

THE UNIVERSITY OF TENNESSEE, KNOXVILLE

SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE: INTERIM POLICY, PROCEDURES, AND RESOURCES¹

I. INTRODUCTION

The University of Tennessee, Knoxville is committed to creating and maintaining a learning, living, and working environment free from all forms of **Sex Discrimination**, including **Sexual Misconduct** and **Relationship Violence**. **Sexual Misconduct** and **Relationship Violence** will not be tolerated and will be grounds for disciplinary action up to, and including, permanent dismissal from the University and termination of employment.

This policy describes prohibited conduct; explains multiple options for reporting **Sexual Misconduct** and **Relationship Violence**; sets forth the procedures the University will follow for promptly, thoroughly, and equitably investigating and resolving reports of **Sexual Misconduct** and **Relationship Violence** in order to eliminate **Sexual Misconduct** and **Relationship Violence**, prevent their recurrence, and address their effects on an individual or the University community; identifies resources and services for **Complainants**; and describes the University's prevention and awareness programs relating to **Sexual Misconduct** and **Relationship Violence**.

This policy implements the requirements of **Title IX**, **Title VII**, and the **Clery Act** with respect to **Sexual Misconduct** and **Relationship Violence**, including amendments to the **Clery Act** made by the Violence Against Women Reauthorization Act (VAWA) but not including proposed VAWA regulations published in the U.S. Department of Education's notice of proposed rulemaking, 79 Fed. Reg. 35418-35460 (June 20, 2014).

A. APPLICABILITY OF THIS POLICY

This policy applies to all members of the University community, including students, faculty, staff, and volunteers, regardless of their sex, sexual orientation, or gender identity. It also applies to University contractors and other third parties participating in a University program or activity.

Sexual Misconduct and **Relationship Violence** can be committed by anyone (regardless of sex, gender identity, or sexual orientation), can occur between strangers or acquaintances, and occur between people of the same or of different sexes, gender identities, and/or sexual orientations.

B. DEFINITIONS

Definitions of key terms used in this policy are set forth in **Appendix A** to this policy.

C. TITLE IX

¹ This is an interim policy, which is effective September 1, 2014 and will remain in effect until a permanent version of this policy. A permanent version of this policy will be issued after the campus community, including the Sexual Misconduct Task Force, has had a reasonable opportunity to review and provide feedback on the interim policy. The University encourages persons who have feedback on the interim policy to submit that feedback to the **Title IX Coordinator**.

The University of Tennessee is a recipient of federal financial assistance for education activities, and in accordance with the provisions of **Title IX**, all of its education programs and activities are subject to the prohibition against **Sex Discrimination**. The University's **Nondiscrimination Statement** prohibits **Sex Discrimination** in any University education program or activity, including employment and admissions. **Title IX** applies to all students, employees, applicants for admission or employment, volunteers and visitors at the University and prohibits unequal treatment on the basis of sex including **Sexual Harassment**, **Sexual Assault**, and **Sexual Exploitation**, which are all types of **Sex Discrimination**.

D. TITLE IX COORDINATOR AND DEPUTY TITLE IX COORDINATORS

Reports or complaints of **Sex Discrimination**, **Sexual Misconduct**, or **Relationship Violence**, 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 one of the University's Deputy Title IX Coordinators. The responsibilities of the Title IX Coordinator and Deputy Title IX Coordinators are summarized below and are described in more detail in other sections of this policy. The Title IX Coordinator and Deputy Title IX Coordinators generally are available Monday – Friday on University business days from 8:00 a.m. to 5:00 p.m.

The University's Title IX Coordinator is:

Jennifer L. Richter
Title IX Coordinator
Interim Director, Office of Equity and Diversity
1840 Melrose Avenue
Knoxville, TN 37996
Phone: 865-974-2498
Fax: 865-974-0943
jrichter@utk.edu
<http://oed.utk.edu>

The Title IX Coordinator's responsibilities generally include:

- Coordinating and maintaining ultimate oversight responsibility with respect to the University's compliance with **Title IX**;
- Receiving, tracking, and monitoring reports of **Sex Discrimination**, including **Sexual Misconduct** and **Relationship Violence**, and maintaining records of such reports;
- Interacting with the **Sexual Assault Response Team**;
- Ensuring prompt, thorough, and equitable investigations and resolutions of reports of **Sex Discrimination**, including **Sexual Misconduct** and **Relationship Violence**, by the **Office of Equity and Diversity** (if the **Respondent** is an employee or other non-students) or the **Office of Student Conduct and Community Standards** (if the **Respondent** is a student);
- Identifying and addressing any patterns or systemic problems concerning **Sexual Misconduct** and **Relationship Violence**;
- Coordinating training, prevention, and awareness efforts concerning **Sexual Misconduct** and **Relationship Violence**;
- Supporting the Deputy Title IX Coordinators;
- Providing information to students, employees, and third parties concerning this policy;
- Coordinating the provision of **Interim Measures** for students and employees;

- Making appropriate reports (that do not personally identify **Complainants**) for purposes of including incidents in the University's annual **Clery Act** crime statistics; and
- Being available to meet with students, employees, and third parties, including, without limitation, **Complainants**, **Respondents**, and **Reporters** of violations of this policy, and.

The Title IX Coordinator is assisted by two trained Deputy Title IX Coordinators who also are accessible to members of the University community for consultation and assistance.

The Deputy IX Coordinator for students is:

Ashley Blamey, Director
 Center for Health Education and Wellness
 1800 Volunteer Blvd., Suite 201
 Knoxville, TN 37996
 (865) 974-5725 or (865) 974-HELP
ashleyblamey@utk.edu
<http://wellness.utk.edu>

The Deputy Title IX Coordinator for students is responsible for **Title IX** compliance for certain matters involving students, including:

- Coordinating the **Sexual Assault Response Team**;
- Coordinating and maintaining oversight responsibility with respect to the Division of Student Life's compliance with **Title IX**;
- Receiving, tracking, and monitoring reports of **Sex Discrimination** involving students, including **Sexual Misconduct** and **Relationship Violence**;
- Identifying and addressing any patterns or systemic problems concerning **Sexual Misconduct** committed by or against students, in coordination with the **Title IX Coordinator**;
- Coordinating training, prevention, and awareness efforts for students concerning **Sexual Misconduct** and **Relationship Violence**;
- Assisting the Title IX Coordinator;
- Providing information to students about this policy;
- Coordinating the provision of **Interim Measures** to students; and
- Being available to meet with students, including, without limitation, **Complainants**, **Respondents**, and **Reporters** of violations of this policy.

The Deputy Title IX Coordinator for students and employees involved in intercollegiate athletics is:

Mike Ward
 Senior Associate Athletics Director for Administration and Sports Programs
 Brenda Lawson Athletic Center
 1551 Lake Loudon Boulevard
 (865) 974-9190
mikeward@utk.edu

The Deputy Title IX Coordinator for students and employees involved in intercollegiate athletics is responsible for **Title IX** compliance for certain matters involving student-athletes, including:

- Coordinating and maintaining oversight responsibility with respect to the Athletic Department's compliance with **Title IX**, including gender equity;

- Serving as a member of the **Sexual Assault Response Team**;
- Receiving reports of **Sex Discrimination**, including **Sexual Misconduct** and **Relationship Violence**, involving student-athletes, and referring those reports to the Title IX Coordinator, Deputy Title IX Coordinator for students, or the **Sexual Assault Response Team**;
- Identifying and addressing any patterns or systemic problems concerning **Sexual Misconduct** committed by or against student-athletes, in coordination with the **Title IX Coordinator**;
- Coordinating training, prevention, and awareness efforts for students and employees involved in intercollegiate athletics concerning **Sexual Misconduct** and **Relationship Violence**;
- Assisting the Title IX Coordinator and the Deputy Title IX Coordinator for students;
- Providing information to students and employees involved in intercollegiate athletics on this policy;
- Coordinating the provision of **Interim Measures**;
- Being available to meet with students and employees involved in intercollegiate athletics, including, without limitation, **Complainants, Respondents**, and **Reporters** of violations of this policy.

Inquiries or complaints concerning **Title IX** also may be referred to the United States Department of Education:

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

E. COMPLAINT PROCEDURES

Complaints against students for violating this policy will be resolved using the procedures described in **Section VI(A)** and **Section VI(C)**. Complaints against employees or other non-students for violating this policy will be resolved using the procedures described in **Section VI(A)** and **Section VI(B)**.

F. REPORTING

Only **Responsible Employees** are required to report violations of this policy to the University. However, the University encourages all members of the University community to report conduct of which they become aware that they in good faith believe might constitute a violation of this policy. Additional information about reporting violations of this policy can be found in **Section III**.

G. CONSENSUAL RELATIONSHIPS

Consensual romantic or sexual relationships between members of the University community are subject to other University policies. For example, the University's policy on consenting romantic or sexual relationships between faculty and students can be found in **Appendix 7 of the UTK Faculty**

Handbook. Even if a romantic or sexual relationship between members of the University community begins as consensual, it can evolve into situations that lead to allegations of **Sexual Misconduct** or **Relationship Violence**. In addition, depending on the circumstances, a consensual sexual relationship may also violate other University policies, including without limitation, University of Tennessee Human Resources Policies [0220](#), [0280](#), and [0580](#).

H. FIRST AMENDMENT/ACADEMIC FREEDOM

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.

I. DUE PROCESS

This policy is designed to comply with **Title IX** while also ensuring that due process (if constitutionally-required) is provided to **Respondents** who are accused of violating this policy.

J. TENNESSEE LAW

The information provided in this policy concerning Tennessee law is provided in accordance with the **Clery Act**. It is not intended, nor should it be construed, as legal advice.

K. RELATIONSHIP BETWEEN THIS POLICY AND OTHER UNIVERSITY POLICIES/PROCEDURES

Except as otherwise provided in this policy, this policy takes precedence over other University policies and procedures concerning **Sexual Misconduct** and **Relationship Violence** in the event of a conflict. For example, in the event of a conflict between this policy and **Hilltopics**, this policy shall control. If this policy does not supply a substantive or procedural rule relating to an issue, then **Hilltopics** shall supply the rule.

This policy modifies Standard of Conduct Number 7 for students as follows:

Former Standard of Conduct Number 7

Sexual assault or misconduct. "Sexual assault" is defined as any sexual act or attempt to engage in any sexual act with another person without the consent of the other person, or in circumstances in which the person is unable to give consent due to age, disability, or an alcohol/chemical or other impairment. "Sexual misconduct" is defined as any intimate touching of another person, or forcing a person to engage in intimate touching of another, without the consent of the other person, or in circumstances in which the person is unable to give consent due to age, disability, or an alcohol/chemical or other impairment. It is the responsibility of the person initiating sexual activity to ensure the other person is capable of consenting to that activity. Consent is given by an affirmative verbal response or acts that are unmistakable in their meaning. Consent to one form of sexual activity does not mean consent is given to another type of sexual activity.

New Standard of Conduct Number 7

Violation of the University's Interim Policy on Sexual Misconduct and Relationship Violence.

The University's jurisdiction concerning off-campus misconduct by students is outlined in *Hilltopics*.

University Safety Policy 0575 takes precedence over this policy with respect to suspected child abuse and child sexual abuse.

The following is a non-exclusive list of other University policies and procedures that in some cases may be relevant to the resolution of a report of **Sexual Misconduct** or **Relationship Violence** involving a University employee:

- **University of Tennessee Board of Trustees Policy 0006 (Policies Governing Academic Freedom, Responsibility, and Tenure)**
- **University of Tennessee, Knoxville Faculty Handbook**
- **University of Tennessee Human Resources Policy 0160 (Termination of Employment)**
- **University of Tennessee Human Resources Policy 0220 (Equal Employment Opportunity and Affirmative Action)**
- **University of Tennessee Human Resources Policy 0355 (Leave of Absence)**
- **University of Tennessee Human Resources Policy 0525 (Disciplinary Action)**
- **University of Tennessee Human Resources Policy 0640 (Grievances)**
- **University of Tennessee Procedure for Conducting Hearings in Accordance with the Contested Case Provisions of the Uniform Administrative Procedures Act** (the Administrative Law Judge shall modify those procedures when required to comply with federal law)

L. ADDITIONAL INFORMATION ABOUT SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE

The University maintains a **website** that contains additional information about the University's procedures and programs relating to **Sexual Misconduct** and **Relationship Violence**.

II. PROHIBITED CONDUCT

The University prohibits **Sexual Misconduct**, **Relationship Violence**, and **Retaliation** relating to **Sexual Misconduct** or **Relationship Violence**.

The University's **Standards of Conduct for students** prohibits students from violating this policy and prohibits other types of conduct.

