

**SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE:  
INTERIM POLICY, PROCEDURES,  
PROGRAMS, AND RESOURCES**



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## I. INTRODUCTION<sup>1</sup>

The University of Tennessee at Martin 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 Complainants or the University community; identifies resources 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:

- University students;
- University employees;
- University volunteers and contractors; and
- third parties participating in a University program or activity.

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

The University's jurisdiction concerning off-campus misconduct by students is outlined in the Rules of the University of Tennessee at Martin, Chapter 1720-05-01-.03.<sup>2</sup> With respect to employees and other non-students, there is no geographical limitation on this policy.

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<sup>1</sup> This is an interim policy, which is effective upon issuance and will remain in effect until a permanent version of this policy is issued. A permanent version of this policy will be issued after representatives of relevant stakeholders have had a reasonable opportunity to review and provide feedback on the interim policy. The permanent version of this policy also may incorporate subsequent federal guidance, regulations, and/or statutes. The University encourages persons who have feedback or questions concerning the policy to contact the Title IX Coordinator.

<sup>2</sup> <http://www.tn.gov/sos/rules/1720/1720-05/1720-05-01.20120928.pdf>

## **B. DEFINITIONS**

Key terms used in this policy (such as Sex Discrimination, Sexual Misconduct, and Relationship Violence) are defined in **Appendix A** and are capitalized throughout this policy.

## **C. TITLE IX**

The University 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 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**

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. The responsibilities of the Title IX Coordinator are summarized below and are described in more detail in other sections of this policy. The Title IX Coordinator is generally available Monday – Friday on University business days from 8:00 a.m. to 5:00 p.m.

The University's Title IX Coordinator is:

Dr. Gail Stephens  
Title IX Coordinator  
Director, Office of Equity and Diversity  
303 Administration Building  
Martin, TN 38238  
**731-881-3505 (phone)**  
**731-881-3507 (fax)**  
**[equityanddiversity@utm.edu](mailto:equityanddiversity@utm.edu)**  
**<http://www.utm.edu/departments/equalopp/>**

The Title IX Coordinator's responsibilities include, without limitation:

- 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, which are usually conducted by the Office of Equity and Diversity (if the Respondent is an employee or other non-student) or the Office of Student Conduct (if the Respondent is a student);

- identifying and addressing patterns or systemic problems concerning Sexual Misconduct and Relationship Violence;
- coordinating training, prevention, and awareness efforts concerning Sexual Misconduct and Relationship Violence;
- providing information to students, employees, and third parties concerning this policy;
- coordinating the provision of Interim Measures to 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, if applicable; and
- being available to meet with students, employees, and others, 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. REPORTING VIOLATIONS OF THIS POLICY TO THE UNIVERSITY**

Only **Responsible Employees** are required to report Sexual Misconduct, Relationship Violence, or Retaliation 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 may constitute a violation of this policy. Additional information about reporting Sexual Misconduct or Relationship Violence to the University or to law enforcement can be found in **Section III**.

#### **F. ACADEMIC FREEDOM AND FIRST AMENDMENT RIGHTS**

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

#### **G. 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.

#### **H. 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.

## **I. RELATIONSHIP BETWEEN THIS POLICY AND OTHER UNIVERSITY POLICIES/PROCEDURES**

### **1. Child Abuse and Child Sexual Abuse**

University of Tennessee System Safety Policy 0575 (“Programs for Minors”) ([http://policy.tennessee.edu/safety\\_policy/sa0575/](http://policy.tennessee.edu/safety_policy/sa0575/)) takes precedence over this policy with respect to reporting suspected child abuse and child sexual abuse. Except for **Safety Policy 0575** and 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.

### **2. Student Policies and Procedures**

The Standards of Conduct for students can be found in the Rules of the University of Tennessee at Martin, Chapter 1720-05-01-.04 (<http://www.tn.gov/sos/rules/1720/1720-05/1720-05-01.20120928.pdf>). 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**

Engaging in Sexual Misconduct, Relationship Violence, and/or Retaliation. The terms “Sexual Misconduct,” “Relationship Violence,” and “Retaliation” are defined in the University policy titled, “*Sexual Misconduct and Relationship Violence: Interim Policy, Procedures, Resources, and Programs*,” a copy of which can be found at <http://www.utm.edu/departments/equalopp/>.

In the event of a conflict between this policy and Chapter 1720-05-01, this policy shall control. If this policy does not supply a substantive or procedural rule relating to an issue, then Chapter 1720-05-01 shall supply the rule.

### **3. Employee Policies and Procedures**

In the event of a conflict between this policy and another University employee policy or procedure, this policy shall control. If this policy does not supply a substantive or procedural rule relating to an issue, then another employee policy or procedure, if applicable, may supply the rule. The following is a non-

exclusive list of other policies and procedures that in some cases may apply to the investigation and/or 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 at Martin Faculty Handbook**
- **University of Tennessee System Human Resources Policy 0160** (Termination of Employment)
- **University of Tennessee System Human Resources Policy 0220** (Equal Employment Opportunity and Affirmative Action)
- **University of Tennessee System Human Resources Policy 0355** (Leave of Absence)
- **University of Tennessee System Human Resources Policy 0525** (Disciplinary Action)
- **University of Tennessee System Human Resources Policy 0580** (Code of Conduct)
- **University of Tennessee System Human Resources Policy 0640** (Grievances)

#### **4. Tennessee Uniform Administrative Procedures Act**

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

#### **J. ADDITIONAL INFORMATION ABOUT SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE**

For additional information about the University's procedures and programs relating to Sexual Misconduct and Relationship Violence, please visit:

<http://www.utm.edu/departments/equalopp/harassment.php>

## II. PROHIBITED CONDUCT

This University prohibits Sexual Misconduct, Relationship Violence, and Retaliation.

This policy prohibits students from engaging in Sexual Misconduct, Relationship Violence, and/or Retaliation. The University's Standards of Conduct for students prohibits students from violating this policy.

With respect to employees, Sexual Misconduct and Relationship Violence violates standards of conduct that have been established in existing University policies, including without limitation, the University's **Nondiscrimination Statement** (<http://oed.utk.edu/statement/>), **University of Tennessee Human Resources Policy 0280 (Sexual Harassment)** ([http://policy.tennessee.edu/hr\\_policy/hr0280/](http://policy.tennessee.edu/hr_policy/hr0280/)), and **University of Tennessee System Human Resources Policy 0580 (Code of Conduct)** ([http://policy.tennessee.edu/hr\\_policy/hr0580/](http://policy.tennessee.edu/hr_policy/hr0580/)). This policy supplements existing University standards of conduct in order to be more specific concerning the University's prohibition of Sexual Misconduct, Relationship Violence, and Retaliation.<sup>3</sup> Employees who violate this policy will be subject to disciplinary action, up to, and including, termination of employment, in accordance with University policies, including, without limitation, **University of Tennessee System Human Resources Policy 0525 (Disciplinary Action)**, **University of Tennessee System Human Resources Policy 0640 (Grievances)**, and the **University of Tennessee at Martin Faculty Handbook**.

