University community if the report of Prohibited Conduct were substantiated. The Title IX Coordinator may recommend additional education and training and other remedial or corrective actions.

In some cases, the Title IX Coordinator or designee may refer the allegations that a Mandatory Reporter failed to report Prohibited Conduct to the Office of Equity & Diversity, which will conduct an investigation. OED will make findings of fact and will determine whether, by a preponderance of the evidence, a Mandatory Reporter failed to report Prohibited Conduct. The Title IX Coordinator and the appropriate University administrator will review the findings. The administrator will determine in writing whether to accept OED’s findings and conclusion and may include a description of remedial or corrective actions the University will implement. The Title IX Coordinator may also recommend remedial or corrective actions.

**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/sao575/](http://policy.tennessee.edu/safety_policy/sao575/)). 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](mailto: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***

**Appendix A**, Section 2.3.2, describes the steps the Title IX Coordinator will take after receiving a report of Prohibited Conduct

### **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

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 Complainant’s Participation in an Investigation or Disciplinary Proceeding**

The University will not require a Complainant to participate in any investigation, or hearing before a Student Life Hearing Officer or 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 from a party other than the University. If a Complainant chooses not to participate in an investigation or disciplinary hearing, the University’s ability to discipline the Respondent may be affected.

#### **2.5.2.6 Amnesty**

The University recognizes that a student 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 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 Office of Student Conduct and Community Standards 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 regarding alcohol or drugs. The Title IX

Coordinator has the discretion to grant Amnesty to 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 2.5.2.5 does not apply to reports to the police; rather, it applies only to discipline for violations of the University's Code of Conduct.

### **2.5.2.7 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 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 or designee and will vary and be individualized, reasonable, and appropriate depending on the facts of each case and the student or employee status of the Complainant and the Respondent.<sup>4</sup> In fairly assessing the need for an individual to receive Interim Measures, the Title IX Coordinator does not rely on fixed rules or operating assumptions in favor of one party over another.

Examples of Interim Measures are listed in **Appendix A**, Section 1.5. Interim Measures are available to Complainants and Respondents.

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 or designee; and
- Prior to, during, or after the investigation or resolution of a report of Prohibited Conduct.

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 or designee will strive to communicate with the Complainant and the Respondent throughout an investigation to ensure that the Interim Measures in place are necessary and effective based on the evolving needs of the parties. The Title IX Coordinator has the discretion to issue, modify, or remove any Interim Measure at any time.

With respect to non-student employees and third parties, 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.

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<sup>4</sup> The Clery Act requires the University to provide certain interim measures upon the request of a Complainant if such measures are reasonably available. 34 C.F.R. § 668.46(b)(11)(v).

**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**

### **4.1 INTRODUCTION**

This Policy prohibits the following conduct:<sup>5</sup>

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

Section 4.2 contains definitions of Prohibited Conduct, and Section 4.3 contains definitions of other terms used in the definitions of Prohibited Conduct.

### **4.2 DEFINITIONS OF PROHIBITED CONDUCT**

#### **4.2.1 Sexual Misconduct**

“**Sexual Misconduct**” is an umbrella term that encompasses Sexual Assault, Sexual Harassment, and Sexual Exploitation.

#### **4.2.2 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.

#### **4.2.3 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.

#### **4.2.4 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 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

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<sup>5</sup> The University’s Nondiscrimination Statement ([oed.utk.edu/searches/statement/](http://oed.utk.edu/searches/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.



physical contact done in a sexual manner or for the purpose of sexual arousal or gratification, based on the perspective of a Reasonable Person.

#### **4.2.5 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/hro280/](http://policy.tennessee.edu/hrpolicy/hro280/)).

Sexual Harassment- with respect to conduct by a student, “sexual harassment” means (1) verbal or physical conduct, (2) on the basis of sex, which includes gender, pregnancy, sexual orientation, gender identity, and gender expression, (3) that is so severe, pervasive, and objectively offensive (4) that it unreasonably interferes with or denies a person the ability to participate in or benefit from a University education 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.

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.