The University's **Code of Conduct for employees** prohibits violations of any University policy against harassment, discrimination, or retaliation, which includes this policy, and other types of conduct.

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III. REPORTING SEXUAL MISCONDUCT OR RELATIONSHIP VIOLENCE

The University encourages **Complainants** of **Sexual Misconduct** or **Relationship Violence** to promptly report the incident. The University also encourages others who are aware of **Sexual Misconduct** or **Relationship Violence** to promptly report the incident.² Several options for reporting **Sexual Misconduct** or **Relationship Violence** are described below.

A. REPORTING TO THE UNIVERSITY (OTHER THAN CAMPUS POLICE)

Complainants (and other persons who are not **Responsible Employees**) are not required to report a violation of this policy to the University. However, reporting a violation of this policy to the University empowers **Complainants** to obtain the support they need and enables the University to respond appropriately, including taking action against a **Respondent**. The University does not limit the time frame for reporting under this policy, although a delay in reporting may impact the University's ability to: obtain evidence; conduct a prompt, thorough, and equitable investigation; and/or otherwise respond and take appropriate action.

If a person reports an incident of **Sexual Misconduct** or **Relationship Violence** to the University, there is no requirement that the person pursue criminal prosecution or University discipline against a **Respondent**.

Subject to a **Complainant's request for confidentiality** and applicable **legal disclosure obligations**, information reported to a **Responsible Employee** will be shared only as reasonably necessary with investigators, witnesses and the **Respondent**. **Responsible Employees** who are not employees of UTPD will not share information with UTPD or other law enforcement agencies without a **Complainant's** consent.

Only a report to the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, the **Sexual Assault Response Team**, or another **Responsible Employee** identified in this section constitutes official notice to the University of an incident of **Sexual Assault** or **Relationship Violence**. The reporting options identified in this section are not confidential University resources like the resources described in **Section V(B)(1)**. However, subject to a **Complainant's request for confidentiality** and applicable **legal disclosure obligations**, information reported to one of the reporting options in this section will initially maintain the privacy of information shared by a **Complainant** or **Reporter** within the limited circle of those University employees whom the University needs to involve in the University's response to an incident of **Sexual Misconduct** or **Relationship Violence**. Subsequently, information about the report will be shared only as reasonably necessary with investigators, witnesses and the **Respondent**, subject to a **Complainant's request for confidentiality** and applicable **legal disclosure obligations**.

1. Reporting Options

a. Title IX Coordinator

² This does not apply to **Responsible Employees**, who are required to report incidents of **Sexual Misconduct** or **Relationship Violence** in accordance with **Section VII**.

Any person may report **Sexual Misconduct** and **Relationship Violence** to the University's **Title IX Coordinator**, regardless of whether the **Complainant** or **Respondent** is a student or employee.

b. Sexual Assault Response Team

Persons may report **Sexual Misconduct** and **Relationship Violence** involving a student to the University's Sexual Assault Response Team (S.A.R.T.), which is a multidisciplinary team of University employees who work collaboratively to:

- serve as a primary option for reporting **Sexual Assault** and **Relationship Violence** involving students;
- utilize a victim-centered approach to create a support network for **Complainants** and focus on minimizing the trauma experienced by **Complainants** in a sensitive and proficient manner;
- assist the **Complainant** in accessing the support resources identified in **Section V**, 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 requested by the **Complainant**;
- assist the **Title IX Coordinator** and/or a **Deputy Title IX Coordinator** with the initial review of a report of **Sexual Assault** or **Relationship Violence**;
- coordinate and implement **Interim Measures**;
- provide reports to **UTPD** for **Clery Act** reporting in a manner that does not personally identify **Complainants**;
- strive to ensure the consistent application of this policy to all students and enable the University to respond promptly, thoroughly, and equitably to eliminate **Sexual Assault** or **Relationship Violence**, prevent its recurrence, and eliminate its effects; and
- answer questions about the University's policies, procedures, or programs concerning **Sexual Assault** and **Relationship Violence**.

A member of the S.A.R.T. may be contacted by calling (865) 974-HELP (4357), Monday-Friday from 8:00-5:00 p.m. A list of the members of the S.A.R.T. can be found [here](#). Members of the S.A.R.T. have received training to work with **Complainants**.

c. Supervisors

Employees, including student employees, may report **Sexual Misconduct** and **Relationship Violence** to their supervisor.

d. Other Responsible Employees

Students also may report **Sexual Misconduct** and **Relationship Violence** to any of the following employees:

- **Title IX Coordinator** and **Deputy Title IX Coordinators**;
- Members of the **S.A.R.T.**;
- **UTPD** officers and employees;
- Chancellor, Vice Chancellors, Associate Vice Chancellors, and Assistant Vice Chancellors;
- Deans, Associate Deans, Assistant Deans, Directors, and Department Heads;
- Faculty members (but not adjunct faculty members);
- Graduate teaching assistants who receive a report in their teaching capacity;

- Academic advisors, including Thornton Athletics Student Life Center staff;
- Faculty and staff advisors to **Registered Student Organizations**;
- Housing staff, including resident assistants;
- Human Resources Employee Relations Specialists;
- Employees designated as **Campus Security Authorities** for **Clery Act** compliance;³ and
- The following employees in the Department of Intercollegiate Athletics: Athletic Director; Executive Senior Associate Athletic Director; Senior Associate Athletic Directors; Associate Athletic Directors; Assistant Athletic Directors; Coaches, Associate Coaches, and Assistant Coaches; Compliance staff; Sports Medicine staff (excluding graduate assistants, Team Physicians, Director of Mental Training, and Team ENHANCE/EXCEL Coordinator); Strength and Conditioning staff (excluding graduate assistants); and Directors of Operations.

A person seeking to report an incident to the University should understand the following with respect to a University employee who is **not** a **Responsible Employee**:

- the employee does not have the authority to take action to redress **Sexual Misconduct** or **Relationship Violence**; and
- the employee has not been given the duty to report incidents of **Sexual Misconduct**, **Relationship Violence** or other misconduct to the **Title IX Coordinator/Deputy Title IX Coordinators/S.A.R.T.**, and, thus, a report to that employee is not official notice to the University of an incident of **Sexual Misconduct** or **Relationship Violence**.

If a person does not know an employee's job title or does not know whether the employee is a **Responsible Employee**, then the person should ask the employee whether the employee is a **Responsible Employee**. If an employee is unsure whether they are a **Responsible Employee**, then they should call the **Title IX Coordinator** for clarification.

Responsible Employees do not include persons who are prohibited in the situation from reporting an incident by a law or mandatory ethical standard imposed by their profession (e.g., a **Qualified Mental Health Professional** who learns of the information in the course of a privileged provider-patient relationship).

2. What to Expect after Reporting Sexual Misconduct or Relationship Violence to the Title IX Coordinator/Deputy Title IX Coordinators, the S.A.R.T., or Another Responsible Employee

A **Responsible Employee** must communicate a report of **Sexual Misconduct** or **Relationship Violence** to the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, or a member of the **S.A.R.T.** promptly after receiving notice of the incident (no later than 48 University business hours after receiving the report). **Responsible Employees** must communicate all relevant details about the alleged **Sexual Misconduct** or **Relationship Violence** shared by the **Reporter** and that the University will need to determine what happened – including the names of the **Complainant**, **Reporter**, and **Respondent(s)**, any witnesses, and any other relevant facts, including the date, time and specific location of the alleged incident.

³ The University has not designated all **Responsible Employees** as **Campus Security Authorities** for purposes of compliance with the Clery Act.

After receiving a report of **Sexual Misconduct** or **Relationship Violence** (either from a **Reporter** or indirectly from a **Responsible Employee**), the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, and/or a member of the **S.A.R.T.** will initiate immediate and appropriate steps by the University to: provide a **Complainant** with a copy of this policy and/or another written publication approved by the **Title IX Coordinator** to inform the **Complainant** of their rights under this policy (if that has not already been done by a **Responsible Employee**); implement **Interim Measures**; and, subject to a **Complainant's** request for confidentiality, as explained in **Section III(A)(3)**, investigate and resolve the matter promptly, thoroughly, and equitably in accordance with the procedures outlined in **Section VI** of this policy. The **Title IX Coordinator**, a **Deputy Title IX Coordinator**, and/or a member of the **S.A.R.T.** also can assist a **Complainant** in reporting the incident to law enforcement.

3. If the Complainant Requests Confidentiality: How the University Will Weigh the Request and Respond

If a **Complainant** discloses an incident of **Sexual Misconduct** or **Relationship Violence** to a **Responsible Employee** but wishes to maintain confidentiality or requests that no investigation into a particular incident be conducted or disciplinary action taken, the University will seriously weigh that request against the University's obligation to provide a safe, non-discriminatory environment for all members of the University community, including the **Complainant**.

If the University honors the **Complainant's** request for confidentiality, the University's ability to meaningfully investigate the incident and pursue disciplinary action against the **Respondent** or other remedial action may be limited. Although rare, there are times when the University may not be able to honor a **Complainant's** request in order to provide a safe, non-discriminatory environment. For example, if the University has credible information that the **Respondent** has committed one or more prior acts of **Sexual Misconduct** or **Relationship Violence**, 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**.

The University has designated the **Title IX Coordinator** to evaluate requests by **Complainants** for confidentiality. When weighing a **Complainant's** request for confidentiality or that no investigation or discipline be pursued, the **Title IX Coordinator** will consider a range of factors, including without limitation the following:

- the risk that the **Respondent** will commit additional acts of **Sexual Misconduct** or **Relationship Violence**, such as:
 - whether there have been other **Sexual Misconduct** or **Relationship Violence** reports concerning the same **Respondent**;
 - whether the **Respondent** has a history of **Sexual Misconduct** or **Relationship Violence**;
 - whether the **Respondent** threatened further **Sexual Misconduct** or **Relationship Violence** or other misconduct against the **Complainant** or others; and
 - whether the **Sexual Misconduct** or **Relationship Violence** was committed by multiple perpetrators;
- whether the **Sexual Misconduct** or **Relationship Violence** was perpetrated with a weapon;
- whether the University possesses other means to obtain relevant evidence of the **Sexual Misconduct** or **Relationship Violence** (e.g., security cameras or personnel, physical evidence); and

- whether the **Complainant's** report reveals a pattern of perpetration (e.g., via illicit use of drugs or alcohol) at a given location or by a particular group.

The presence of one or more of those factors could lead the University to investigate and, if appropriate, pursue disciplinary action. If none of those factors is present, then the University will likely respect the **Complainant's** request for confidentiality. If the University determines that it can respect a **Complainant's** request for confidentiality, then the University will take all reasonable steps to respond to the report consistent with the **Complainant's** request for confidentiality and will take immediate actions that the University determines are necessary to protect and assist the **Complainant** while keeping their identity confidential (e.g., providing the **Complainant** with **Interim Measures**).

If the University determines that it cannot maintain a **Complainant's** confidentiality, the University will inform the **Complainant** prior to starting an investigation and will, to the extent possible and unless otherwise required by law, only share information with people responsible for handling the University's response. If the University determines that it must disclose the **Complainant's** identity to the **Respondent**, then the University 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 work with the **Complainant** to create a safety plan. **Retaliation** against the **Complainant**, whether by students or University employees, will not be tolerated. The University will also assist the **Complainant** access the support resources identified in **Section V**, 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 require a **Complainant** to participate in any investigation or disciplinary proceeding.

Because the University is under a continuing obligation to address the issues of **Sexual Misconduct** and **Relationship Violence** campus-wide, reports of **Sexual Misconduct** or **Relationship Violence** (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 **Sexual Misconduct** or **Relationship Violence** occurred; increasing education and prevention efforts, including to targeted population groups; conducting climate assessments/victimization surveys; and/or revisiting its policies and practices.

B. REPORTING TO LAW ENFORCEMENT

Sexual Misconduct or **Relationship Violence** may constitute both a violation of this policy and criminal law. Therefore, the University encourages persons to report incidents of **Sexual Misconduct** or **Relationship Violence** to law enforcement. Prompt reporting of an incident to law enforcement is especially critical for incidents of **Sexual Assault** and **Relationship Violence** because the collection and preservation of evidence relating to **Sexual Assault** and **Relationship Violence** often is essential for law enforcement investigations and criminal prosecutions.