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<sup>3</sup> For example, **University of Tennessee Human Resources Policy 0280 (Sexual Harassment)** already prohibits an employee from engaging in the Sexual Harassment of another employee. Sexual Assault is an extreme type of Sexual Harassment.

### **III. HOW TO REPORT SEXUAL MISCONDUCT OR RELATIONSHIP VIOLENCE**

The University encourages Complainants of Sexual Misconduct or Relationship Violence to promptly report the incident to the University and/or to law enforcement. The University also encourages others who are aware of Sexual Misconduct or Relationship Violence to promptly report the incident.<sup>4</sup> Options for reporting Sexual Misconduct or Relationship Violence to the University (other than to the Department of Public Safety) are described below in **Section III.A**. Options for reporting Sexual Misconduct or Relationship Violence to the Department of Public Safety or local law enforcement are described below in **Section III.B**.

#### **A. HOW TO REPORT TO THE UNIVERSITY (OTHER THAN TO THE DEPARTMENT OF PUBLIC SAFETY)**

**Complainants<sup>5</sup> are not required to report Sexual Misconduct or Relationship Violence to the University if they do not want the University to respond to the incident or assist with Interim Measures.** 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 conducting a prompt, thorough, and equitable investigation and, if warranted, taking disciplinary action against a Respondent.

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

A report of Sexual Misconduct or Relationship Violence that alleges Sex Discrimination generally must be filed within 300 days of the alleged discriminatory action. In certain circumstances, however, at the discretion of the Title IX Coordinator, such as when the Complainant is a student, a report communicated to the University outside of that time limit may be investigated. The University does not limit the time frame for reporting an incident of Sexual Misconduct or Relationship Violence committed by a Respondent who is not an employee, 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.

**This policy requires certain University employees, called Responsible Employees, to report information they receive concerning Sexual Misconduct or Relationship Violence to the University in accordance with Section VII.**

Because Responsible Employees have an obligation to report information they receive about Sexual Misconduct or Relationship Violence (and take other responsive actions), one of the purposes of this **Section III.A** is to inform students, employees and other persons about which University employees are Responsible Employees so that students, employees and other persons can make informed decisions about whether to disclose information to those University employees. Whether an employee

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<sup>4</sup> Responsible Employees are required to report information they receive about Sexual Misconduct or Relationship Violence.

<sup>5</sup> The reporting options in this section also are available to a Reporter who is not a Complainant.

is a Responsible Employee will vary based on factors such as the status of the Complainant and the Respondent (i.e., whether they are students, employees, and/or persons who are neither students nor employees) and the employee's authority to address violations of this policy. Questions concerning whether a particular employee is a Responsible Employee should be directed to the Title IX Coordinator.

Appendix B identifies the options for a Complainant to report an incident of Sexual Misconduct or Relationship Violence to the University. The employees identified in Appendix B as reporting options in a particular situation are the University's Responsible Employees.

**Responsible Employees are not confidential University resources like the resources described in Section V.A.1.** However, subject to a Complainant's request for confidentiality (**Section III.A.5**) and applicable legal disclosure obligations (**Section III.E**), information communicated to a Responsible Employee will initially be shared only within the limited circle of those University employees whom the University reasonably 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. **Responsible Employees who are not employees of the Department of Public Safety will not share information with the Department of Public Safety or any other law enforcement agency without a Complainant's written consent, in accordance with FERPA.**

The only way for a Complainant (or any other person) to provide notice to the University of an incident of Sexual Assault or Relationship Violence is to report the incident to a Responsible Employee. If an incident is not reported to a Responsible Employee, then the University will not be able to take steps to: identify resources for the Complainant, such as Interim Measures; or promptly, thoroughly, and equitably investigate the incident and/or resolve the situation in order to eliminate the Sexual Misconduct or Relationship Violence, prevent its recurrence, and address its effects on the Complainant or the University community.

**1. Reporting Options for a Complainant Who is a Student**

This Section III.A.1 describes the non-law enforcement options for a Complainant who is a University student to report Sexual Misconduct or Relationship Violence to the University.

A Complainant who is a University student is encouraged to report Sexual Misconduct or Relationship Violence to one of the following University employees:

Title IX Coordinator/Office of Equity & Diversity (731-881-3505)	Office of Student Conduct (731-881-7703)
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A Complainant who is a University student may also report Sexual Misconduct or Relationship Violence to one of the University's other non-law enforcement Responsible Employees:

<p>Division of Student Affairs (731-881-7700)</p>	<p>Hall Director, Assistant Hall Director, or Resident Assistant in University Housing</p>	<p>Faculty Members</p> <p>Faculty and staff advisors to registered student organizations</p>
<p>Chancellors, Vice Chancellors, Associate Vice Chancellors, or Assistant Vice Chancellors</p>	<p>Academic advisors (but not tutors)</p>	<p>Deans, Associate Deans, Assistant Deans, Executive Directors, Directors, Associate Directors, Assistant Directors, Department Heads, Coordinators</p>
<p>Graduate Teaching Assistants who receive a report in their teaching capacity</p>	<p>Complainant's supervisor <i>(only if the Complainant is a University student employee)</i></p>	<p>Respondent's supervisor <i>(only if the Respondent is a University employee, including a student employee)</i></p>
<p>Director of Human Resources (731-881-7845) <i>(only if the Respondent is a University employee, including a student employee)</i></p>	<p>A University employee designated as a Campus Security Authority for Clery Act compliance<sup>6</sup></p>	<p>One of the following employees in the Department of Intercollegiate Athletics <i>(only if the Complainant is a University student-athlete or if the Respondent is a University student-athlete or employee, including a student employee, in the Department of Intercollegiate Athletics)</i>:</p> <p>Athletic Director; Associate Athletic Directors; Assistant Athletic Directors; Coaches, Associate Coaches, and Assistant Coaches; Compliance staff; Academic Support Services Coordinator; Athletic training staff; Strength and Conditioning staff; and Directors of Operations.</p>