#### **4.2.6 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. A person cannot actively agree to an act if: (1) the person is Incapacitated, if either the person claiming to have obtained the other person’s active agreement 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 act or participate in an activity.

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;
- 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;
- 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;
- Forcing a person to take an action of a sexual nature against that person’s will by threatening to disclose information that would harm a person’s reputation;
- Forcing a person to take an action against that person’s will by threatening to disclose information of a sexual or intimate nature that would harm a person’s reputation; or
- Causing or requesting an Incapacitated person to expose the person’s breasts, buttocks, groin, or genitals or to participate in Sexual Contact or Sexual Penetration with a person other than oneself.

#### **4.2.7 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, or other intimate relationship with the Complainant.<sup>6</sup>

- “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 would cause 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, 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.

In cases involving allegations of mutual acts or threats of acts of violence, the designated investigator(s) will, when appropriate, identify the primary aggressor in the situation based on the totality of the information gathered, including without limitation: the history of violence between the parties; the relative severity of the injuries inflicted on each person; information gathered from the persons involved in the situation and witnesses to the situation; and whether the acts or threats were done in self-defense. The primary aggressor will be considered the Respondent for purposes of evaluating Relationship Violence.

#### **4.2.8 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. Stalking includes the concept of cyber-stalking, a particular form of stalking in which electronic media such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact are used. 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.

#### **4.2.9 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.

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<sup>6</sup> The University also prohibits “domestic violence” and “dating violence” as defined by the Clery Act.



### **4.3 RELATED DEFINITIONS: CONSENT; FORCE; INCAPACITATION; REASONABLE PERSON**

#### **4.3.1 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. Valid Consent cannot be given if:

- A person is Incapacitated and a Reasonable Person in the same situation as the Respondent would have known that the person is Incapacitated.
- A person is Forced; or
- A person 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.**

#### **4.3.2 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 take an action or participate in an activity.

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.

#### **4.3.3 Incapacitation**

“**Incapacitation**” means that a person lacks the ability to actively agree to sexual activity because the person is asleep, unconscious, under the influence of alcohol or other drugs such that the person does not have control over their body, is unaware that sexual activity is occurring, or their mental, physical or developmental abilities render them incapable of making rational informed decisions. Incapacitation is not the same as legal intoxication.

A person violates this policy when they engage in sexual activity with another person who is Incapacitated and a Reasonable Person in the same situation would have known that the person is Incapacitated.

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.

#### **4.3.4 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.<sup>1</sup>

The University has developed the Complainant “You Are Not Alone” Guide and a separate Respondent Resource Guide that highlight 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 an 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. The University also provides support and resources for an individual who is alleged to have committed Prohibited Conduct (“Respondent”).

**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 <a href="http://studenthealth.utk.edu">studenthealth.utk.edu</a>
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 <a href="http://mcnabbcenter.org/sacet">mcnabbcenter.org/sacet</a>

<sup>1</sup> Capitalized terms have the same meaning in the Policy and Appendix A.

PLACE	WHEN	CONTACT INFORMATION
UT Medical Center (or another local hospital)	24 hours, seven days a week	(865) 305-9000 1924 Alcoa Highway Knoxville, TN <a href="http://utmedicalcenter.org">utmedicalcenter.org</a>

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 infections, 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 of the evidentiary exam is collecting physical evidence as soon as possible; however, evidence can be collected up to 72 hours after the assault. Assaults do not have to be reported to law enforcement to receive SANE services. 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. Other tips on the preservation of evidence are described in Appendix A, Section 2.1.

**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 sexually transmitted infections 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 (SANE) 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 for Complainants and Respondents

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. Respondents may also seek support and counseling services from confidential resources.

### 1.2.1 *University “Confidential Employees”*

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, or because the University has deemed the employee as a confidential resource for students and employees.

A Confidential Employee can provide emotional support and help explore options for care and provide information on reporting options and Interim Measures.