1. Contact Information for Campus and Local Law Enforcement

The following options are available 24 hours, seven days a week, for reporting an incident of **Sexual Misconduct** or **Relationship Violence** to law enforcement:

Regardless of where the incident occurred:

- Emergencies 911
- University of Tennessee Police Department (UTPD) 865-974-3111
1101 Cumberland Avenue, Knoxville, TN
<http://utpolice.utk.edu/>

If the incident occurred in the city of Knoxville:

- Knoxville Police Department (KPD) 865-215-4010
800 Howard Baker, Jr. Avenue, Knoxville, TN
<http://www.cityofknoxville.org/kpd/>

If the incident occurred in Knox County but outside the city of Knoxville:

- Knox County Sheriff 865-215-2243
400 Main Street, Suite L165, Knoxville, TN 37902
<http://www.knoxsheriff.org/>

If the incident occurred outside of Knox County:

- Contact the law enforcement agency that has jurisdiction over the location where the incident occurred (a person may contact UTPD for assistance in contacting another jurisdiction's law enforcement agency).

The **Title IX Coordinator**, a **Deputy Title IX Coordinator**, and/or another member of the **S.A.R.T.** will assist a **Complainant**, at the **Complainant's** request, in contacting UTPD or another appropriate local law enforcement agency.

If a person reports an incident to UTPD, and the incident has not been previously reported to a **Responsible Employee**, UTPD will contact the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, and/or another member of the **S.A.R.T.** Then, the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, and/or another member of the **S.A.R.T.** will contact the **Complainant** regarding the University's response to the report (see **Section III(A)(2)**). In contrast, if a **Complainant** reports the incident to KPD or another law enforcement agency other than UTPD, then the **Complainant** will need to also report the incident to a **Responsible Employee** if the **Complainant** wants the University to take action under this policy.

A **Complainant** has the right to decline to report the incident to law enforcement. Even if a Complainant does not report the incident to law enforcement, the **Complainant** may still request **Interim Measures** from the University by reporting the incident to the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, the **S.A.R.T.**, or another **Responsible Employee**.

2. What to Expect after Reporting Sexual Misconduct or Relationship Violence to Law Enforcement

Even if the **Complainant** is unsure whether they want to pursue criminal prosecution or an order of protection, the University recommends that the **Complainant** report the incident to law enforcement as soon as possible. In most cases, after addressing a Complainant's immediate safety needs and/or needs for **Medical Care**, a law enforcement officer will meet with the **Complainant** and take a statement about what occurred. It may help a **Complainant** to write down every detail they can remember, as soon as possible, so the **Complainant** can communicate the details to law enforcement. In cases of **Sexual Assault** and **Relationship Violence**, in addition to taking a statement, the law enforcement officer may ask to examine the scene of the incident and collect bedding, clothing, or other items of evidentiary value. The law enforcement officer also will conduct a thorough interview to record as many details as possible and as precisely as possible.

If law enforcement determines that a crime occurred after concluding its investigation, then law enforcement 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 law enforcement 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 attack.

3. How University Policies/Procedures Relate to Criminal Law/Procedures

The University will cooperate with law enforcement agencies if a **Complainant** decides to pursue the criminal process, to the extent permitted by law. However, this policy may differ in significant respects from Tennessee criminal law. A **Complainant** may seek resolution through the University's procedures outlined in this policy, may pursue criminal action, may choose one but not the other, or may choose both. Neither law enforcement's determination whether to prosecute a **Respondent** nor the outcome of any criminal prosecution are determinative of whether **Sexual Misconduct** or **Relationship Violence** has occurred in violation of this policy. Proceedings under this policy may be carried out prior to, simultaneously with, or following civil or criminal proceedings off campus. The University normally does not wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing **Interim Measures**, and/or taking other appropriate action. Although the University may need to delay temporarily the fact-finding portion of its investigation while law enforcement is gathering evidence, the University will take **Interim Measures** to support the **Complainant** during such a delay. Decisions made or sanctions 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 criminal or civil court may, at the University's discretion, be used by the University in a University disciplinary proceeding.

C. REPORTING ANONYMOUSLY

Persons may report **Sexual Misconduct** or **Relationship Violence** anonymously to **UTPD** through Tip411. Tip411 is an Internet-based tool that enables the public to send an anonymous tip to police via text message, and lets police respond back creating a two way anonymous "chat." To send an anonymous tip to **UTPD** via text message, text the keyword "UTPD" and one's message to 847411

(tip411). One may also send an anonymous tip to UTPD online at utpolice.utk.edu/anonymous-tips/. UTPD generally will respond as described in **Section III(B)**. The amount and level of detail of the information provided to **UTPD** will affect how thoroughly **UTPD** is able to respond to the report.

Persons also 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 www.knoxsheriff.org/tip/index.php or by texting the keyword “Knox” to Crimes 274637.

Texting is not an alternative to calling 911; in an emergency, call 911.

D. CONFIDENTIAL RESOURCES

Section V describes options to communicate confidentially with someone regarding an incident of **Sexual Misconduct** or **Relationship Violence**.

E. AMNESTY FOR STUDENTS WHO REPORT SEXUAL MISCONDUCT OR RELATIONSHIP VIOLENCE

The University recognizes that a student who is under the influence of alcohol and/or drugs at the time of an incident may be hesitant to report an incident to the University because of a fear of disciplinary sanctions for their own violation of the **Code of Conduct**. However, a student who reports **Sexual Misconduct** or **Relationship Violence**, either as a **Complainant** or a **Reporter**, generally will not face disciplinary charges under the **Code of Conduct** for possessing or being under the influence of alcohol and/or drugs.

F. THE UNIVERSITY’S DISCLOSURE OBLIGATIONS UNDER FEDERAL AND TENNESSEE LAW RELATING TO REPORTS OF SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE

1. Clery Act

Certain campus employees, called **Campus Security Authorities**, have a duty to report certain incidents of **Sexual Misconduct** and **Relationship Violence** 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, but no addresses are given to **UTPD**) for publication in an annual report of crime statistics, called the **Annual Security Report**. Statistics published in the **Annual Security Report** help to provide the campus community with a clearer picture of the extent and nature of campus crime, but the statistics do **not** personally identify **Complainants**.

Complainants of **Sexual Misconduct** and **Relationship Violence** 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 ensure that a **Complainant’s** name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

2. FERPA

In accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA), personally identifiable information concerning a **Complainant**, **Respondent**, or **Reporter** 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. (See also, **Section III(F)(3)** relating to the Tennessee Public Records Act.) However, if, during a University's investigation or resolution of **Sexual Misconduct** or **Relationship Violence**, a **Respondent** who is a student makes a request to review documents concerning the investigation, the University will be required by FERPA to grant the **Respondent's** request to inspect and review records that relate specifically to him/her, but the University will redact the **Complainant's** name and any other identifying information to the maximum extent allowed by law.

3. 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 (e.g., the Office of Equity and Diversity) that do not contain personally identifiable student information also are generally considered public records under the Tennessee Public Records Act.

4. Due Process

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

G. TAKE BACK THE NIGHT AND OTHER PUBLIC AWARENESS EVENTS

Public awareness events such as "Take Back the Night," candlelight vigils, protests, "survivor speak outs" or other forums in which students or employees disclose incidents of **Sexual Misconduct** or **Relationship Violence**, are not considered notice to the University of **Sexual Misconduct** or **Relationship Violence** for purposes of triggering its obligation to investigate any particular incident(s). Such events may, however, inform the need for campus-wide education and prevention efforts, and the University may provide information about Complainants' **Title IX** rights at these events.

H. FALSE REPORTING

An accusation of **Sexual Misconduct** or **Relationship Violence** may have severe consequences for a **Respondent**. A **Reporter** who makes a report that is later found to have been intentionally false or made maliciously without regard for truth may be subject to disciplinary action. This provision does not apply to reports made in good faith, even if the facts alleged in the report are not substantiated by an investigation. Similarly, a **Respondent** or other person who is later proven to have intentionally given false information during the course of a University investigation or disciplinary proceeding action may be subject to disciplinary action.

IV. RETALIATION

The University prohibits **Retaliation**. When the University receives notice of alleged **Retaliation**, the University will take immediate and appropriate steps to investigate the alleged **Retaliation**. The University will take strong responsive action if it determines that **Retaliation** occurred, which may include disciplinary action independent of any sanction or **Interim Measures** imposed in response to the underlying allegation of misconduct. **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.

Retaliation should be reported in the same manner in which **Sexual Misconduct** and **Relationship Violence** is reported, as described in **Section III** of this policy. The University generally will investigate and resolve reports of **Retaliation** in the same manner in which it handles reports of **Sexual Misconduct** and **Relationship Violence** under this policy.

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V. CARE AND SUPPORT

This section of the policy outlines a variety of University and external resources and measures relating to **Sexual Misconduct** and **Relationship Violence**. In addition to the information provided in this section, information concerning options following **Sexual Assault** can be found at: <https://rainn.org/get-information/sexual-assault-recovery>.

A. CONFIDENTIAL RESOURCES

The resources identified below are able to keep information communicated to them by a **Complainant** completely confidential and will not communicate such information to the University, law enforcement, or any other third party, unless required by law in the limited circumstances described in **Appendix C**.

1. Confidential Resources - University

If a person who has experienced an incident of **Sexual Misconduct** or **Relationship Violence** does not desire action by the University and would like the details of the incident to be kept confidential, but desires to confide in someone, the person may speak with the following persons:

- A **licensed psychologist in the Student Counseling Center** (865-974-2196, from 8:00 a.m. – 5:00 p.m., Mondays-Fridays, except on University holidays, breaks, or closures) (reporting option for students only);
- A **licensed psychiatrist in the Student Health Center** (865-974-3648, from 8:00 a.m. – 5:00 p.m., Mondays-Fridays, except on University holidays, breaks, or closures) (reporting option for students only);
- A **licensed physician in the Student Health Center** (865-974-3135, from 8:00 a.m. – 5:00 p.m., Mondays-Fridays, except on University holidays, breaks, or closures);
- A **licensed psychologist in the Psychological Clinic** (865-974-2196, 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 **physician employed by the University of Tennessee**, including resident physicians at the **University of Tennessee Medical Center**;
- A **counselor with the Employee Assistance Program** managed by Magellan Health Services (855-Here4TN (855-437-3486)) (reporting option for employees); and
- The following persons associated with the Department of Intercollegiate Athletics (reporting options for intercollegiate student-athletes only):
 - the **Team ENHANCE/EXCEL Coordinator** (865-974-9754);
 - a **Team Physician** (Team Physicians are University contractors, not employees); and
 - a **Team Psychiatrist or Team Psychologist** (Team Psychiatrists and Team Psychologists are University contractors, not employees).

A physician, psychologist, psychiatrist, or social worker identified in this section is a confidential resource only if the student or employee is communicating with that person as a patient or client.

THE PERSONS IDENTIFIED IN THIS SECTION ARE NOT RESPONSIBLE EMPLOYEES. ACCORDINGLY, DISCLOSURES OF SEXUAL MISCONDUCT OR RELATIONSHIP VIOLENCE TO THE PERSONS IDENTIFIED ABOVE (INCLUDING PEOPLE SUPERVISED BY THEM (E.G., NURSES, ASSISTANTS, AND FRONT-DESK STAFF)), WILL NOT TRIGGER A UNIVERSITY INVESTIGATION INTO AN INCIDENT AGAINST A COMPLAINANT'S WISHES BECAUSE THEY GENERALLY DO NOT REPORT ANY INFORMATION ABOUT AN INCIDENT TO THE TITLE IX COORDINATOR/DEPUTY TITLE IX COORDINATOR, THE S.A.R.T., OR UTPD WITHOUT THE COMPLAINANT'S PERMISSION. AS A RESULT, THE UNIVERSITY WILL BE UNABLE TO PURSUE DISCIPLINARY ACTION AGAINST THE RESPONDENT OR PROVIDE INTERIM MEASURES TO THE COMPLAINANT.

The persons identified above can, however, help a Complainant explore options, provide information, including information on Interim Measures, and provide emotional support. A Complainant who at first requests confidentiality may later decide to report the incident to the University or to law enforcement and have the incident fully investigated. The persons identified above can provide the Complainant with assistance in making such reports if the Complainant asks them to do so.

2. Confidential Resources – Non-University

Complainants of Sexual Misconduct or Relationship Violence have options to communicate with someone who is not affiliated with the University or law enforcement. Complainants may pursue these communication options regardless of whether or not they choose to report the incident to the University or law enforcement. In other words, the reporting options described in this policy are not mutually exclusive.