<sup>6</sup> (<http://www.utm.edu/departments/publicsafety/csa.php>)

## 2. Reporting Options for a Complainant Who is an Employee

A Complainant who is a University employee has four non-law enforcement options to report Sexual Misconduct or Relationship Violence to the University **when the Respondent is not a University student** (e.g., the Respondent is a University non-student employee):

Title IX Coordinator/Office of Equity & Diversity	Complainant's supervisor
Respondent's supervisor (if the Respondent is a University employee)	Director of Human Resources (731-881-7845)

A Complainant who is a University employee has five options to report Sexual Misconduct or Relationship Violence to the University **when the Respondent is a University student**:

Title IX Coordinator/Office of Equity & Diversity	Complainant's supervisor
Respondent's supervisor (if the Respondent is a University employee, including a student employee)	Director of Human Resources (731-881-7845)
Office of Student Conduct (731-881-7703)	

## 3. Reporting Options for a Complainant Who is Neither a Student Nor an Employee

The Title IX Coordinator (or the Office of Equity & Diversity) is the only non-law enforcement option for a Complainant who is neither a University student nor a University employee to report a violation of this policy to the University.

## 4. What to Expect after Reporting Sexual Misconduct or Relationship Violence to a Responsible Employee

After receiving a report of Sexual Misconduct or Relationship Violence (either directly from a Reporter or indirectly from a Responsible Employee), the Title IX Coordinator or the Office of Student Conduct will initiate immediate and appropriate steps by the University to: have an appropriate University employee meet with or otherwise communicate with the Complainant; in cases of Sexual Assault and Relationship Violence, 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 the Complainant's

rights under this policy (if that has not already been done by a Responsible Employee); evaluate whether Interim Measures need to be implemented and assist with the implementation of Interim Measures; and, subject to a Complainant's request for confidentiality (**Section III.A.5**), initiate the investigation and resolution procedures outlined in **Section VI** of this policy. The Title IX Coordinator or the Office of Student Conduct also can assist a Complainant in reporting the incident to law enforcement.

#### **5. 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 take 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 Title IX Coordinator typically is the University official who evaluates requests by Complainants for confidentiality. When weighing a Complainant's request for confidentiality or that no investigation or discipline be pursued, the University will consider a range of factors, including, without limitation, the following factors:

- 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., perpetration involving 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 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 the Complainant's identity confidential (e.g., providing the Complainant with Interim Measures).

If the University determines that it cannot maintain a Complainant's confidentiality, then 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 to 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 additional climate assessments/victimization surveys; and/or revisiting its policies and practices.

## **6. Amnesty for Students Who Report Sexual Misconduct or Relationship Violence to the University**

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 student's own violation of the Standards of Conduct. However, a student who reports Sexual Misconduct or Relationship Violence to the University, either as a Complainant or a Reporter, generally will not face disciplinary charges under the Standards of Conduct solely for possessing or being under the influence of alcohol and/or drugs.

## **B. HOW TO REPORT 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.

**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 or another Responsible Employee.**

### **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:

INCIDENT LOCATION	CONTACT
Regardless of where the incident occurred	Call <b>911</b> in an emergency  or  Department of Public Safety 159 Crisp Hall (215 Hurt Street) <b>731-881-7777 (24 hours a day, 365 days a year)</b> <b><a href="http://www.utm.edu/departments/publicsafety/">http://www.utm.edu/departments/publicsafety/</a></b>
In the City of Martin	Martin Police Department 101 University Street Martin TN 38237 <b>731-587-5355 (non-emergencies) or 911 (emergencies)</b> <b><a href="http://martindps.org/police/">http://martindps.org/police/</a></b>  or  Department of Public Safety
In Weakley County but outside of the City of Martin	Weakley County Sheriff's Department 7951 Highway 22 Dresden, TN <b>731-364-5454 (non-emergencies)</b> <b>731-364-5454 (emergencies)</b> <b><a href="http://www.weakleycountyttn.gov/sheriff.html">http://www.weakleycountyttn.gov/sheriff.html</a></b>  or

	Department of Public Safety
Outside of Weakley County	Contact the law enforcement agency that has jurisdiction over the location where the incident occurred  or  Contact the Department of Public Safety for assistance in contacting another jurisdiction's law enforcement agency

Upon the Complainant's request, the Title IX Coordinator or the Office of Student Conduct will assist a Complainant in contacting the Department of Public Safety or another appropriate local law enforcement agency.

Employees of the Department of Public Safety are also Responsible Employees. Accordingly, if a person reports an incident to the Department of Public Safety, and the incident has not been previously reported to a Responsible Employee outside of the Department of Public Safety, then the Department of Public Safety will contact the Title IX Coordinator or the Office of Student Conduct. Then, the Title IX Coordinator or the Office of Student Conduct will contact the Complainant regarding the University's response to the report (**Section III.A.4**). In contrast, if a Complainant reports the incident to KPD or another law enforcement agency other than the Department of Public Safety, then the Complainant also will need to report the incident to a Responsible Employee if the Complainant wants the University to take any action under this policy.

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

Even if the Complainant is unsure whether 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 the Complainant 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. A Department of Public Safety 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 incident of Sexual Assault or Relationship Violence.

### **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 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 is determinative of whether Sexual Misconduct or Relationship Violence occurred in violation of this policy. Procedures 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 a criminal or civil proceeding may, at the University's discretion, be used by the University in a University disciplinary proceeding.

#### **C. HOW TO REPORT ANONYMOUSLY**

Persons may report Sexual Misconduct or Relationship Violence anonymously to the Department of Public Safety online at <http://crime.utm.edu/>. 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.

**Reporting a crime anonymously online is not an alternative to calling 911; in an emergency, call 911.**

#### **D. CONFIDENTIAL RESOURCES**

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

#### **E. THE UNIVERSITY'S DISCLOSURE OBLIGATIONS UNDER FEDERAL AND TENNESSEE LAW RELATING TO REPORTS OF SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE**

##### **1. Clery Act**

Certain University employees, called Campus Security Authorities, have a duty to report certain incidents of Sexual Misconduct and Relationship Violence to the Department of Public Safety to comply with the Clery Act. Campus Security Authorities are not required to report personally identifiable information to the Department of Public Safety for Clery Act purposes, but statistical information must be sent to the Department of Public Safety regarding the type of incident that occurred and its general location (e.g., on or off-campus) for publication in an annual report of crime statistics, called the Annual Security Report. Statistics published in the Annual Security Report help to provide the campus community with a clearer picture of the extent and nature of campus crime, **but the statistics do not personally identify Complainants.**

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 the Department of Public Safety or Campus Security Authorities that pose a substantial threat of bodily harm or danger to members of the campus community. The University will undertake reasonable efforts to avoid disclosing a Complainant's name and other identifying information, while still providing enough information for community members to make safety decisions in light of the potential danger.