**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 of Appendix A, 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
Lisa Yamagata-Lynch, Ombudsperson	Students and Employees	(865) 974-6273 <a href="mailto:lisayl@utk.edu">lisayl@utk.edu</a> <a href="http://ombuds.utk.edu">ombuds.utk.edu</a>
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  <b>A student who needs counseling support when the Student Counseling Center is <u>not</u> open may call (865) 974-HELP (4357).</b>  <a href="http://counselingcenter.utk.edu">counselingcenter.utk.edu</a> 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 practitioner in the Student Health Center	Students	(865) 974-3648 <a href="http://studenthealth.utk.edu">studenthealth.utk.edu</a> Student Health Center 1800 Volunteer Blvd. Knoxville, TN 37996  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
A licensed psychologist in the Psychological Clinic	Students and Employees	(865) 974-2161 <a href="http://psychclinic.utk.edu">psychclinic.utk.edu</a> 208 UT Conference Center Bldg 600 Henley Street Knoxville, TN 37996  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
A University employee who holds a valid license in a profession for which Tennessee law recognizes a confidential	Students and Employees	Varies by employee

relationship between a professional and a professional’s client or patient, <b>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</b>		
Kristen Martin, Team ENHANCE/EXCEL Coordinator	Intercollegiate student-athletes only	<a href="mailto:kmartin5@tennessee.edu">kmartin5@tennessee.edu</a> (865) 974-9754
Dr. Chris Klenck, Head Team Physician  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.	Intercollegiate student-athletes only	<a href="mailto:cklenck@tennessee.edu">cklenck@tennessee.edu</a> (865) 974-1147

**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 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***

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

#### **Knoxville-Area Resources for Complainants**

- **Sexual Assault Center of East Tennessee**  
(865) 522-7273 (24-7 crisis hotline)  
2455 Sutherland Avenue, Building B, Knoxville, TN  
[mcnabbcenter.org/sacet](http://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 SACET.**

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](http://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](http://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](http://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](http://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 hours/7 days a week for Complainants

- **Tennessee Coalition to End Domestic & Sexual Violence**  
800-289-9018  
800-256-6767 – 24 hour statewide domestic violence hotline  
[tncoalition.org](http://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](http://rainn.org/get-help/national-sexual-assault-hotline)
- **National Domestic Violence Hotline**  
800-799-SAFE (7233)  
[thehotline.org](http://thehotline.org)



- **Love is Respect – National Dating Abuse Hotline**  
866-331-9474  
[loveisrespect.org](http://loveisrespect.org)

#### **Other confidential, non-University resources for Complainants and Respondents**

- 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 for Complainants and Respondents**

#### ***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](http://fjcknoxville.com)
- **Knox County Fourth Circuit Court**  
City County Building  
400 Main Street  
Knoxville, TN 37902  
(865) 215-2399  
[knoxcounty.org/fourthcircuitcourt/index.php](http://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 (Appendix A, 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](http://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](http://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](https://www.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=hire-a-lawyer](https://www.knoxbar.org/index.cfm?pg=hire-a-lawyer).

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

The Tennessee Coalition to End Domestic and Sexual Violence ([tncoalition.org](https://www.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**

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](https://www.tncoalition.org)) operates an Immigrant Legal Clinic ([tncoalition.org/documents/ilc-english-brochure.pdf](https://www.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](https://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](https://uscis.gov/citizenship/learners/find-help-your-community)

USCIS Find Legal Services Webpage:  
[uscis.gov/avoid-scams/find-legal-services](https://uscis.gov/avoid-scams/find-legal-services)

The Board of Immigration Appeals ([justice.gov/eoir/board-of-immigration-appeals](https://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](https://justice.gov/eoir/list-pro-bono-legal-service-providers-map).

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

#### **1.4 Student Financial Aid Resources for Complainants and Respondents**

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/](https://onestop.utk.edu/financial-aid/)).

#### **1.5 Interim Protective and Remedial Measures Implemented by the University for Complainants and Respondents**

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 may be implemented upon request or at the Title IX Coordinator’s initiative. Section 2.6 of the Policy explains the availability of Interim Measures and how they are determined, implemented, and enforced.