Complainants who desire to speak confidentially with someone **not** affiliated with the University or law enforcement may contact one of the following:

- Sexual Assault Center of East Tennessee 865-522-7273
6215 Kingston Pike, Suite A, Knoxville (24 hour crisis line)
<http://www.mcnabbcenter.org/sacet>

The primary mission of the SACETN is to provide excellent and compassionate services for survivors of sexual assault and to empower communities through education and social change. The SACETN is a service of the Helen Ross McNabb Center. **A person does not have to report a sexual assault to law enforcement in order to receive services from the SACETN.**

In order to better serve its students, the University has entered into a Memorandum of Understanding with the Sexual Assault Center of East Tennessee (SACETN). The SACETN is a confidential resource, as explained in Section V(B).

SACETN has four program areas: Sexual Assault Nurse Examinations; Advocacy; Therapy; and Education and Outreach. Three 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 SACETN. All services provided by the SACETN are free, including

no-cost SANE exams, pregnancy prevention, and testing and preventative treatment for sexually transmitted infections.

- Advocacy. The advocacy program of the SACETN provides victims of sexual assault with the support, information, and resources needed throughout the recovery process. Advocates work to ensure that Complainants' legal rights are protected, while also empowering Complainants 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 Complainants in crisis, Complainants who are victims of a recent sexual assault, and Complainants who were victims of a sexual assault or sexual abuse that happened months or years ago. The goal of the SACETN is to work collaboratively to address the many concerns and issues associated with sexual violence in order to promote healing. Therapists at the SACETN specialize in treating female, male, and LGBTQ Complainants and offer services to individuals of all ages.

- **University of Tennessee Medical Center** 865-305-9000
1924 Alcoa Highway
<http://www.utmedicalcenter.org/>

NOTE: The University of Tennessee Medical Center is 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 **Sexual Misconduct** or **Relationship Violence**.

- RAINN National Sexual Assault Crisis Hotline 800-656-HOPE (4673)
www.rainn.org/get-help/national-sexual-assault-hotline
- National Domestic Violence Hotline 800-799-SAFE (7233)
www.thehotline.org
- Love is Respect – National Dating Abuse Hotline 866-331-9474
www.loveisrespect.org/
- A personal attorney
- A clergy member
- A physician or **Qualified 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

Non-University counselors, advocates, and health care providers will generally maintain confidentiality unless state law otherwise requires (see [Appendix C](#)) or the **Complainant** requests the disclosure and signs a consent or waiver form.

Reports to the persons identified in this section will not trigger a University investigation into an incident against the **Complainant's** wishes because they generally do not report any information about an incident to the **Title IX Coordinator/Deputy Title IX Coordinator**, the **S.A.R.T.**, or **UTPD** without the **Complainant's** permission without the **Complainant's** permission. Thus, the University will be unable to pursue disciplinary action against the **Respondent**. As a result, the University will be unable to pursue disciplinary action against the **Respondent** or provide **Interim Measures** to the Complainant.

B. NON-CONFIDENTIAL UNIVERSITY RESOURCES

The University employees/units identified below are trained to support **Complainants** and **Reporters**. While not bound by confidentiality (i.e., they are required to report knowledge of incidents of **Sexual Misconduct** or **Relationship Violence** to the University), these University employees/units will maintain the privacy of information shared by a **Complainant** or **Reporter** within the limited circle of those University employees involved in the University's response to an incident of **Sexual Misconduct** or **Relationship Violence**. When speaking with one of the resources below, a **Complainant** or **Reporter** is free to limit the details they share while they decide whether to report an incident to the University.

Unless otherwise specific below, the following University resources are generally available Monday-Friday from 8:00 a.m. to 5:00 p.m. on University business days:

- **Sexual Assault Response Team** 865-974-HELP (4357)
- **Title IX Coordinator** 865-974-2498
- University of Tennessee Police Department 865-974-3111
1101 Cumberland Ave, Knoxville (24 hours/day, seven days/week)
<http://utpolice.utk.edu/>

Please contact UTPD if you would like a UTPD police officer to take you either to a local hospital or the **Sexual Assault Center of East Tennessee** for medical treatment, including a sexual assault examination. UTPD is not a confidential resource, as described in **Section V(C)**. Confidential University resources are identified in **Section V(B)(1)**.

- **Deputy Title IX Coordinator (for students)** 865-974-5725 or 865-974-HELP
- **Deputy Title IX Coordinator (for intercollegiate athletics)** 865-974-1123
- Office of Student Conduct and Community Standards 865-974-3171
409 Student Services Building
<http://studentconduct.utk.edu/>

The Office of Student Conduct and Community Standards investigates and resolves allegations of **Sexual Misconduct**, **Relationship Violence**, and **Retaliation** against students. Reports of **Sexual Misconduct**, **Relationship Violence**, and **Retaliation** concerning students may be filed with the Office of Student Conduct and Community Standards. The Director and the Associate Director of the Office of Student Conduct and Community Standards are **Responsible Employees**. Reports of **Sexual Misconduct** and **Relationship Violence** concerning students may be reported **online**.

- Center for Health Education and Wellness 865-974-4357
1800 Volunteer Blvd, Suite 201
<http://wellness.utk.edu/>

The Center for Health Education and Wellness coordinates campus wide health and wellness education efforts, personal safety initiatives, **Sexual Misconduct** and **Relationship Violence** responses in the Division of Student Life, as well as alcohol and substance abuse prevention and intervention. The Director of the Center for Health Education and Wellness is a **Deputy Title IX Coordinator**. Reports of **Sexual Misconduct** and **Relationship Violence** concerning students may be filed with the Center for Health Education and Wellness. The Center for Health Education and Wellness can assist a **Complainant** with obtaining **Interim Measures**.

C. MEDICAL CARE

A **Complainant** may seek medical care at any time following **Sexual Misconduct** or **Relationship Violence**. The resources described in this section are confidential resources, as described in **Section V(A)**.

Medical care may be obtained from the following:

- University of Tennessee **Student Health Center** (865-974-3648, from 8:00 a.m. – 5:00 p.m., Mondays-Fridays, except on University holidays, breaks, or closures) (option for students only)
- **Sexual Assault Center of East Tennessee** (24 hours, seven days a week)
- **UT Medical Center** or another local hospital (24 hours, seven days a week)

In cases of **Sexual Assault**, it is important for a **Complainant** to seek immediate medical attention to determine the presence of physical injury, address pregnancy concerns, determine the possibility of exposure to sexually transmitted diseases, and obtain evidence to assist in criminal prosecution (in case a **Complainant** later decides to pursue criminal prosecution). Collecting evidence does not obligate a Complainant to pursue criminal prosecution or take any other course of action.

According to the **Sexual Assault Center of East Tennessee**, the key to success in collecting physical evidence of a **Sexual Assault** is to as soon as possible after a **Sexual Assault** (ideally within 24 hours of a Sexual Assault but no later than 72 hours after a **Sexual Assault**). Prior to seeking medical care, **Complainants** of **Sexual Assault** should not change their clothing, bathe, shower, douche, use the bathroom, brush their teeth, drink liquids, wash their hands or face, or comb their hair. If they change clothes, they should place all of their clothing that was worn at the time of the incident in a paper (not plastic) bag.

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

D. INTERIM MEASURES

Upon receipt of a report of **Sexual Misconduct** or **Relationship Violence** by a **Responsible Employee**, the University will implement **Interim Measures** designed to eliminate the reported **Sexual Misconduct** or **Relationship Violence** and protect the persons involved in the matter (e.g., **Complainant, Reporter, Respondent**, and potential witnesses).

1. Availability of Interim Measures

Interim Measures are available:

- even if a **Complainant** does not want to report the incident to law enforcement;
- even if the **Complainant** has **requested confidentiality** or that the University not pursue an investigation or discipline and the University has determined that it can respect a **Complainant's** request for confidentiality. (The University may be able to take measures to protect the **Complainant** while keeping the identity of the **Complainant** confidential, such as: providing support services to the **Complainant**; changing living arrangements or course schedules, assignments, or tests; and providing increased monitoring, supervision, or security at locations or activities where the **Sexual Misconduct** or **Relationship Violence** occurred);
- prior to or during an investigation of **Sexual Misconduct** or **Relationship Violence**; and
- prior to a final determination that **Sexual Misconduct** or **Relationship Violence** occurred.

2. Examples of Interim Measures

The following are examples of **Interim Measures**:

- informing the **Complainant** of their rights under the University's **procedures for complaints against students** or **procedures for complaints against employees or other non-students**;
- informing the **Complainant** of their right to report the incident to law enforcement for criminal investigation and prosecution and assisting the **Complainant** in reporting an incident to law enforcement, if the **Complainant** wants to report the incident;
- issuing a no-contact directive to the **Respondent**, which prohibits the **Respondent** from having verbal, physical, or written contact with the **Complainant** for a definite or indefinite period of time (the **Complainant** may also receive a directive to not contact the **Respondent**);

- issuing an interim suspension to the **Respondent** (if a student) prior to the conclusion of the investigation and resolution of a complaint of **Sexual Misconduct** or **Relationship Violence** (an interim suspension may be issued when the Vice Chancellor for Student Life (or their designee) has reasonable cause to believe that a student’s or student organization’s continued presence on University-controlled property or at University-affiliated activities poses a significant risk of substantial harm to the health or safety of others or to property or poses an ongoing threat to the disruption of, or interference with, the normal operations of the University);
- putting a **Respondent** (if an employee) on administrative leave prior to the conclusion of the investigation and resolution of a report of **Sexual Misconduct** or **Relationship Violence**;
- providing medical and counseling services to the **Complainant**;
- exploring changes in living, transportation, dining, and working arrangements for the **Complainant** and the **Respondent**;
- providing an escort to ensure that the **Complainant** can move safely between classes and activities;
- arranging appointments for the **Complainant** with follow-up on-campus support services or off-campus support services, such as those identified in **Section V** (e.g., arranging an appointment with the **Knoxville Family Justice Center** to discuss options for pursuing an order of protection in **Knox County Fourth Circuit Court**);
- exploring changes in class and extracurricular schedules, including adjustments so that the **Complainant** and the **Respondent** do not share the same classes;
- assisting the **Complainant** communicate with faculty (for student **Complainants**);
- 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;
- providing academic support for the **Complainant**, including tutoring (for student **Complainants**); and
- exploring the options of re-taking a course, dropping a course, or withdrawing for a semester without financial or academic penalty (for student **Complainants**).

3. Determination of Interim Measures

The specific **Interim Measures** implemented and the process for implementing those measures will vary depending on the facts of each case. The **Title IX Coordinator** or **Deputy Title IX Coordinator**, in consultation with the **S.A.R.T.** as needed, will consider a number of factors in determining what Interim Measures the University will take, including, for example: the specific desire expressed by the **Complainant**; the age of the persons involved; the severity or pervasiveness of the allegations; any continuing effects on the **Complainant**; whether the **Complainant** and **Respondent** share the same residence hall, dining hall, classes, extracurricular activities, transportation, or job location; and whether judicial measures have been taken to protect the **Complainant** (e.g., civil protection orders). In implementing Interim Measures, the University attempts to minimize the burden on the **Complainant** while balancing the due process rights of the **Respondent**.

4. Subsequent Communications with the University Concerning Interim Measures

The University will strive to maintain consistent contact with the **Complainant** and the **Respondent** to ensure that all safety and emotional and physical well-being concerns are being addressed. Persons are encouraged to report to the **Title IX Coordinator** concerns about the failure of another person to abide by the terms of an **Interim Measure**. The University will take immediate and responsive action to enforce a previously implemented **Interim Measure**.

E. ORDERS OF PROTECTION AND OTHER LEGAL REMEDIES

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

Knoxville Family Justice Center
400 Harriet Tubman Street
Knoxville, TN 37915
865-521-6336 (24/7 helpline)
<http://fjcknoxville.com/>

The **Title IX Coordinator/Deputy Title IX Coordinators**, a member of the **S.A.R.T.**, or **UTPD** 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.

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VI. PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS

A. STANDARDS THAT APPLY TO ALL PROCEDURES

The standards in this Section VI apply to all procedures for investigating and resolving reports of **Sexual Misconduct** or **Relationship Violence**, regardless of whether the **Complainant** or **Respondent** is a student, employee, or person who is neither a student nor an employee.

1. Determining the Appropriate Procedure

The appropriate University procedure for investigating and resolving reports of **Sexual Misconduct** or **Relationship Violence** generally is determined by whether a **Respondent** is a student, employee, or third party unaffiliated with the University. In all of the procedures described below, the University is committed to providing a prompt, thorough, and equitable investigation and resolution. Such an investigation may occur alongside, rather than in lieu of, a law enforcement investigation. The University does not use mediation to resolve incidents of **Sexual Assault** or **Relationship Violence**. The **Title IX Coordinator** will resolve issues regarding the appropriate investigatory and resolution procedure.