## **2. FERPA**

In accordance with 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, e.g., **Section III.E.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 the Respondent, 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 the Department of Public Safety 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 & 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, including the identity of the Complainant.

## **F. 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.

## **G. 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, up to and including termination of employment or dismissal from the University. 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, up to and including termination of employment or dismissal from the University.

#### **IV. RETALIATION**

The University prohibits acts or attempted acts 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 reported Sexual Misconduct or Relationship Violence to the University in Good Faith;
3. because the person participated (or is reasonably expected to participate) in Good Faith 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.

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 under this policy (**Section III**). 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 (**Section VI**).

## V. CARE AND SUPPORT FOR COMPLAINANTS

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 for Complainants following a 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](#).

**Information communicated to a person identified as a confidential resource in this Section V.A does not constitute notice or a report to the University of an incident of Sexual Misconduct or Relationship Violence. In other words, a disclosure of Sexual Misconduct or Relationship Violence to a person identified in this Section V.A (including a person supervised by them (e.g., front-desk staff)) will not trigger a University response to an incident because the people identified in this Section V.A are not Responsible Employees and do not report any information about an incident to the Title IX Coordinator or another Responsible Employee without the Complainant's permission. As a result, the University will be unable to investigate the incident, pursue disciplinary action against the Respondent, or provide Interim Measures to the Complainant.**

The persons identified in [Section V.A.1](#) 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 and/or to law enforcement and have the incident fully investigated. The persons identified in [Section V.A.1](#) can provide the Complainant with assistance in making such reports if the Complainant asks them to do so.

**Complainants may pursue the communication options outlined in this Section V.A regardless of whether or not they choose to report the incident to the University or law enforcement. In other words, the resources described in this policy are not mutually exclusive.**

#### 1. Confidential Resources - University

If a Complainant 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 Complainant may speak with the following persons:

- [A licensed social worker in Student Health & Counseling Services \(resource option for students only\)](#)

Student Health & Counseling Services

609 Lee Street (across from University Villages Phase 1)

731-881-7750

<http://www.utm.edu/departments/shcs/>

Student Health & Counseling Services (SHCS) serves the physical and mental health needs of UTM students. The primary goal of SHCS is to provide students with the support they need to maintain wellness and achieve academic success. Students come to SHCS for a variety of reasons, including: treatment for injuries; a wide range of gynecologic and women's health services, including services related to sexually transmitted diseases, safer sex, oral contraception (birth control pills) and injectable contraception (Depo-Provera), emergency contraception, pregnancy testing and referral, routine gynecologic care, and annual exams; vaccine administration; and treatment for acute illnesses.

SHCS can provide free and confidential clinical expertise for students in dealing with Sexual Misconduct or Relationship Violence. In the case of a Sexual Assault, SHCS may refer a student to a local hospital for a sexual assault examination performed by a trained Sexual Assault Nurse Examiner. SHCS can also assist students with find other resources in the community that serve students' needs.

SHCS is open only on University business days during University business hours.

UTM students at enrolled at UTM Centers in Ripley, Selmer, Jackson, or Parson are eligible for services at Student Health and Counseling Services, which is located on the Martin campus. If you cannot travel to the Martin Campus, Student Health and Counseling Services can provide a list of community resources in those areas, or students can view a list of local facilities that provide mental and health services in those areas at: <http://www.utm.edu/departments/shcs/satellite.php>.

- A **counselor with the Employee Assistance Program** managed by Magellan Health Services **(855-Here4TN (855-437-3486))** (*resource option for employees only*)  
<http://www.utm.edu/departments/employeeorientation/eap.php>

**A person identified in this section is a confidential resource only if the student or employee is communicating with that person as a patient or client.**

## **2. Confidential Resources – Non-University**

Complainants of Sexual Misconduct or Relationship Violence also have options to communicate confidentially with someone who is not affiliated with the University or law enforcement.

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

**West Tennessee resources available 24 hour/7 days a week**

▪ **Women's Resource and Rape Assistance Program (WRAP)**

62 Director's Row  
Jackson, TN

<http://www.wraptn.org/>

**1-800-273-8712 (24 hour hotline)**

WRAP is the only agency in West Tennessee providing services to both sexual and domestic violence survivors. We have coordinated our efforts with those of local law enforcement agencies, attorneys, hospitals, social services agencies, state agencies, and court offices so that we can work together to provide the best services possible to the clients we serve. WRAP not only makes referrals to these agencies, but also receives referrals from them as well as information and assistance.

▪ **Pathways Behavioral Health Services**

930 Mount Zion Rd.  
Union City, TN

**1-800-372-0693 (24 hour crisis hotline)**

**731-885-9333**

Monday-Friday, 8:00 a.m. – 5:00 p.m.

<http://www.wth.org/locations/pathways>

Pathways Behavioral Health Services (Pathways) provides behavioral health and substance abuse services to the people of West Tennessee. Pathways offers both outpatient and inpatient services for those suffering from mental health and/or substance abuse issues.

▪ **Shelby County Rape Crisis Center**

1750 Madison Ave., Ste. 102  
Memphis, TN 38104

**901-222-4350**

<https://www.shelbycountyttn.gov/index.aspx?NID=737>

The Shelby County Rape Crisis Center (RCC) empowers and cares for victims of sexual violence by providing free and confidential, comprehensive forensic nursing, advocacy and counseling services, regardless of whether or not the victim is reporting to law enforcement.

▪ **Professional Care Services (mental health services)**

800-353-9918 (24 crisis line for individuals in Fayette, Tipton, and Lauderdale County)

<http://www.pcswtn.org/>

- **Quinco Mental Health Centers**  
(Locations in Decaturville, Jackson and Selmer)  
800-467-2515 (24 hour crisis hotline)  
<http://www.quincocmhc.com/>
- **Northwest Safeline**  
**800-957-0055 (24 hour crisis hotline)**  
This entity provides services to victims of domestic violence in the following West Tennessee counties: Crockett, Dyer, Henry, Lauderdale, Lake, Obion, Tipton, and Weakley.