The following are examples of Interim Measures:

- Issuing an interim administrative action under Section 6.4 of the Student Code of Conduct, including:
  - o 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
  - o Imposing interim actions 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 an individual in obtaining medical, advocacy, and counseling services;
- Exploring changes in living, transportation, dining, and working arrangements;
- Arranging appointments for an individual for 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 an individual 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 an individual in requesting that directory information be removed from public sources by contacting the Office of the University Registrar;
- Accessing academic support for an individual, 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.

## **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.<sup>2</sup> 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 (Appendix A, 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.

### **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.

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<sup>2</sup> Student-employees who are Mandatory Reporters (Policy, Section 2.5.2.1) are required to report information they receive about Prohibited Conduct.

**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
On campus or the City of Knoxville	UTPD 1101 Cumberland Avenue, Knoxville, TN (865) 974-3111 <a href="http://utpolice.utk.edu">utpolice.utk.edu</a>  Knoxville Police Department (KPD) 800 Howard Baker, Jr. Avenue, Knoxville, TN (865) 215-4010 <a href="http://knoxvilletn.gov/government/city_departments_offices/police_department/">knoxvilletn.gov/government/city_departments_offices/police_department/</a>
In Knox County but outside of the City of Knoxville	Knox County Sheriff 400 Main Street, Suite L165, Knoxville, TN 37902 (865) 215-2243 <a href="http://knoxsheriff.org">knoxsheriff.org</a>  or  UTPD 1101 Cumberland Avenue, Knoxville, TN (865) 974-3111 <a href="http://utpolice.utk.edu">utpolice.utk.edu</a>
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 (Appendix A, 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 an 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. Procedures under the Policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. Although the University may delay temporarily the fact-finding portion of its investigation while law enforcement is gathering evidence, the University will implement appropriate Interim Measures 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](http://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 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 Who 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](mailto:ashleyblamey@utk.edu)  
[titleix.utk.edu](http://titleix.utk.edu)

The University’s Deputy Title IX Coordinators are:

NAME	TITLE(S)	CONTACT INFORMATION
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 <a href="mailto:jrichter@utk.edu">jrichter@utk.edu</a> <a href="http://oed.utk.edu">oed.utk.edu</a>
Sarah Thomas	Deputy Title IX Coordinator for Student Support	1817 Melrose Avenue Knoxville, TN 37996 (865) 974-9600 <a href="mailto:sarahthomas@utk.edu">sarahthomas@utk.edu</a> <a href="http://titleix.utk.edu">titleix.utk.edu</a>
Laura Bryant	Deputy Title IX Coordinator for Prevention, Training, and Evaluation	Laura Bryant 1817 Melrose Ave. 865-974-9600 <a href="mailto:lbryant7@utk.edu">lbryant7@utk.edu</a> <a href="http://titleix.utk.edu">titleix.utk.edu</a>
Betsy Smith	Deputy Title IX Coordinator for Student Conduct  Director, Office of Student Conduct and Community Standards	405 Student Services Building Knoxville, TN 37996 (865) 974-3171 <a href="mailto:bbsmith@utk.edu">bbsmith@utk.edu</a> <a href="http://studentconduct.utk.edu">studentconduct.utk.edu</a>
Tara Brooks	Deputy Title IX Coordinator for Intercollegiate Athletics  Director of Internal Operations	Brenda Lawson Athletic Center 1551 Lake Loudon Boulevard Knoxville, TN 37996 (865) 974-6112 <a href="mailto:tbrooks3@utk.edu">tbrooks3@utk.edu</a>
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 <a href="mailto:jpaciell@utk.edu">jpaciell@utk.edu</a> <a href="http://clery.utk.edu">clery.utk.edu</a> ; <a href="http://utpolice.utk.edu">utpolice.utk.edu</a>

**As explained in Section 2.3 of the Policy, 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 Appendix A, Section 1.2.**



**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. Section 2.5.2.1 of the Policy identifies the University employees who are Mandatory Reporters.**

### ***2.3.2 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 (Appendix A, 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 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 (Appendix A, 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 make a “Request for Limited Action” when an incident of Prohibited Conduct is reported to a Title IX Official. Section 2.5.2.3 of the Policy explains what Requests for Limited Action are, how they are evaluated, and the limited circumstances in which they may not be granted.