2. Selecting an Investigator

For each report of **Sexual Misconduct** or **Relationship Violence** to be investigated, the University may select an investigator of its choosing, provided that the investigator has specific training and experience investigating allegations of **Sexual Misconduct** and **Relationship Violence**. Any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest. The investigator may be a University employee, a team of University employees, an external investigator engaged to assist the University in its fact-gathering, or a team of investigators that pairs an external investigator with a University employee. Investigations of reports of **Sexual Misconduct** and **Relationship Violence** are usually performed by the **Office of Equity and Diversity** (if the **Respondent** is an employee or other non-student) or the **Office of Student Conduct and Community Standards** (if the **Respondent** is a student). A separate law enforcement investigation may be conducted by UTPD.

3. Preponderance of the Evidence Standard

All investigations and disciplinary hearings relating to **Sexual Misconduct** and **Relationship Violence** are conducted using a "**Preponderance of the Evidence**" standard.

4. Advisors and Support Persons

Both the **Complainant** and the **Respondent** are entitled to bring a person of their choice to University meetings and hearings, but the person's role is limited to providing advice and/or support for the **Complainant** or the **Respondent**, not acting as an advocate or participant. In the event one party (e.g., the **Respondent**) is allowed to have a person act as an advocate or participant on their behalf, then the other party (e.g., the **Complainant**) shall be allowed to have a person act as an advocate or participate on their behalf.

5. Training

University employees participating in University investigations and resolutions involving **Sexual Misconduct** or **Relationship Violence**, including disciplinary hearings, receive annual training on issues related to **Sexual Misconduct** and **Relationship Violence** and how to conduct an investigation and/or hearing in a way that protects the safety of **Complainants** and promotes accountability.

6. Complainants' Rights

In addition to rights for **Complainants** described in this Section VI and other sections this policy, **Complainants** have the following rights in cases involving **Sexual Misconduct** or **Relationship Violence**:

- notice concerning the procedure by which the University will handle the **Complainant's** report and an opportunity to ask questions about the process;
- a prompt, thorough, and equitable investigation of the **Complainant's** report;
- the same opportunity as the **Respondent** to present an explanation of the facts during the University's investigation;
- notice of the outcome of the University's investigation;
- notice of the date, time, and location of a disciplinary hearing; the right to have a disciplinary hearing closed to the public; and the right to request rescheduling of a disciplinary hearing for good cause;
- the same access as the **Respondent** to any information or documents that will be used by the University during the disciplinary hearing, unless prohibited by law;
- to challenge the seating of any administrative judge for good cause (determined at the discretion of the Chancellor); any member of a hearing board, panel, or committee for good cause (determined at the discretion of the chairperson of the hearing board, or, if the seating of the chairperson is challenged, then at the discretion of the majority of the hearing board; or any other hearing decision maker for good cause (determined at the discretion of the **Title IX Coordinator**);
- the same opportunity as the **Respondent** to be present during a disciplinary hearing, present witnesses and other evidence, challenge the admissibility of evidence, and cross-examine adverse witnesses during the disciplinary hearing;
- to testify or remain silent in an investigation or disciplinary hearing;
- not to be questioned directly by the **Respondent** during a disciplinary hearing or at any other time during an investigation or resolution;
- to submit a written impact statement to a hearing board, panel, or committee, or other hearing decision maker, for consideration during the sanctioning phase of a student disciplinary hearing, if the **Respondent** is found responsible for the charges, or to the **Office of Student Conduct** for consideration during the sanctioning phase of the administrative hearing, if the **Respondent** admits responsibility for the charges;

- to be provided with the same or equivalent rights as the **Respondent** to appeal the decision of a University investigation or disciplinary hearing panel, board, or other decision maker.

7. Notice to Complainants and Respondents Regarding the Outcome of Disciplinary Hearings

With respect to any University disciplinary hearing that arises from an allegation of **Sexual Misconduct** or **Relationship Violence**, the University will provide simultaneous written notification to the **Complainant** and the **Respondent** of:

- the outcome of the hearing;
- the University's procedures for the **Complainant** and the **Respondent** to appeal the result of the University disciplinary hearing, if such procedures are available (any such procedures shall be available to both the **Complainant** and the **Respondent**);
- any change to the results of the hearing before the results are final; and
- when the results of the hearing become final.

8. Time Frames

The time frames described in this Section VI are aspirational. In each case, however, the University will balance the need to complete a prompt investigation and resolution with the need to conduct a thorough investigation and a resolution that complies with due process. Thus, the actual time to complete an investigation and resolution may require a reasonable adjustment of the time frame set forth in this section depending on many factors, including: the complexity of the allegations; the complexity of the investigation and resolution; 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 conduct an investigation or resolution at a slower pace; the effect of a concurrent criminal investigation; any intervening University holidays, breaks, or other closures; and/or other unforeseen circumstances. In the event that the need arises to significantly adjust the estimated time frames in this policy or those previously communicated to the **Complainant** and the **Respondent**, the University will notify the **Complainant** and the **Respondent** of the reason for the delay and the expected adjustment in time frames.

B. PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS OF SEXUAL MISCONDUCT OR RELATIONSHIP VIOLENCE COMMITTED BY UNIVERSITY EMPLOYEES OR THIRD PARTIES

This section describes for investigating and resolving reports of **Sexual Misconduct** or **Relationship Violence** involving a **Respondent** who is an employee or other non-student.

1. Meeting (Communication) with the Complainant

After receiving a report of **Sexual Misconduct** or **Relationship Violence** from a **Reporter** or a **Responsible Employee**, the **Title IX Coordinator** will initiate immediate and appropriate steps by the University to: inform the **Complainant** about this policy, including their rights, and give the **Complainant** an opportunity to ask questions; implement **Interim Measures**; and, subject to a **Complainant's request for confidentiality**, investigate and resolve the matter promptly, thoroughly, and equitably in accordance with the procedures outlined in this section. Subject to the University's **legal disclosure obligations**, information about the report will be shared only as reasonably necessary with investigators, witnesses and the **Respondent**. The **Title IX Coordinator** will designate a person to investigate the report.

2. Investigation

Unless the University determines that it will not investigate a report of **Sexual Misconduct** or **Relationship Violence**, following a **Complainant's request for confidentiality**, the investigator(s) selected by the University will conduct the 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, the University will provide an opportunity for the **Complainant** and the **Respondent** 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. The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough and equitable, and all persons will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns.

The University's investigator will make findings and recommendations (including a statement outlining the basis for them) and transmit the findings and recommendations to the appropriate University administrator. A copy will also be sent to the Complainant and Respondent. The appropriate administrator(s) will review the investigator's findings and recommendations, make a determination, and strive to notify the **Complainant** and **Respondent** of the determination in writing.

The University strives to complete the procedures in this Section VI(B)(2) within 60 calendar days of the receipt of a report of **Sexual Assault** or **Relationship Violence**.

3. Appeals

A **Respondent** who is an employee who is not satisfied with the determination may appeal in accordance with applicable University policies and procedures, including **Human Resources Policy 0525**, **Human Resources Policy 0640**, and the **UTK Faculty Handbook**. A **Complainant** shall be provided the same opportunity as a **Respondent** to submit information to the decisionmaker on appeal. Decision makers concerning appeals must be impartial and free of any conflict of interest.

Within fifteen calendar days after receipt of the determination, a **Complainant** who is not satisfied with the determination may appeal in writing to the next higher administrative level. The University will inform the **Complainant** in writing of the person to whom an appeal may be made. Any administrator who receives an appeal shall make a decision on the appeal within ten calendar days of the administrator's receipt of the appeal.

Decisions on appeals shall be provided in writing simultaneously to the **Complainant** and

Respondent.

4. Corrective Actions

Corrective actions against an employee found to have committed **Sexual Misconduct** and/or **Relationship Violence** can include: termination, demotion, suspension without pay, and/or oral or written corrective action. When the person found to have committed **Sexual Misconduct** and/or **Relationship Violence** is neither a student nor an employee, the University's corrective action(s) will vary based on the University's ability to implement corrective action(s).

C. PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS OF SEXUAL MISCONDUCT OR RELATIONSHIP VIOLENCE COMMITTED BY UNIVERSITY STUDENTS

This section describes for investigating and resolving reports of **Sexual Misconduct** or **Relationship Violence** involving a **Respondent** who is a student.

1. Meeting (Communication) with the Complainant

After receiving a report of **Sexual Misconduct** or **Relationship Violence** from a **Reporter** or a **Responsible Employee**, the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, and/or a member of the **S.A.R.T.** will initiate immediate and appropriate steps by the University to: meet with the **Complainant** and/or inform the **Complainant** about this policy, including their rights, and give the **Complainant** an opportunity to ask questions; implement **Interim Measures**; and, subject to a **Complainant's request for confidentiality**, investigate and resolve the matter promptly, thoroughly, and equitably.

2. Investigation

Unless the University determines that it will not investigate a report of **Sexual Misconduct** or **Relationship Violence**, following a **Complainant's request for confidentiality**, the investigator(s) selected by the University will conduct the 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, the University will provide an opportunity for the **Complainant** and the **Respondent** 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. The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough and equitable, and all persons will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns.

The investigator will provide notice of the outcome of the investigation to the Office of Student Conduct, the **Complainant**, and the **Respondent**. Notice to the **Complainant** and the **Respondent** shall be simultaneous written notice. The University strives to complete the procedures in this Section VI(C)(2) within 60 calendar days of the receipt of a report of **Sexual Assault** or **Relationship Violence**.

3. Resolution

If the University determines after an investigation that a **Standard of Conduct** has been violated, then the University will take prompt and effective steps reasonably calculated to end the misconduct, prevent the misconduct from recurring, and address its effects. One of those steps likely will involve the Office of Student Conduct charging the **Respondent** with a violation of the **Standards of Conduct** and resolve the matter in accordance with the University's student disciplinary regulations and procedures, a complete copy of which can be found in *Hilltopics*, the University's student handbook. A **Respondent** accused of committing **Sexual Misconduct** or **Relationship Violence** may accept responsibility for the disciplinary charge(s) and accept the proposed disciplinary penalty(s), or the **Respondent** may contest the accusation(s) and/or disciplinary penalty(s) either through a hearing before the Student Disciplinary Board, following the procedures set forth in *Hilltopics*, or a **TUAPA Hearing**.

The University strives to conduct disciplinary hearings concerning **Sexual Assault** or **Relationship Violence** within ten University business days of the notice to the **Complainant** and **Respondent** of the completion of the University's investigation. The University strives to provide notice of the decision of the Student Disciplinary Board or an administrative judge within three University business days after the hearing.

Decisions concerning resolutions shall be provided in writing simultaneously to the **Complainant** and **Respondent**. Before a **Respondent** accused of committing **Sexual Misconduct** or **Relationship Violence** accepts responsibility for the disciplinary charge(s) and accepts a proposed disciplinary penalty(s), the Complainant shall be offered an opportunity to appeal the proposed disciplinary penalty, as described in **Section VI(C)(4)**.

4. Appeals

Appeal by the Complainant of an Investigator's Determination. In a case in which the Office of Student Conduct concurs with the investigator selected by the University that the **Respondent** did not violate a **Standard of Conduct**, the **Complainant** will have the opportunity to seek review by the Vice Chancellor for Student Life by filing a written request for review within fifteen calendar days after receipt of the investigative determination. The Vice Chancellor for Student Life may affirm the decision of the Office of Student Conduct, reverse the decision of the Office of Student Conduct and direct the Office of Student Conduct to charge the **Respondent** with violating the **Standards of Conduct**, or remand the matter for additional investigation or consideration. The Vice Chancellor for Student Life will render a decision in writing, to both parties, within fifteen (15) calendar days of receipt of the request for review. A Complainant may appeal the decision of the Vice Chancellor for Student Life in accordance with **Article V, Section 7 of the Bylaws of the University of Tennessee**.

Appeal by the Complainant of a Proposed Disciplinary Penalty. In a case in which the **Respondent** has accepted responsibility for violating a **Standard of Conduct**, but the **Complainant** is not satisfied with the disciplinary penalty proposed by the Office of Student Conduct for the **Respondent's** violation of the **Standard of Conduct**, the **Complainant** will have the opportunity to seek review by the Vice Chancellor for Student Life by filing a written request for review within fifteen calendar days after receipt of the investigative determination. The Vice Chancellor for Student Life may affirm the disciplinary penalty proposed by the Office of Student Conduct, modify the disciplinary penalty proposed by the Office of Student Conduct, or remand the matter for additional consideration by the Office of Student Conduct. The Vice Chancellor for Student Life will render a decision in writing, to both parties, within fifteen (15) calendar days of receipt of the request for review.