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

- **Tennessee Coalition Against Domestic & Sexual Violence** **1-800-356-6767**  
<http://tncoalition.org/>  
The Tennessee Coalition to End Domestic and Sexual Violence (TCEDS) is a private nonprofit organization composed of diverse community leaders and program members who share a common vision of ending violence in the lives of Tennesseans through public policy, advocacy, education and activities that increase the capacity of programs and communities to address violence. The TCEDS is a stateside organization that serves: domestic violence and sexual assault programs; community groups and organizations; criminal justice agencies; allied professionals (e.g., medical, legal, mental health professionals); individuals seeking information and resources; and immigrant victims of domestic or sexual violence, stalking or trafficking.
- **RAINN National Sexual Assault Crisis Hotline** **800-656-HOPE (4673)**  
<http://www.rainn.org/get-help/national-sexual-assault-hotline>
- **National Domestic Violence Hotline** **800-799-SAFE (7233)**  
<http://www.thehotline.org>
- **Love is Respect – National Dating Abuse Hotline** **866-331-9474**  
<http://www.loveisrespect.org/>

**Other confidential, non-University resources**

- **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 who is not an employee or contractor of the University**

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

## **B. NON-CONFIDENTIAL UNIVERSITY RESOURCES**

The University employees/units identified below are trained to support Complainants. While not bound by confidentiality (i.e., they are Responsible Employees who are required to report knowledge of incidents of Sexual Misconduct or Relationship Violence to the University and/or take other responsive action), these University employees/units will maintain the privacy of information shared by Complainants 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, Complainants are free to limit the details they share while they decide whether to report an incident to the University.

The following University employees/units are generally available Monday-Friday from 8:00 a.m. to 5:00 p.m. on University business days unless otherwise specified below:

- **Title IX Coordinator**  
303 Administration Building  
Martin, TN 38238  
731-881-3505 (phone)  
731-881-3507 (fax)  
equityanddiversity@utm.edu  
<http://www.utm.edu/departments/equalopp/>  
More information about the Title IX Coordinator can be found in **Section I.D.**
- **Department of Public Safety**  
731-881-7777 (24 hours/day, seven days/week)  
<http://www.utm.edu/departments/publicsafety/>  
The Department of Public Safety enforces all laws and University rules on the Martin campus to help maintain a safe environment for UTM students and employees. Public Safety also partners with Student Health and Counseling Services to provide the UTM community with an array of educational programs that allow participants to better understand warning signs and proper responses to help prevent crimes on campus. **Please contact the Department of Public Safety if you would like a Department of Public Safety police officer to take you either to a local hospital for medical treatment, including a sexual assault nurse examination.**
- **Office of Student Conduct**  
212 Boling University Center  
731-881-7703  
<http://www.utm.edu/departments/conduct/>  
The Office of Student Conduct handles cases in which a UTM student has been accused with violating the University's Standards of Conduct. More information on the University's procedures for handling allegations of Sexual Misconduct and Relationship Violence against a student can be found in Section VI.
- **Division of Student Affairs**

223 Administration Building  
731-881-7700

<http://www.utm.edu/studentaffairs/>

The Division of Student Affairs is committed to facilitating student growth and development in civility and humanity by providing excellent student services that are responsive to student needs both inside and outside the classroom. The Division of Student Affairs oversees the Office of Student Conduct and Student Health & Counseling Services.

### **C. MEDICAL CARE**

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

Medical care may be obtained from the following:

- **Student Health & Counseling Services (option for students only)**

609 Lee Street (across from University Villages Phase 1)

731-881-7750

<http://www.utm.edu/departments/shcs/>

SHCS is open only on University business days generally during University business hours.

- **Local hospitals (24 hours, seven days a week)**

Volunteer Community Hospital

161 Mt Pelia

Martin, TN

731-587-4261

<http://www.volunteercommunityhospital.com/Volunteer-Community-Hospital/home.aspx>

Weakley County Health Department

9852 Highway 22

Dresden, TN 38225

731-364-2210

Open Monday-Friday, 8:00 a.m. – 4:30 p.m.

<http://www.weakleycountyttn.gov/healthdept.html>

Baptist Memorial Hospital

1201 Bishop St

Union City, TN

731-885-2410

<http://www.baptistonline.org/union-city/>

Lauderdale Community Hospital

326 Asbury Avenue

Ripley, TN  
731-221-2200  
<http://www.lauderdalehospital.com/>

Jackson-Madison County General Hospital  
620 Skyline Drive  
Jackson, TN  
731-541-5000  
<http://www.wth.org/locations/jackson-madison-co-general>  
<http://www.wth.org/misc/emergency-services/emergency-department>

Decatur County General Hospital  
969 Tennessee 69  
Parsons, TN  
731-847-3031  
<http://www.dcggh.org/>

McNairy Regional Hospital  
705 Poplar Avenue  
Selmer, TN  
731-645-3221  
<http://www.mcnairyregionalhospital.com/McNairy-Regional-Hospital/home.aspx>

In cases of Sexual Assault or Relationship Violence, 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, if the Complainant later decides to pursue legal options, to obtain evidence to assist in criminal prosecution, a civil action, or in obtaining a civil protection order. **The key to success in collecting physical evidence of a Sexual Assault is to collect the evidence as soon as possible after a Sexual Assault (ideally within 24 hours of a Sexual Assault but no later than 72 hours after a Sexual Assault).** Prior to seeking medical care, 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 Complainants 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; 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 assault, such as hairs, fluids, and fibers; and, if applicable, talk with the Complainant about the prevention of venereal disease and pregnancy. A medical examination preserves evidence for forensic analysis in 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, a nurse who is specially trained to collect evidence in cases of Sexual Assault.

#### **D. INTERIM MEASURES**

After a Responsible Employee receives a report of Sexual Misconduct or Relationship Violence, 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, potential witnesses).

## **1. Availability of Interim Measures**

Interim Measures are available:

- even if the 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 (**Section III.A.5**). (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 the Complainant's rights under the University's procedures for complaints against students or procedures for complaints against employees or other non-students;
- informing the Complainant of the Complainant's 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 Affairs (or 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 leave, in accordance with other applicable University policies, prior to the conclusion of the investigation and resolution of a report of Sexual Misconduct or Relationship Violence;
- providing medical and counseling services to a Complainant who is a student;
- exploring changes in living, transportation, dining, and working arrangements for the Complainant and the Respondent;

- providing an escort to ensure that a Complainant who is a student can move safely between classes and activities;
- arranging appointments for a Complainant with follow-up on-campus support services (if a student) 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 (if both the Complainant and the Respondent are students);
- assisting the Complainant in communicating with faculty (for Complainants who are students);
- 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 Complainants who are students); and
- exploring the options of re-taking a course, dropping a course, or withdrawing for a semester without financial or academic penalty (for Complainants who are students).