### ***2.3.5 Amnesty for Students Who Report Prohibited Conduct to the University***

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 University disciplinary action by the Office of Student Conduct and Community Standards 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”). More information on the University’s Amnesty policy can be found in Section 2.5.2.5 of the Policy.

### **2.3.6 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 and Fire Safety Report. Statistics published in the Annual Security and Fire Safety 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 and Fire Safety 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 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 or Respondent 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 a Respondent who is a student makes a request to review documents concerning the University’s investigation or resolution of Prohibited Conduct, 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.

However, Tennessee law provides that information that is reasonably likely to identify a student accused of committing an alleged sexual offense or alleged violent sexual offense as defined in Tennessee Code Annotated § 40-39-202 or any information that is reasonably likely to identify the victim of an alleged sexual offense or alleged violent sexual offense as defined in Tennessee Code Annotated § 40-39-202, must be treated as confidential and not be open for inspection by members of the public 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.

**Disclosure to Respondents During the Disciplinary Process**

After the University has formally initiated an investigation and during the disciplinary process, a Respondent has rights under federal and state law, including the right to be informed of the nature of the allegations, including the identity of the Complainant and the names of any witnesses, and the right to equal access to all information that will be used in the disciplinary process.

**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”).<sup>1</sup>

The purpose of this Appendix B is to inform students, employees, and third parties about how the University, in investigations and disciplinary hearings,<sup>2</sup> 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.

Valid Consent cannot be given if:

- A person is Incapacitated and a Reasonable Person in the same situation as the Respondent would have known that the person is Incapacitated.
  - A person is Forced; or
  - A person 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 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.

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<sup>1</sup> Capitalized terms have the same meaning in the Policy and Appendix B.

<sup>2</sup> Including contested case proceedings under the Uniform Administrative Procedures Act, Tennessee Code Annotated § 4-5-101 *et seq.* (“UAPA”).

- 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”).<sup>1</sup>

Disciplinary proceedings<sup>2</sup> 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. Page five of this appendix C contains a graphical summary of the student conduct process under the Code. A copy of the Code may be found at [studentconduct.utk.edu](http://studentconduct.utk.edu).

**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.

**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 Action<sup>3</sup> is granted:

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<sup>1</sup> Capitalized terms have the same meaning in the Policy and Appendix C.

<sup>2</sup> “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 interim or protective measures to be provided to a Complainant.

<sup>3</sup> See Section 2.5.2.4 of the Policy.



Step	Description	Policy Reference	Anticipated Timeline
<b>Title IX Assessment</b>	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
<b>Student Conduct Process: Initial Stages/Investigation</b>	OSCCS <sup>4</sup> 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, OSCCS 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 OSCCS begins an investigation
<b>Student Conduct Process: Resolution</b>	Allegations of Prohibited Conduct may be resolved through: <ul style="list-style-type: none"> <li>• a Resolution Agreement;</li> <li>• a Formal Hearing, including appeals;</li> <li>• an Alternative Resolution;</li> <li>• a No Action Determination; or</li> <li>• another type of resolution outlined in Section 7.4 of the Code</li> </ul>	Code, Sections 7.1-7.4	Within thirty (30) business days of the issuance of a Notice of Allegations, if issued <sup>5</sup>

**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,

<sup>4</sup> Investigations of reports of Prohibited Conduct are usually performed by OSCCS. However, for good cause, the Title IX Coordinator may select an investigator(s) external to OSCCS, 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.

<sup>5</sup> 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 judge will be appointed by the University’s Agency Head typically 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.



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, OSCCS, 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).

### **INTERIM PROTECTIVE AND REMEDIAL MEASURES**

Section 2.6 of the Policy describes interim protective and remedial measures that the University may implement while the University assesses, investigates, and resolves a report of Prohibited Conduct.