Appeal by either the Complainant or the Respondent of a Decision of the Student Disciplinary Board. In cases involving **Sexual Assault** or **Relationship Violence** heard by the Student Disciplinary Board, the timeframes for appeals shall be modified in order to accomplish the goal of resolving all appeals within thirty (30) calendar days of the written decision of the Student Disciplinary Board. To accomplish that goal:

- Appeals of decisions of the Student Disciplinary Board to the Student Tribunal shall be submitted in writing to the Office of Student Conduct and Community Standards within five calendar days of the written decision of the Student Disciplinary Board. The Student Tribunal shall issue a written decision within five calendar days of the receipt of the appeal by the Office of Student Conduct and Community Standards.
- Appeals of decisions of the Student Tribunal to the Student Life Council shall be submitted in writing to the Office of Student Conduct and Community Standards within five calendar days of the written decision of the Student Tribunal. The Student Life Council shall issue a written decision within five calendar days of the receipt of the appeal by the Office of Student Conduct and Community Standards.
- Appeals of decisions of the Student Life Council to the Chancellor shall be submitted in writing to the Chancellor within five calendar days of the written decision of the Student Disciplinary Board. The Chancellor shall issue a decision on the appeal within five calendar days of the receipt of the written appeal.
- Appeal by either the Complainant or the Respondent of an Initial Order in a TUAPA Hearing. An appeal of an initial order of in a **TUAPA Hearing** shall be filed with the Chancellor/Agency Head within fifteen (15) calendar days after entry of the initial order. In cases involving **Sexual Assault** or **Relationship Violence**, the Chancellor/Agency Head will issue a final order or an order remanding the matter for further proceedings within fifteen calendar days after the filing of an appeal.

Decisions on Any Type of Appeal. Decisions on appeals shall be provided in writing simultaneously to the **Complainant** and **Respondent**. Decision makers concerning appeals must be impartial and free of any conflict of interest.

5. Disciplinary Sanctions and Other Remedial and Protective Measures

Following a final determination under University procedures that a student committed **Sexual Misconduct** or **Relationship Violence** (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. Such steps likely will include imposing one or more of the following disciplinary sanctions: permanent dismissal, indefinite suspension, suspension for a specific period of time, disciplinary probation, disciplinary reprimand, restitution, education, loss of privilege, and/or warning. In addition to imposing disciplinary sanctions, the University may implement other remedial and protective actions, including: issuing a no-contact directive to the **Respondent**; providing medical and counseling services to the **Complainant**; exploring changes in living, transportation, dining, and working arrangements for the **Complainant** and the **Respondent**; providing an escort to ensure that the **Complainant** can move safely between classes and activities; exploring changes in class and extracurricular schedules, including adjustments so that the **Complainant** and the **Respondent** do not share the same classes; assisting the **Complainant**

communicate with faculty; providing academic support for the **Complainant**, including tutoring (for student **Complainants**); and exploring options for re-taking a course, dropping a course, or withdrawing for a semester without financial or academic penalty (for student **Complainants**).

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VII. REQUIREMENTS AND GUIDELINES FOR RESPONSIBLE EMPLOYEES

A. MANDATORY ACTIONS

Responsible Employees who receive notice of an incident of **Sexual Misconduct** or **Relationship Violence** shall:

1. assist with obtaining medical assistance (if needed or requested) or accessing other on- or off-campus resources (if requested);
2. evaluate whether **University Safety Policy 0575** applies because the incident involves suspected child abuse or child sexual abuse (if so, comply with the reporting requirements of that policy); and, if **University Safety Policy 0575** does not apply,
3. report the incident to the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, or a member of the **S.A.R.T.** promptly after receiving notice of the incident (no later than 48 hours after receiving the report⁴);⁵
4. encourage the **Reporter** to report the incident to law enforcement and assist the **Reporter** in contacting law enforcement if requested by the **Reporter**; and
5. if applicable, communicate to the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, or a member of the **S.A.R.T.** that a Complainant has **requested that the University maintain their confidentiality**.

UTPD shall provide the **Title IX Coordinator** with access to its investigation notes and findings as necessary for the University's non-law enforcement investigation, as long as providing the notes and findings would not compromise the law enforcement investigation.

A **Complainant** who also is a **Responsible Employee** is not required to report **Sexual Misconduct** or **Relationship Violence** to which they have been subjected or take any other action identified in this section.

B. RECOMMENDED ACTIONS

⁴ If the end of the 48 hour reporting window falls on a weekend or a University holiday, then the Responsible Employee should report the incident as soon as possible on the next University business day.

⁵ A **Responsible Employee** may also inform their supervisor of the incident. With the prior approval of the **Title IX Coordinator**, a University unit may adopt a protocol that requires a **Responsible Employee** in the unit to report an incident of **Sexual Misconduct** or **Relationship Violence** to their supervisor or other designee within the unit, who, in lieu of the **Responsible Employee** who received notice of the incident, shall promptly report the incident to the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, or a member of the **S.A.R.T.**

Responsible Employees who receive notice of an incident of **Sexual Misconduct** or **Relationship Violence** should:

1. before a person reveals information that the person may wish to keep confidential, use their best efforts to ensure that a person understands:
 - the **Responsible Employee's** obligation to report the names of the **Respondent** and the **Complainant** involved in the alleged **Sexual Misconduct** or **Relationship Violence**, as well as other relevant facts regarding the alleged incident, to the University (i.e., to the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, or a member of the **S.A.R.T.**);
 - the person's ability to share the information confidentially with certain **on- and -off campus resources**;
 - a **Complainant's** option under this policy to **request that the University maintain confidentiality**, if the person indicates that they want to tell the **Responsible Employee** about an incident but also maintain confidentiality;
 - if the **Reporter** indicates hesitancy to report an incident to the University, inform the **Reporter** that the University prohibits **Retaliation** and will not only take steps to prevent **Retaliation** but also take strong responsive action if **Retaliation** occurs; and
2. if the person reports an incident of **Sexual Misconduct** or **Relationship Violence**, then:
 - provide emotional support to the **Reporter**;
 - inform the **Reporter** that the **Responsible Employee** will be reporting the incident to the **Title IX Coordinator**, a **Deputy Title IX Coordinator**, or a member of the **S.A.R.T.**, one of whom will be contacting the **Reporter** to provide further guidance and assistance.
 - if the **Reporter** is the **Complainant**:
 - encourage the **Complainant** to preserve any physical evidence (e.g., if possible, the **Complainant** should not shower, bathe, douche, change clothes, brush their teeth, or comb their hair);
 - provide a **Complainant** with a copy of this policy or another written publication approved by the **Title IX Coordinator** to inform the **Complainant** of their rights under this policy; and

C. PROHIBITED ACTIONS

Responsible Employees who receive notice of an incident of **Sexual Misconduct** or **Relationship Violence** shall not:

1. guarantee to a **Reporter** that they will keep information confidential;
2. share information about the incident with a person who does not have a University-related need to know;
3. share 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 **Sexual Misconduct** or **Relationship Violence** without the approval of the **Title IX Coordinator** (this provision does not apply to UTPD), other than taking an action recommended in **Section VII(A)-(B)**.

When the University's non-law enforcement investigation of a report of **Sexual Misconduct** or **Relationship Violence** occurs concurrently with a law enforcement investigation of the same incident, UTPD shall not cause the University's non-law enforcement investigation to be delayed pending the outcome of UTPD's law enforcement investigation, except for the collection of evidence.

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VIII. PREVENTION AND AWARENESS PROGRAMS

The University implements comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to prevent and eventually end **Sexual Misconduct** and **Relationship Violence** by and against members of the University community. The University intends that its Prevention Programs: (1) be culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and (2) consider environmental risk and protective factors as they occur on the individual, relationship, University, community, and societal levels. Prevention Programs include both **Primary Prevention Programs**, **Primary Awareness Programs**, and **Ongoing Prevention and Awareness Campaigns**.

A. PRIMARY PREVENTION PROGRAMS

The University implements comprehensive, intentional, and integrated programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to prevent **Sexual Misconduct** and **Relationship Violence** by and against members of the University community through the promotion of positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality, encourage safe **Bystander Intervention**, and seek to change behavior and social norms in healthy and safe directions.

The University implements programs for incoming students and new employees that inform incoming students and new employees about:

- this policy, including: the University's prohibition against **Sexual Misconduct** and **Relationship Violence**; the definitions of **Tennessee Sexual Violence Crimes** and **Tennessee Relationship Violence Crimes**; the definition of consent with respect to crimes relating to sexual activity in the State of Tennessee; and the information that is included in this policy in accordance with **34 C.F.R. § 668.46(b)(11)** and **34 C.F.R. § 668.46(k)(2)**;
- **Bystander Intervention**; and
- **Risk Reduction**.

Questions about the University's current Primary Prevention Programs should be directed to the **Title IX Coordinator**.

B. PRIMARY AWARENESS PROGRAMS

The University implements comprehensive, intentional, and integrated community-wide or audience-specific programming, initiatives, and strategies that increase audience knowledge and share information and resources to prevent **Sexual Misconduct** and **Relationship Violence**, promote safety, and reduce the perpetration of **Sexual Misconduct** and **Relationship Violence**.

Questions about the University's Primary Awareness Programs should be directed to the **Title IX Coordinator**.

C. ONGOING PREVENTION AND AWARENESS CAMPAIGNS

The University implements comprehensive, intentional, and integrated programming, initiatives, and strategies for students and employees that are sustained over time and focus on increasing understanding of topics relevant to and skills for addressing **Sexual Misconduct** and **Relationship Violence** using a range of strategies with audiences throughout the University and including information about:

- this policy, including: the University’s prohibition against **Sexual Misconduct** and **Relationship Violence**; the definitions of **Tennessee Sexual Violence Crimes** and **Tennessee Relationship Violence Crimes**; the definition of consent with respect to crimes relating to sexual activity in the State of Tennessee; and the information that is included in this policy in accordance with **34 C.F.R. § 668.46(b)(11)** and **34 C.F.R. § 668.46(k)(2)**;
- **Bystander Intervention**; and
- **Risk Reduction**.

Questions about the University’s ongoing prevention and awareness campaigns should be directed to the **Title IX Coordinator**.

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APPENDIX A: DEFINITIONS

The following definitions apply for the purposes of this policy:

- A. **BYSTANDER INTERVENTION:** Safe and positive options that may be carried out by a person(s) to prevent harm or intervene when there is a risk of **Sexual Misconduct** or **Relationship Violence**. Bystander Intervention includes: recognizing situations of potential harm; understanding institutional structures and cultural conditions that facilitate violence; overcoming barriers to intervening; identifying safe and effective intervention options; and taking action to intervene. More information about Bystander Intervention can be found [here](#).
- B. **CAMPUS SECURITY AUTHORITIES:** Individuals from whom the University collects certain crime statistics for purposes of the **Clery Act**. A list of the job titles of the University's Campus Security Authorities can be found in the **Annual Security Report**.
- C. **CLERY ACT:** The Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, 20 U.S.C. § 1092(f). More information about the **Clery Act**, including the University's **Annual Security Report**, can be found on the [website](#) of the University of Tennessee Police Department.
- D. **CLERY GEOGRAPHY:** Clery Geography means property for which the University is required to report crime statistics pursuant to the **Clery Act**.
- E. **COERCION:** Words or conduct that, viewed from the perspective of a **Reasonable Person**, substantially impair a person's ability to voluntarily choose whether to engage in a particular sexual act (e.g., **Sexual Contact** or **Sexual Intercourse**). Coercion is something more than mere seduction or persuasion.
- Coercion includes, without limitation:
1. physical force; and
 2. words and/or conduct that would cause a **Reasonable Person** to fear imminent: harm to the health, safety, or property of themselves or a third person; threat of the loss of a job benefit; or kidnapping of themselves or a third person.
- F. **COMPLAINANT:** An individual who asserts that they have been subjected to **Sexual Misconduct** or **Relationship Violence**.
- G. **CONSENT (OR CONSENSUAL):** The knowing and voluntary communication, through words and/or conduct, of an agreement to engage in a particular act, including without limitation a particular act of **Sexual Contact** or **Sexual Intercourse**.