### **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 and the student or employee status of the Complainant and the Respondent. The Title IX Coordinator or the Office of Student Conduct, in consultation as needed with other appropriate University employees (e.g., an employee who would be involved in implementing the Interim Measure being considered), will consider a number of factors in determining what Interim Measures the University will take, including, for example: the specific desire(s) expressed by the Complainant; whether the Complainant has requested confidentiality (**Section III.A.5**); the age of the persons involved; the severity or pervasiveness of the allegations; any continuing effects on the Complainant; whether the Complainant and Respondent share the same residence hall, dining hall, classes, extracurricular activities, transportation, or job location; and whether judicial measures have been taken to protect the Complainant (e.g., civil protection orders). In implementing Interim Measures, the University attempts to minimize the burden on the Complainant while balancing the due process rights, if any, of the Respondent.

### **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, 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 Complainant may contact:

### West Tennessee Legal Services

210 W. Main Street

Jackson, TN

731-423-0616 or 800-372-8346

<http://www.wtls.org/>

[wtls@wtls.org](mailto:wtls@wtls.org)

WTLS is a non-profit organization (not affiliated with the University) that provides assistance in civil cases to individuals, families and communities. Through its "Victim Assistance and Advocacy Project," WTLS assists victims of violent crime, including; advocacy affecting victims' immediate health and safety; exercise of rights in criminal justice proceedings; obtaining community social service; assistance with the preparation of victim impact statements and claims for criminal injuries compensation; assistance with probation and parole proceedings and understanding of civil legal options which might ameliorate victimization. Services may vary on a case-by-case basis, due to time constraints, resource availability, and pre-existing case obligations.

Through its "Stop Violence Against Women" grant, WTLS provides legal assistance, community education and referrals for victims of domestic violence. Comprehensive legal needs assessments are offered with counsel and advice on domestic violence issues, food stamps, housing, public benefits, and other issues that relate to victims of domestic abuse. Legal representation of some domestic violence victims in orders of protection hearings or temporary restraining order hearings is also offered.

The Title IX Coordinator can assist a Complainant with arranging an appointment with West Tennessee Legal Services to discuss options for pursuing an order of protection and other legal remedies.

In addition, the Tennessee District Attorneys General Conference provides information for victims of Sexual Assault and Relationship Violence on multiple pages of its website:

<http://www.tndagc.org/dv.htm> (FAQ on orders of protection)

<http://www.tndagc.org/vwh.htm> (resource describing the criminal justice system written specifically for those who need to understand how the system relates to them as victims/survivors and how perpetrators interact with the system)

<http://www.tndagc.com/vr.htm> (description of victims' rights under Article I, Section 35 of the Tennessee Constitution relating to criminal cases)

## **VI. UNIVERSITY PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS OF SEXUAL MISCONDUCT AND RELATIONSHIP VIOLENCE**

### **A. SUMMARY OF STUDENT AND EMPLOYEE PROCEDURES**

A report of any form of Sexual Misconduct or Relationship Violence involving a Respondent who is a student will be resolved using the procedures described in **Section VI.B** and **Section VI.D**.

The procedure used to investigate and resolve Sexual Misconduct or Relationship Violence involving a Respondent who is an employee or other non-student generally depends on whether the incident allegedly involved non-Consensual physical contact with the Complainant.

- A report involving Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, a Sexual Violence Crime, a Relationship Violence Crime, Dating Violence, Domestic Violence, or Stalking will be resolved in accordance with the procedures described in **Section VI.B** and **Section VI.C**.
- A report of Sex Discrimination (e.g., Sexual Harassment) that does **not** involve Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, a Sexual Violence Crime, a Relationship Violence Crime, Dating Violence, Domestic Violence, or Stalking will be resolved by the Office of Equity & Diversity in accordance with the University's **Discrimination Complaint Procedure**:  
<http://www.utm.edu/departments/equalopp/complaintprocedure.php>.

**Appendix D** contains a chart that summarizes which complaint procedures will be used to resolve reports of Sexual Misconduct and Relationship Violence.

### **B. STANDARDS APPLICABLE TO ALL PROCEDURES**

The standards in this Section VI.B apply to all procedures under this policy (i.e., Section VI.C and Section VI.D) for investigating and resolving reports of Sexual Misconduct or Relationship Violence, regardless of whether the Complainant or Respondent is a University student, University employee, or a 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 the Respondent is a student, employee, or a person who is neither a student nor an employee. In all of the procedures described below, the University is committed to providing a prompt, thorough, and equitable investigation and resolution. A University 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(s) of its choosing, provided that the investigator has specific training and

experience investigating allegations of Sexual Misconduct and Relationship Violence. Any investigator(s) chosen to conduct the investigation must be impartial and free of any conflict of interest. The investigator(s) may be a University employee, a team of University employees, an external investigator(s) engaged to assist the University in its fact-gathering, or a team of investigators that pairs an external investigator(s) 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 (if the Respondent is a student). A separate law enforcement investigation may be conducted by the Department of Public Safety.

### **3. Preponderance of the Evidence Standard**

All investigations and proceedings, including disciplinary hearings, relating to Sexual Misconduct and Relationship Violence must be 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, guidance, and/or support for the Complainant or the Respondent, not acting as an advocate or participant (except in a TUAPA Hearing, in which a Complainant and a Respondent are entitled to have an attorney advocate on their behalf).

### **5. Training**

University employees and students participating in University investigations and disciplinary hearings involving Sexual Misconduct or Relationship Violence 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 other parts of this Section VI and other sections of 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 University policies and procedures;
- 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 if a hearing involves a student Complainant or

Respondent; 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 a disciplinary hearing, unless prohibited by law;
- to challenge the seating of any administrative judge or hearing officer for good cause (determined at the discretion of the Chancellor/Agency Head); 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 University employee responsible for supervising the hearing board));
- 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 the University's 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 disciplinary hearing, if the Respondent is found responsible for the charges, or to the Office of Student Conduct or other administrator for consideration during the sanctioning phase of an administrative hearing, if the Respondent admits responsibility for the charges;
- to be provided with the same or equivalent rights as the Respondent to challenge or 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 results of the hearing;
- the University's procedures for the Complainant and the Respondent to appeal the results 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.

For the purposes of this Section VI.A.7, “results” means any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the University. The results include any sanctions imposed by the University and include the rationale for the results.