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, at any time during the student conduct process, allegations against a Respondent may be resolved through an alternative resolution. An alternative resolution is a resolution that is reached through a process and/or by a sanction or restriction not described in the Code. Before proposing an alternative resolution in a case involving Prohibited Conduct, OSCCS shall consult with the Title IX Coordinator and determine whether an alternative resolution would be appropriate based on the facts and circumstances of the case, and, if so, what type of alternative resolution process should be used. The Title IX Coordinator will ensure that any proposed alternative resolution is consistent with the University's Title IX obligations.

Examples of alternative resolution processes that may be proposed by OSCCS include but are not limited to mediation, facilitated dialogue, conflict coaching, and restorative justice. The process of trying to reach an alternative resolution is voluntary (i.e., neither the Respondent nor a Complainant is required to participate). 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.

An Alternative Resolution Agreement is a written agreement that confirms an agreement to resolve the allegations against the Respondent through an alternative resolution. To be valid, an Alternative Resolution Agreement shall in all cases be signed by OSCCS and the Respondent, and shall include a waiver of the Respondent's right, if any, to have a Formal Hearing on the allegations. Prior to the execution of an Alternative Resolution Agreement, if a Complainant has not participated with OSCCS in the discussion of an alternative resolution, then OSCCS will provide the Complainant with an opportunity to provide a timely objection to the proposed alternative resolution. In appropriate cases, OSCCS may request the Complainant to sign an Alternative Resolution Agreement and determine that the Alternative Resolution Agreement is not effective without the Complainant's signature. Neither the Respondent nor the Complainant may revoke or appeal an Alternative Resolution Agreement.

If an Alternative Resolution Agreement is not reached, then the student conduct process will proceed, and the allegations against the Respondent will be resolved through one of the other resolution methods in the Code.