For the purposes of this policy, the following rules shall be used to determine whether Consent was given:

1. Whether an individual has given Consent is evaluated from the perspective of what a Reasonable Person who perceived the individual's words and/or conduct would have understood.
2. One's own use of alcohol, drugs, or other substances does not diminish one's responsibility to obtain Consent from the other person. Moreover, another person's use of alcohol, drugs, or other substances does not diminish one's responsibility to obtain Consent from that person.
3. Consent must exist from the beginning to the end of each sexual encounter and for each particular act (e.g., **Sexual Contact** and **Sexual Intercourse**) that occurs during a sexual encounter.
4. The responsibility for obtaining Consent rests with the individual who voluntarily and physically initiates a particular act (e.g., **Sexual Contact** and **Sexual Intercourse**), even if the other person initiated the sexual encounter.
5. Consent cannot be obtained by taking advantage of the **Incapacitation** of another person, or inferred from the **Incapacitation** of another person, if one knew (or a **Reasonable Person** would have known) that the other person was **Incapacitated**. Because the **Incapacitation** of another person may be difficult for one to discern, persons subject to this policy are strongly encouraged to err on the side of caution (i.e., when in doubt, assume that the other person is **Incapacitated** and therefore unable to give Consent.)
6. Consent also cannot be obtained by or inferred from:
 - **Coercion**;
 - silence that is not accompanied by conduct evidencing an agreement to engage in a particular sexual act;
 - Consent given by the other person on a previous occasion;
 - Consent given to another person;
 - the other person's failure to resist physical force (however, for purposes of this policy, the other person's resistance to physical force will be viewed as a clear demonstration that the person has not given Consent);
 - the sexual arousal of the other person;
 - a current or previous dating, romantic, intimate, or sexual relationship with the other person;
 - currently or previously cohabitating with the other person;
 - the other person's attire;
 - the other person's reputation;
 - the other person's giving or acceptance of gifts; or
 - the other person's extension or acceptance of an invitation to go to a private residence, room, or location.
7. A verbal "No" (or words equivalent to "No"), even if it sounds insincere or indecisive, always means that Consent has not been given, or if previously given, has been

withdrawn. The absence of a verbal “No” does not necessarily mean that Consent has been given.

8. Consent to one type of **Sexual Contact** or **Sexual Intercourse** (e.g., oral intercourse) does not constitute or imply Consent for another type of **Sexual Contact** or **Sexual Intercourse** (e.g., vaginal intercourse), whether during a sexual encounter or during a previous sexual encounter.
9. A person has a right to change their mind; thus, Consent to engage in a particular act of **Sexual Contact** or **Sexual Intercourse** may be withdrawn by a person at any time. A withdrawal of Consent is communicated through a person’s words and/or conduct. Once a person’s withdrawal of Consent has been communicated through that person’s words and/or conduct, the other person must cease the particular act of **Sexual Contact** or **Sexual Intercourse**. Consent also is automatically withdrawn by a person who becomes **Incapacitated**.
10. A person who is under the age of eighteen (18) (i.e., a minor) cannot give Consent; however, a person who is at least the age of thirteen (13) and less than the age of eighteen (18) can give Consent to sexual acts with another person who is less than four (4) years older than them.
11. The definition of consent for the purposes of criminal law in the State of Tennessee is explained in **Appendix B**.

H. **DEPUTY TITLE IX COORDINATOR(S)**: The person(s) identified in **Section I(D)**.

I. **INCAPACITATED (OR INCAPACITATION)**: A temporary or permanent state in which a person cannot make informed, rational judgments (e.g., judgments concerning **Sexual Contact**, **Sexual Intercourse**, or **Sexual Exploitation**) because: they lack the physical or mental capacity to understand the nature or consequences of their words and/or conduct; and/or they are unable to physically or verbally communicate **Consent**. Incapacitation can be voluntary or involuntary.

Incapacitation may result from: sleep; unconsciousness; temporary or permanent physical or mental disability; involuntary physical restraint; or the influence of alcohol, drugs, or other substances, including, without limitation, substances used to facilitate **Sexual Assault** (e.g., Rohypnol, Ketamine, GHB, and Burundanga).

When alcohol, drugs, or other substances are involved, Incapacitation is a state beyond mere drunkenness or intoxication. Indicators of Incapacitation may include, without limitation: 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; vomiting; unresponsiveness; and inability to communicate coherently.

J. **INTERIM MEASURES**: Reasonable and appropriate measures, as determined by the University, which are designed to eliminate reported **Sexual Misconduct** or **Relationship Violence** and

protect the persons involved in the matter (e.g., **Complainant, Reporter, Respondent**, and potential witnesses.

- K. **NON-CONSENSUAL SEXUAL INTERCOURSE:** Engaging in **Sexual Intercourse** with another person without the **Consent** of that person.
- L. **PREPONDERANCE OF THE EVIDENCE:** The amount of evidence that causes one to conclude that an allegation is probably true (i.e., more likely true than not true). If the evidence on a particular allegation is equally balanced, then that issue has not been proven by a preponderance of the evidence. (The source of this definition is Tennessee Pattern Jury Instruction 2.40.)
- M. **QUALIFIED MENTAL HEALTH PROFESSIONAL:** A person who is licensed in the state of Tennessee, if required for the profession, and who is a psychiatrist; physician with expertise in psychiatry as determined by training, education, or experience; psychologist with health service provider designation; psychological examiner or senior psychological examiner; licensed master's social worker with two years of mental health experience or licensed clinical social worker; marital and family therapist; nurse with a master's degree in nursing who functions as a psychiatric nurse; professional counselor; or if the person is providing service to children, any of the above educational credentials plus mental health experience with children. (The source of this definition is **Tennessee Code Annotated § 33-1-101.**)
- N. **REASONABLE PERSON:** A sober, objectively reasonable person in the same situation and with the same sex, gender identity, and sexual orientation as the person whose words and/or conduct are being evaluated.
- O. **REGISTERED STUDENT ORGANIZATION:** A student organization registered with the University in accordance with University rules.
- P. **RELATIONSHIP VIOLENCE:** A term that encompasses **Dating Violence, Domestic Violence, Stalking**, and all other words and/or conduct that would constitute a **Relationship Violence Crime**. Relationship Violence may be a form of **Sex Discrimination** prohibited by federal and state antidiscrimination laws, such as **Title VII** and **Title IX**.
- Q. **RELATIONSHIP VIOLENCE CRIME(S):** A term that encompasses both **Clery Act Relationship Violence Crimes** and **Tennessee Relationship Violence Crimes**, which are defined below:
 - 1. **CLERY ACT RELATIONSHIP VIOLENCE CRIMES:** The **Clery Act** requires the University to report certain statistics for the following crimes of relationship violence that occur on Clery Geography in the University's **Annual Security Report**:

- a. **DATING VIOLENCE:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim of the violence. The existence of such a relationship shall be determined based on a consideration of the following factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating Violence does not include acts covered under the definition of Domestic Violence. Whether an incident will be counted as an incident of Domestic Violence for purposes of the Clery Act will also be determined based on the statement of the **Reporter**.
- b. **DOMESTIC VIOLENCE:** A felony or misdemeanor crime of violence committed: (1) by a current or former spouse or intimate partner of the victim; (2) by a person with whom the victim shares a child in common; (3) by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; (4) by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or (5) by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- c. **STALKING (CLERY ACT):** Engaging in a **Course of Conduct** directed at a specific person that would cause a **Reasonable Person (Clery Act - Stalking)** to: (1) fear for the person's safety or the safety of others; or (2) suffer **Substantial Emotional Distress**.

For purposes of Stalking (Clery Act), the following definitions apply:

- (i) **COURSE OF CONDUCT:** 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 to or about another person, or interferes with another person's property.
- (ii) **REASONABLE PERSON (CLERY ACT - STALKING):** A reasonable person under similar circumstances and with similar identities to the victim.
- (iii) **SUBSTANTIAL EMOTIONAL DISTRESS:** Significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

2. **TENNESSEE RELATIONSHIP VIOLENCE CRIMES:** The crimes below are crimes in the State of Tennessee that are the closest equivalents to **Clery Act Relationship Violence Crimes**:
- a. **ASSAULT:** The definition of the crime of assault in Tennessee is defined in **Tennessee Code Annotated § 39-13-101**.
 - b. **DOMESTIC ASSAULT:** The crime of Domestic Assault in Tennessee is defined in **Tennessee Code Annotated § 39-13-111**.
 - c. **STALKING (TENNESSEE):** The crime of Stalking (Tennessee) is defined in **Tennessee Code Annotated § 39-17-315**.
 - d. **VIOLATING AN ORDER OF PROTECTION RELATING TO DOMESTIC ABUSE OR STALKING:** In Tennessee, a domestic abuse victim or stalking victim who has been subjected to, threatened with, or placed in fear of, domestic abuse or stalking may seek relief by filing a sworn petition alleging domestic abuse or stalking by the Respondent. Such a petition must be filed in the county where the respondent resides or the county in which the domestic abuse, stalking, or sexual assault occurred. If the Respondent is not a resident of Tennessee, the petition may be filed in the county where the Complainant resides. Tennessee law provides criminal penalties for violations of certain orders of protection. More information on Tennessee’s law on orders of protection can be found [here](#) [*link to Tennessee Code Annotated § 36-3-601 et seq.*].
- R. **REPORTER:** A person who communicates a concern to a Responsible Employee regarding the occurrence of **Sexual Misconduct** or **Relationship Violence**. A **Reporter** need not be a **Complainant**.
- S. **RESPONDENT:** A person(s) or registered student organization that is reported to have committed **Sexual Misconduct** and/or **Relationship Violence**. This term does not imply pre-judgment concerning whether the person or registered student organization committed **Sexual Misconduct** and/or **Relationship Violence**.
- T. **RESPONSIBLE EMPLOYEE:** A University employee: who has the authority to take action to redress **Sexual Misconduct** or **Relationship Violence**; who has been given the duty to report incidents of **Sexual Misconduct**, **Relationship Violence** or other student misconduct to the Title IX Coordinator; or whom a student could reasonably believe has that authority or duty. Responsible Employees are identified in **Section III(A)(1)**.
- U. **RETALIATION:** An act or attempted act to retaliate, intimidate, threaten, coerce, seek retribution, or otherwise discriminate against any person:

1. because the person opposed conduct prohibited by this policy;
2. because the person in good faith reported **Sexual Misconduct** or **Relationship Violence** to the University;
3. because the person in good faith participated (or is reasonably expected to participate) in any manner in an investigation, proceeding, hearing, or Interim Measure under this policy; or
4. because the person exercised their rights or responsibilities under any provision of the **Clery Act**.

For purposes of this definition, an act or attempted act retaliates, intimidates, threatens, coerces, seeks retribution, or otherwise discriminates if it would deter a **Reasonable Person** from: opposing conduct prohibited by this policy; reporting **Sexual Misconduct** or **Relationship Violence** to the University; participating in any manner in an investigation, proceeding, hearing, or Interim Measure under this policy; and/or exercising their rights or responsibilities under any provision of the **Clery Act**.

- V. **RISK REDUCTION**: Options designed to decrease perpetration and bystander inaction, and to increase empowerment for **Complainants** in order to promote safety and to help individuals and communities address conditions that facilitate violence. More information about Risk Reduction can be found [here](#).
- W. **SEX DISCRIMINATION**: 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 account of sex or gender (including sexual orientation, gender identity, and gender expression). 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. A complaint of **Sexual Misconduct** or **Relationship Violence** will be treated as a complaint of Sex Discrimination in violation of **Title IX** if it was based on the sex of the **Complainant**.
- X. **SEXUAL ASSAULT**: Engaging in **Sexual Contact** or **Sexual Intercourse** with another person without the **Consent** of that person.
- Y. **SEXUAL ASSAULT RESPONSE TEAM (S.A.R.T.)**: The group of University employees identified in **Section III(A)(1)(b)**.
- Z. **SEXUAL CONTACT**: The deliberate touching of another person's intimate parts (including genitalia, groin, inner thigh, breast or buttocks, or clothing covering any of those areas), or using **Coercion** to cause a person to touch their own or another person's intimate parts.