## **8. Time Frames**

The University will strive to meet the time frames described in this Section VI. 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 frames in this policy 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 time frames in this policy or those previously communicated to the Complainant and the Respondent for good cause, the University will notify the Complainant and the Respondent in writing of the reason for the delay and the expected adjustment in time frames.

## **9. Prompt, Fair, and Impartial Proceedings**

All activities related to a non-criminal resolution of a University disciplinary complaint, including, but not limited to, fact-finding investigations, formal or informal meetings, and hearings conducted by the University under this policy shall be prompt, fair, and impartial. Those activities shall be conducted in a manner that: (1) is consistent with the University’s policies and transparent to the Complainant and the Respondent; (2) includes timely notice of meetings at which the Complainant or the Respondent, or both, may be present; and (3) provides timely access to the Complainant, the Respondent, and appropriate officials to any information that will be used after the fact-finding investigation but during informal and formal disciplinary meetings and hearings. Decision makers concerning appeals shall not have a conflict of interest or bias for or against the Complainant or the Respondent.

## **C. PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS INVOLVING A RESPONDENT WHO IS A UNIVERSITY EMPLOYEE OR OTHER NON-STUDENT**

This Section VI.C describes procedures for investigating and resolving a report of Sexual Assault, Sexual Exploitation, Sexual Violence Crimes, Relationship Violence, or Retaliation 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 the Complainant’s rights, and give the Complainant an opportunity to ask questions; implement Interim Measures; and, subject to a Complainant’s request for confidentiality (**Section III.A.5**), 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 one or more persons to investigate the report, which most often will be an employee in the Office of Equity and Diversity.

## **2. Investigation and Resolution**

Unless the University determines that it will not investigate a report of Sexual Misconduct or Relationship Violence following a Complainant's request for confidentiality (**Section III.A.5**), the investigator 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 Vice Chancellor responsible for overseeing the Respondent. The findings and recommendations will be made available simultaneously to the Complainant and the Respondent. The Vice Chancellor will review the investigator's findings and recommendations, make a determination whether this policy was violated (and, if so, what disciplinary and/or other corrective actions should be imposed), and will provide simultaneous written notification of the determination to the Complainant and the Respondent.

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 Misconduct or Relationship Violence.

## **3. Appeals**

A Respondent who is an employee who is not satisfied with the administrator's determination may appeal in accordance with applicable University policies and procedures, including, without limitation, **University of Tennessee System Human Resources Policy 0525 (Disciplinary Action)**, **University of Tennessee System Human Resources Policy 0640 (Grievances)**, and the **University of Tennessee at Martin Faculty Handbook**. A Complainant shall be provided the same opportunity as a Respondent to submit information to the decision maker on appeal.

Within fifteen (15) calendar days after receipt of the administrator's 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 a Complainant's appeal shall make a decision on the appeal within ten (10) calendar days of the administrator's receipt of the appeal.

Decision makers concerning appeals must be impartial and free of any conflict of interest.

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

#### **4. Disciplinary or Other Corrective Actions**

Disciplinary actions with respect to an employee found to have committed Sexual Misconduct and/or Relationship Violence can include, without limitation: 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).

#### **D. PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS INVOLVING RESPONDENTS WHO ARE UNIVERSITY STUDENTS**

This Section VI.D describes procedures 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 or the Office of Student Conduct will initiate immediate and appropriate steps by the University to: have an appropriate University employee meet with or otherwise communicate with the Complainant; in cases of Sexual Assault and Relationship Violence, 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 the Complainant's rights under this policy (if that has not already been done by a Responsible Employee); evaluate whether Interim Measures need to be implemented and assist with the implementation of Interim Measures; and, subject to a Complainant's request for confidentiality (**Section III.A.5**), initiate the investigation and resolution procedures outlined in this section. The Title IX Coordinator or the Office of Student Conduct also can assist a Complainant in reporting the incident to law enforcement.

##### **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 (**Section III.A.5**), 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. Investigations usually will be conducted by the Office of Student Conduct.

The investigator(s) will provide simultaneous written notice of the outcome of the investigation to the Complainant and the Respondent. 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 Misconduct or Relationship Violence.

### **3. Resolution**

If the University determines after an investigation that a student has violated the University's Standard of Conduct for students, 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 **Section VI.B** and the University's student disciplinary regulations and procedures, a complete copy of which can be found in **Chapter 1720-05-01** (<http://www.tn.gov/sos/rules/1720/1720-05/1720-05-01.20120928.pdf>). 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 an administrative hearing before the Student Conduct Officer (Office of Student Conduct) (option only for contesting a disciplinary penalty), a hearing before the Disciplinary Hearing Board (following the procedures in **Chapter 1720-05-01-.08**), or a TUAPA Hearing.

The University strives to conduct disciplinary hearings concerning Sexual Assault or Relationship Violence within ten (10) calendar days of the notice to the Complainant and Respondent of the outcome of the University's investigation. The University strives to provide notice of the decision of the Student Disciplinary Board or an administrative judge or hearing officer within ten (10) calendar 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 a 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 accordance with **Section VI.D.4**.

### **4. Appeals**

**Appeal by the Complainant of an Investigator's Determination.** A Complainant may appeal an investigator's determination to the Vice Chancellor for Student Affairs by filing a written request for appeal within fifteen (15) calendar days after receipt of the investigative determination. The Vice Chancellor for Student Affairs may affirm the decision of the investigator, reverse the decision of the investigator 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 Affairs will issue a decision in writing, sent to the Complainant and the Respondent simultaneously, within ten (10) calendar days of receipt of the appeal. A Complainant may appeal the decision of the Vice Chancellor for Student Affairs to the Chancellor by filing a written request for appeal within seven (7) calendar days after notification of the decision of the Vice Chancellor for Student Affairs. The Chancellor will issue a final decision in writing, sent to the Complainant and the Respondent simultaneously, within ten (10) calendar days of receipt of the appeal.

**Appeal by the Complainant of a Proposed Disciplinary Penalty.** In a case in which the Respondent has indicated a willingness to accept 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 appeal to the Vice Chancellor for Student Affairs by filing a written request for appeal within seven

(7) calendar days after notification of the proposed disciplinary penalty by the University. The Vice Chancellor for Student Affairs may affirm the disciplinary penalty proposed by the Office of Student Conduct, modify or overturn the disciplinary penalty proposed by the Office of Student Conduct, or return the case to the Student Conduct Officer with instructions for reconsideration of the case. The Vice Chancellor for Student Affairs will issue a decision in writing, sent to the Complainant and the Respondent simultaneously, within ten (10) calendar days of receipt of the request for review. A Complainant may appeal the decision of the Vice Chancellor for Student Affairs to the Chancellor by filing a written request for appeal within seven (7) calendar days after notification of the decision of the Vice Chancellor for Student Affairs. The Chancellor will issue a final decision in writing, sent to the Complainant and the Respondent simultaneously, within ten (10) calendar days of receipt of the appeal.