#### **COMPLAINANT'S RIGHT TO APPEAL A NO ACTION DETERMINATION**

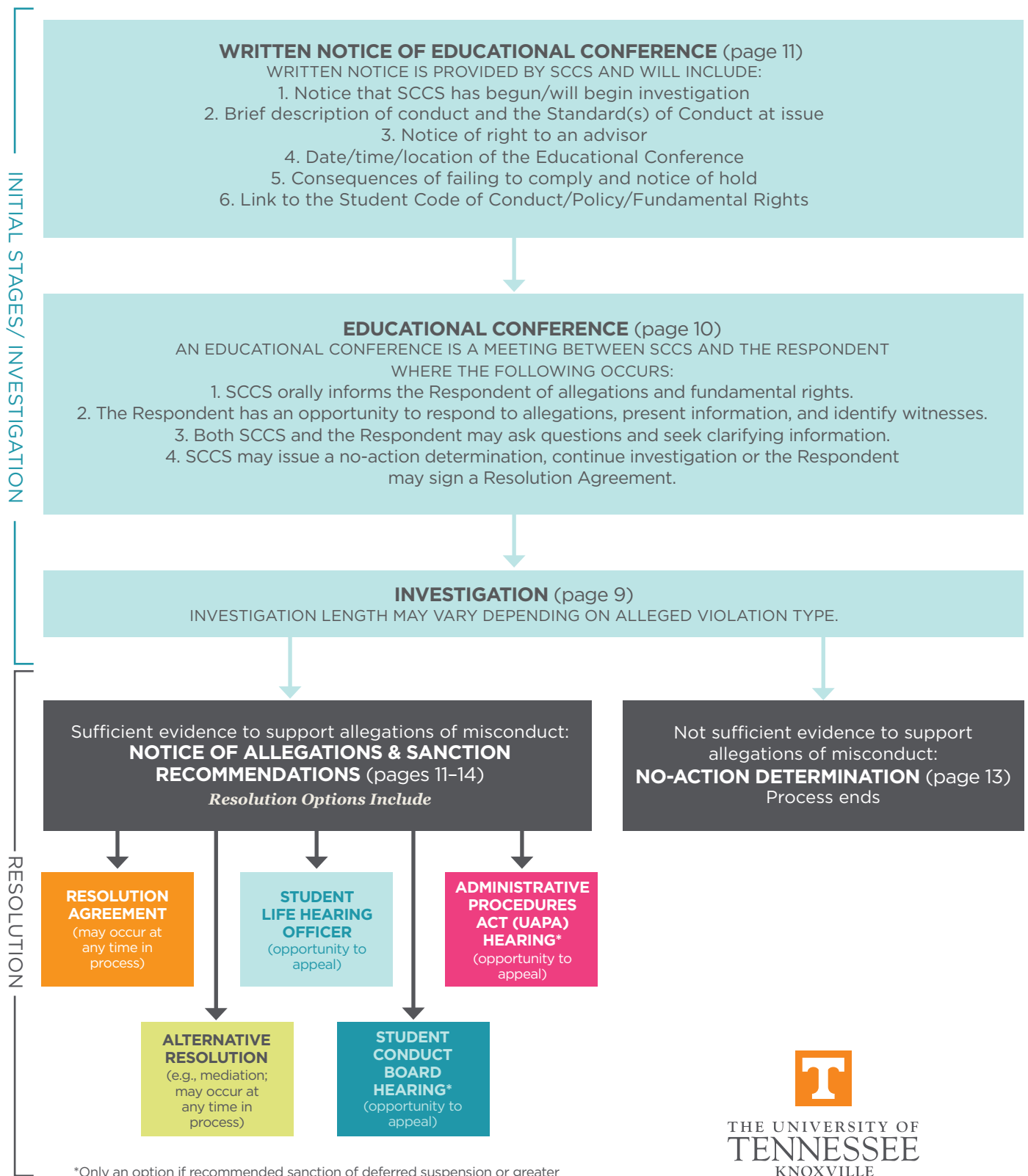
If a disciplinary proceeding concludes with OSCCS making a final determination that no action will be taken with respect to a report of Prohibited Conduct, then the Complainant may appeal that determination in accordance with Section 7.4.1 of the Code. Under the Code, a Complainant who is informed by OSCCS of a no action determination may appeal the decision to OSCCS, in writing, within five (5) business days of the date that OSCCS transmitted notice of the no action determination to the Complainant. The decision of OSCCS to affirm the no action determination is final and may not be appealed. Respondent appeal rights and procedures for appealing decisions are located in Sections 7 and 8 of the Code.

#### **UNIFORM ADMINISTRATIVE PROCEDURES ACT**

Chapter 1720-1-5 of the Rules of the University of Tennessee (<https://publications.tnsosfiles.com/rules/1720/1720-01/1720-01-05.20180524.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 judge or hearing officer must modify those procedures when required to comply with federal law, including without limitation, Title IX, the Clery Act, and FERPA.

# STUDENT CONDUCT & COMMUNITY STANDARDS (SCCS) STUDENT CONDUCT PROCESS

*When a student faces an alleged (nonacademic) violation, the below process is followed.*



## **APPENDIX D**

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

The University 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).<sup>1</sup>

#### **Scope of OED Authority**

The procedures in Exhibit D apply when the person reported to have engaged in Prohibited Conduct 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 with respect to unaffiliated individuals may be limited). The person making a complaint is referred to as the Complainant. The person reported to have engaged in Prohibited Conduct is referred to as the Respondent. When the Respondent is a University student, see [titleix.utk.edu](http://titleix.utk.edu) to report violations of this Policy.

Complaints of Prohibited Conduct against employees and individuals not affiliated with the University may be directed to the Title IX Coordinator or to the Office of Equity and Diversity, (865) 974-2498, [oed.utk.edu](http://oed.utk.edu). Formal complaints by employees should be in writing and made within 300 calendar days of the alleged violation. 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 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 environment for all members of the University community, including the Complainant. Cases of Prohibited Conduct will be evaluated consistent with Section 2.5.2.4 of the Policy.