- AA. **SEXUAL EXPLOITATION:** An act or attempted act by a person for sexual gratification, financial gain, or other advancement through the abuse or exploitation of another person's sexuality. Examples of Sexual Exploitation include, but are not limited to: observation of persons who are undressed or engaging in **Sexual Contact** or **Sexual Intercourse**, without the **Consent** of all persons being observed; audio- or videotaping of **Sexual Contact** or **Sexual Intercourse** without the **Consent** of all persons being taped; prostituting another person; allowing others to observe **Consensual Sexual Contact** or **Consensual Sexual Intercourse** without the **Consent** of all persons involved in the **Consensual Sexual Contact** or **Consensual Sexual Intercourse**; and knowingly exposing another person to a sexually transmitted infection without informing the other person that one has a sexually transmitted infection.
- BB. **SEXUAL HARASSMENT:** A term that encompasses both **Sexual Harassment (Against a University Student or Other Non-Employee)** and **Sexual Harassment (Against a University Employee)**, which are defined below in this Section.
- CC. **SEXUAL INTERCOURSE:** The penetration, no matter how slight, of the vagina or anus with any body part or object; or oral penetration by a sex organ of another person.
- DD. **SEXUAL HARASSMENT (AGAINST A UNIVERSITY STUDENT OR OTHER NON-EMPLOYEE):** Unwelcome verbal or nonverbal conduct of a sexual nature that is so severe or pervasive, and objectively offensive, that it substantially interferes with a person's University employment, academic performance, or participation in other University programs or activities and effectively denies the person equal access to University employment, academic programs, or other University programs or activities. Sexual Harassment is a form of **Sex Discrimination**. Sexual Harassment may include, for example, unwelcome sexual advances, requests for sexual favors, and acts of **Sexual Assault**. To determine whether conduct constitutes Sexual Harassment, consideration shall be given to the totality of the circumstances, including the context in which the conduct and/or words occurred.
- EE. **SEXUAL HARASSMENT (AGAINST A UNIVERSITY EMPLOYEE):** Conduct prohibited by **University of Tennessee Human Resources Policy 0280**. Sexual Harassment is a form of **Sex Discrimination**. University students, when acting as University employees, are subject to **University of Tennessee Human Resources Policy 0280**.
- FF. **SEXUAL MISCONDUCT:** A term that encompasses **Sexual Harassment**, **Sexual Assault**, **Sexual Exploitation**, and all other words and/or conduct that would constitute a **Sexual Violence Crime**. Sexual Misconduct may be a form of **Sex Discrimination** prohibited by federal and state antidiscrimination laws, such as **Title VII** and **Title IX**.
- GG. **SEXUAL VIOLENCE CRIME(S):** A term that encompasses both **Clery Act Sexual Violence Crimes** and **Tennessee Sexual Violence Crimes**, which are defined below:

1. **CLERY ACT SEXUAL VIOLENCE CRIMES:** The **Clery Act** requires the University to report certain statistics for the following crimes of sexual violence that occur on Clery Geography in the University's **Annual Security Report**:
 - a. **FONDLING:** The touching of a private body part of another person for the purpose of sexual gratification, without the **Consent** of the victim.
 - b. **INCEST:** Nonforcible **Sexual Intercourse** between persons who are related to each other within the degrees wherein marriage is prohibited by Tennessee law.
 - c. **RAPE (CLERY ACT):** The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the **Consent** of the victim.
 - d. **SEXUAL ASSAULT (CLERY ACT):** An act that meets the definition of **Rape (Clery Act), Fondling, Incest, or Statutory Rape (Clery Act)**.
 - e. **STATUTORY RAPE (CLERY ACT):** Nonforcible **Sexual Intercourse** with a person who is under the statutory age of **Consent**.
2. **TENNESSEE SEXUAL VIOLENCE CRIMES:** The crimes below are crimes in the State of Tennessee that are the closest equivalents to **Clery Act Sexual Violence Crimes**:
 - a. **AGGRAVATED RAPE:** The crime of Aggravated Rape is defined in **Tennessee Code Annotated § 39-13-502**.
 - b. **RAPE (TENNESSEE):** The crime of Rape (Tennessee) is defined in **Tennessee Code Annotated § 39-13-503**.
 - c. **AGGRAVATED SEXUAL BATTERY:** The crime of Aggravated Sexual Battery is defined in **Tennessee Code Annotated § 39-13-504**.
 - d. **SEXUAL BATTERY:** The crime of Sexual Battery is defined in **Tennessee Code Annotated § 39-13-505**.
 - e. **STATUTORY RAPE (TENNESSEE):** The crime of Statutory Rape is defined in **Tennessee Code Annotated § 39-13-506**.
 - f. **SEXUAL CONTACT WITH A MINOR BY AN AUTHORITY FIGURE:** The crime of Sexual Contact with a Minor by an Authority Figure is defined in **Tennessee Code Annotated § 39-13-509**.

- g. **RAPE OF A CHILD:** The crime of Rape of a Child is defined in [Tennessee Code Annotated § 39-13-522](#).
 - h. **SEXUAL BATTERY BY AN AUTHORITY FIGURE:** The crime of Sexual Battery by an Authority Figure is defined in [Tennessee Code Annotated § 39-13-527](#).
 - i. **AGGRAVATED RAPE OF A CHILD:** The crime of Aggravated Rape of a Child is defined in [Tennessee Code Annotated § 39-13-531](#).
 - j. **STATUTORY RAPE BY AN AUTHORITY FIGURE:** The crime of Statutory Rape by an Authority Figure is defined in [Tennessee Code Annotated § 39-13-532](#).
 - k. **VIOLATING AN ORDER OF PROTECTION RELATING TO SEXUAL ASSAULT:** In Tennessee, a person who has been subjected to, threatened with, or placed in fear of Aggravated Rape, Rape, Statutory Rape, Rape of a Child, Aggravated Sexual Battery, Sexual Battery, or Sexual Battery by an Authority Figure may seek relief by filing a sworn petition alleging domestic abuse or stalking by the Respondent. Such a petition must be filed in the county where the respondent resides or the county in which the domestic abuse, stalking, or sexual assault occurred. If the Respondent is not a resident of Tennessee, the petition may be filed in the county where the Complainant resides. Tennessee law provides criminal penalties for violations of certain orders of protection. More information on Tennessee’s law on orders of protection can be found [here \[link to Tennessee Code Annotated § 36-3-601 et seq.\]](#).
- HH. STALKING:** A term that refers to [Stalking \(Clery Act\)](#) and [Stalking \(Tennessee\)](#), both of which are defined above in this Section.
- II. TITLE VII:** Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*
- JJ. TITLE IX:** Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*
- KK. TITLE IX COORDINATOR:** The person identified in [Section I\(D\)](#).
- LL. TUAPA HEARING:** A hearing conducted by a University administrative judge or hearing examiner, usually appointed by the Chancellor, in accordance with Chapter 1720-01-05 of the Rules of the University of Tennessee, the University’s procedures for hearings in contested cases as defined by the Tennessee Uniform Administrative Procedures Act, Tennessee Code Annotated, §4-5-301, *et seq.*
- MM. UNIVERSITY:** The University of Tennessee, Knoxville.

APPENDIX B: CONSENT UNDER TENNESSEE CRIMINAL LAW

In Tennessee, with respect to most criminal offenses relating to sexual activity, sexual activity is criminal if: (1) the activity was accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the activity that the victim did not consent; (2) force or coercion is used to accomplish the activity; (3) the defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless; or (4) the sexual activity is accomplished by fraud.

“Consent” is not explicitly defined in Tennessee statutory law, for purposes of criminal offenses relating to sexual activity.

“Coercion” means a threat of kidnapping, extortion, force, or violence to be performed immediately or in the future. (Tennessee Code Annotated § 39-13-501(1))

“Mentally defective” means that a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of the person's conduct. (Tennessee Code Annotated § 39-13-501(3))

“Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling the person's conduct due to the influence of a narcotic, anesthetic or other substance administered to that person without the person's consent, or due to any other act committed upon that person without the person's consent. (Tennessee Code Annotated § 39-13-501(4))

“Physically helpless” means that a person is unconscious, asleep or for any other reason physically or verbally unable to communicate unwillingness to do an act. (Tennessee Code Annotated § 39-13-501(5))

With respect to criminal offenses relating to sexual activity with a person under the age of eighteen (18) years of age, consent is irrelevant because Tennessee law deems a minor as incapable of consenting to sexual activity. However, Tennessee law provides a close-in-age exception to that general rule that allows minors who are at least the age of thirteen (13) and less than the age of eighteen (18) to give Consent to sexual acts with another person who is less than four (4) years older than the minor.

APPENDIX C: CONFIDENTIALITY EXCEPTIONS UNDER TENNESSEE LAW

1. **Child abuse or child sexual abuse (Tennessee Code Annotated §§ 37-1-401 et seq.; 37-1-601 et seq.; 37-1-614).** Tennessee law mandates reporting by any person, including a psychiatrist, psychologist, physician, or social worker, who has knowledge of physical or mental harm to a child if: (1) the nature of the harm reasonably indicates it was caused by brutality, abuse, or neglect; or (2) on the basis of available information, the harm reasonably appears to have been caused by brutality, abuse, or neglect. Tennessee law also mandates reporting by any person who knows or has reasonable cause to suspect that a child has been sexually abused, regardless of whether the child has sustained any apparent injury as a result of the abuse. State law requires a report of child abuse or child sexual abuse to be made immediately to one of the following authorities outside the University: (1) 911, in the case of an emergency; (2) the Tennessee Department of Children's Services; (3) the sheriff of the county where the child resides; (4) the chief law enforcement official of the city where the child resides; or (5) a judge having juvenile jurisdiction over the child. The Tennessee mandatory reporting laws apply to all University employees, contractors, and volunteers, even if the child abuse or child sexual abuse does not occur in connection with a University educational program or activity. For purposes of the Tennessee mandatory reporting law, University students who are under the age of eighteen (18) are not excluded from the definition of a child.
2. **Persons called upon to tender aid to certain victims (Tennessee Code Annotated § 38-1-101).** Tennessee law requires all physicians, surgeons, nurses, pharmacists, or other persons to immediately report an incident in which they were called upon to tender aid to a victim suffering from any wound or other injury inflicted by means of a knife, pistol, gun, or other deadly weapon, or by other means of violence, or suffering from the effects of poison, or suffocation, or where a wound or injury is reasonably believed to have resulted from exposure to a methamphetamine laboratory or a methamphetamine related fire, explosion, or chemical release, or appears to be suffering from or to have been the victim of female genital mutilation in violation of Tennessee Code Annotated § 39-13-110. The report is required to be made to certain law enforcement officials. Generally, such report must state the name, residence, and employer of the victim, if known, the victim's whereabouts at the time the report is made, the place the injury occurred, and the character and extent of the victim's injuries. However, the reporting obligations do not apply if: (1) the victim is at least 18 years of age; (2) the victim objects to the release of any identifying information to law enforcement officials; (3) the victim is a victim of a sexual assault offense or domestic abuse as defined in Tennessee Code Annotated § 36-3-601; and (4) the victim's injuries are considered by the treating healthcare professional to be life threatening, or the victim is being treated for injuries inflicted by strangulation, a knife, pistol, gun, or other deadly weapon.
3. **Subpoenas or court orders - physicians.** A physician can be required to testify concerning confidential information by a subpoena or court order.
4. **Court orders - Qualified Mental Health Professionals (Tennessee Code Ann. § 33-3-114).** A court can order a Qualified Mental Health Professional to disclose confidential information if, after a hearing, the court determines that disclosure is necessary for the conduct of proceedings before it.

5. **Duty to warn third parties (Tennessee Code Annotated §§ 33-3-206; 33-3-210).** A Qualified Mental Health Professional (e.g., a licensed psychiatrist or psychologist) is required by state law to take reasonable care to predict, warn of, or take precautions to protect an identified victim from a patient/client's violent behavior if: (1) a patient/client has communicated to a Qualified Mental Health Professional an actual threat of bodily harm against a clearly identified victim; and (2) the Qualified Mental Health Professional, using the reasonable skill, knowledge, and care ordinarily possessed and exercised by the professional's specialty under similar circumstances, has determined that the patient/client has the apparent ability to commit such an act and is likely to carry out the threat unless prevented from doing so. If the threat communicated by a patient/client to a Qualified Mental Health Professional is an actual threat of serious bodily harm or death against a reasonably identifiable victim or victims, then the Qualified Mental Health Professional is required to report the patient/client to local law enforcement.
6. **Sexually transmitted diseases (Tennessee Code Annotated §§ 68-10-102; 68-10-115).**
- A person who has a reasonable belief that a person has knowingly exposed another to HIV may inform the potential victim without incurring any liability. Please note that Tennessee law is not clear whether this obligation applies to a physician or a Qualified Mental Health Professional.
 - If any attending physician or other person knows or has good reason to suspect that a person having a STD is behaving so as to expose other persons to infection, or is about to so behave, the attending physician or other person shall notify the municipal or county health officer of the name and address of the diseased person and the essential facts in the case. Please note that Tennessee law is not clear whether this obligation applies to a Qualified Mental Health Professional.
7. **Tennessee Adult Protection Act (protection of the elderly and other vulnerable persons) (Tennessee Code Annotated § 71-6-101 et seq.).** Generally, Tennessee law requires any person who has reasonable cause to suspect that a person age 60 or older, or a person with certain physical and mental disabilities, has been subject abuse, neglect, or exploitation to report the situation to the Tennessee Department of Human Services, which will notify the appropriate law enforcement agency.