#### **Informal Complaints and Resolution**

Complainants who are employees and who feel comfortable doing so are encouraged, but not required, to attempt to resolve issues through the administrative structure of the employment unit or academic department of the Complainant and/or Respondent (if an employee). OED is available to provide assistance to the Complainant and employment unit or academic department.

If a Complainant who is an employee does not wish to seek resolution directly with their 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.

Complainants who are not employees may seek either an informal or formal resolution with OED.

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 engaged in Prohibited Conduct. Instead, OED attempts to facilitate a mutually acceptable

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<sup>1</sup> Capitalized terms have the same meaning in the Policy and Exhibit D.  
Appendix D, Page 1

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 appropriate supervisors or administrators, if the Complaint or Respondent is an employee, 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 engaged in Prohibited Conduct. 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. A formal complaint must include the name of the Complainant, a description of the complained of action or conduct, and the person or entity 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, if applicable, the appropriate administrator with supervisory responsibility will be notified of the complaint.
2. OED will conduct an investigation into whether Respondent engaged in Prohibited Conduct. 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 to have engaged in Prohibited Conduct. The report will include the rationale for the findings and recommendations and may include other information. OED will provide the report to the appropriate administrators, if applicable, and will simultaneously provide a copy to the Complainant and Respondent.
4. If the Respondent is an employee, the appropriate administrator is responsible for reviewing the OED report and making a written Determination whether Respondent engaged in Prohibited Conduct. The Determination will include the rationale for the findings and recommendations and, if the Respondent is found responsible, will 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. If the Respondent is not an employee, the Title IX Coordinator (or designee) will review the OED report and making a written Determination.
5. Appeals
  - (a) Employees: A Complainant or Respondent who is an employee and who is not satisfied with the Determination (including the discipline imposed, if any) may appeal in accordance with applicable University policies and procedures, including Human Resources Policy HR0525, Human Resources Policy HR0640, and the Faculty Handbook Chapter 5. 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 fifteen (15) business days after receipt of the Determination, a Complainant who is a student and who is not satisfied with the Determination (including the discipline imposed, if any) may appeal in writing to the next higher administrative level above the person who issued the Determination. 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 and simultaneously to the Complainant and Respondent.
- (c) **Third Parties:** Within fifteen (15) business days after receipt of the Determination, a Complainant or Respondent who is an unaffiliated third party (not an employee or student) may file a request for reconsideration with the Title IX Coordinator. The Title IX Coordinator's decision on reconsideration is not appealable.

OED will ensure that the Title IX Coordinator is appropriately informed regarding reports of Prohibited Conduct.

### **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/](http://policy.tennessee.edu/hr_policy/)); HR0580, Code of Conduct  
   ([policy.tennessee.edu/hr\\_policy/hr0580/](http://policy.tennessee.edu/hr_policy/hr0580/)); and HR0525,  
   Disciplinary Action ([policy.tennessee.edu/hr\\_policy/hr0525/](http://policy.tennessee.edu/hr_policy/hr0525/))



THE UNIVERSITY OF TENNESSEE  
POLICY ON SEXUAL MISCONDUCT, RELATIONSHIP VIOLENCE, STALKING, AND RETALIATION  
2019–2020

Faculty: BToo6, Board of Trustees Policies Governing Academic Freedom, Responsibility, and Tenure ([policy.tennessee.edu/bot\\_policy/bt0006/](http://policy.tennessee.edu/bot_policy/bt0006/)); Faculty Handbook ([provost.utk.edu/faculty-handbook/](http://provost.utk.edu/faculty-handbook/))

Student employees: Hilltopics ([hilltopics.utk.edu/campus-policies-procedures/](http://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.

If the Respondent is someone not affiliated with the University (that is, not an employee or student), the University's action will be decided based on the facts of each case.

**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”).<sup>1</sup>

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 Official<sup>2</sup> 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.

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<sup>1</sup> Capitalized terms have the same meaning in the Policy and Appendix E.

<sup>2</sup> 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](mailto: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 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 hours<sup>3</sup> after receiving the report).<sup>4</sup> 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.

**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;

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<sup>3</sup> 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.

<sup>4</sup> 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.

- (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.



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