**Appeal by either the Complainant or the Respondent of a Decision of the Disciplinary Hearing Board.** The Complainant or the Respondent may appeal a decision of the Student Conduct Officer (Office of Student Conduct) or a decision of the Disciplinary Hearing Board to the Vice Chancellor for Student Affairs by filing a written request for appeal with the Vice Chancellor for Student Affairs within seven (7) calendar days after written notification of the decision of the Student Conduct Officer or the Disciplinary Hearing Board. The Vice Chancellor for Student Affairs may affirm the decision of the Student Conduct Officer or the Disciplinary Hearing Board, modify or overturn the decision of the Student Conduct Officer or the Disciplinary Hearing Board, or return the case to the Student Conduct Officer or the Disciplinary Hearing Board with instructions for reconsideration of the case. The Vice Chancellor for Student Affairs will issue a decision in writing, sent to the Complainant and the Respondent simultaneously, within ten (10) calendar days of receipt of the request for review. A Complainant may appeal the decision of the Vice Chancellor for Student Affairs to the Chancellor by filing a written request for appeal within seven (7) calendar days after notification of the decision of the Vice Chancellor for Student Affairs. The Chancellor will issue a final decision in writing, sent to the Complainant and the Respondent simultaneously, within ten (10) calendar days of receipt of the appeal.

**Appeal by University, 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 ten (10) 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.

## **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 (for a student Complainant); exploring changes in living,

transportation, dining, and working arrangements for the Complainant and the Respondent; providing an escort to ensure that the Complainant can move safely between classes and activities (for a student Complainant); exploring changes in class and extracurricular schedules, including adjustments so that the Complainant and the Respondent do not share the same classes (for a student Complainant); assisting the Complainant in communicating with faculty (for a student Complainant); providing academic support for the Complainant, including tutoring (for a student Complainant); and exploring options for re-taking a course, dropping a course, or withdrawing for a semester without financial or academic penalty (for a student Complainant). The University will take prompt and effective steps reasonably calculated to end the misconduct, prevent the misconduct from recurring, and address its effects.

## **VII. REQUIREMENTS AND GUIDELINES FOR RESPONSIBLE EMPLOYEES**

### **A. REQUIRED ACTIONS**

A Responsible Employee who receives information concerning an incident of Sexual Misconduct or Relationship Violence **shall**:<sup>7</sup>

- 1.** assist the Complainant with obtaining medical assistance (if needed or requested) or accessing other on- or off-campus resources (if requested);
- 2.** encourage the Complainant to report the incident to law enforcement and assist the Complainant in contacting law enforcement if requested by the Complainant; and
- 3.** report the incident to the University:
  - 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); or
  - if **University Safety Policy 0575** does not apply, **report the incident to the Title IX Coordinator or the Office of Student Conduct promptly after receiving notice of the incident (no later than 48 hours after receiving the report)**<sup>8</sup>.<sup>9</sup> The Responsible Employee shall communicate: (1) details known about the alleged incident 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; and (2) if applicable, communicate to the Title IX Coordinator or the Office of Student Conduct that a Complainant has requested that the University maintain confidentiality.

The Office of Student Conduct must inform the Title IX Coordinator of all reports of Sexual Misconduct and Relationship Violence. In cases involving Sexual Assault or Relationship Violence, the Title IX Coordinator must ensure that a copy of this policy or another written publication approved by

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<sup>7</sup> In addition to the responsibilities of a Responsible Employee described in this Section VII, the Title IX Coordinator, the Office of Student Conduct, and the Department of Public Safety also are responsible for carrying out responsibilities described in other sections of this policy. The Title IX Coordinator, the Office of Student Conduct, and the Department of Public Safety may develop internal procedures for the purposes of implementing this policy, as long as the procedures do not conflict with this policy.

<sup>8</sup> 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.

<sup>9</sup> A Responsible Employee may also inform his/her supervisor of the incident. With the prior approval of the Title IX Coordinator, a University unit may adopt a policy that requires a Responsible Employee in the unit to report an incident of Sexual Misconduct or Relationship Violence to his/her 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.

the Title IX Coordinator has been provided to the Complainant to inform the Complainant of their rights under this policy.

Complainants who are Responsible Employees are not required to report or take any other action identified in this section with respect to Sexual Misconduct or Relationship Violence to which they have been subjected.

## **B. RECOMMENDED ACTIONS**

Before a person reveals information to the Responsible Employee that the person may wish to keep confidential, use his/her best efforts to ensure that the person understands:

1. the Responsible Employee's obligation to report the names of a Respondent and a Complainant involved in the alleged Sexual Misconduct or Relationship Violence, as well as other relevant facts regarding the alleged incident, to the University;
2. the person's ability to share the information confidentially with certain on- and off-campus resources (**Section V.A**);
3. a Complainant's option under this policy to request that the University maintain confidentiality (**Section III.A.5**), if the person indicates that he/she wants to disclose information to the Responsible Employee but wishes to maintain confidentiality;
4. if the person indicates hesitancy to report an incident to the University, inform the person that the University prohibits Retaliation and will not only take steps to prevent Retaliation but also take strong responsive action if Retaliation occurs; and

A Responsible Employee who receives information concerning an incident of Sexual Misconduct or Relationship Violence **should**:

1. provide emotional support to the Complainant;
2. encourage the Complainant to preserve any physical evidence (e.g., if possible, the Complainant should not shower, bathe, douche, change clothes, brush his/her teeth, or comb his/her hair);
3. inform the Complainant that the Responsible Employee will be reporting the incident to the Title IX Coordinator or the Office of Student Conduct, one of whom will be contacting the Complainant to provide further guidance and assistance; and
4. provide a Complainant with a copy of this policy or another written publication approved by the Title IX Coordinator, if available, to inform the Complainant of the Complainant's rights under this policy.

## **C. PROHIBITED ACTIONS**

A Responsible Employee who receives notice of an incident of Sexual Misconduct or Relationship Violence **shall not**:

1. guarantee to a Complainant that the Responsible Employee 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 the Department of Public Safety) 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 the Department of Public Safety), other than taking an action required or recommended in **Section VII.A-B**.

#### **D. DEPARTMENT OF PUBLIC SAFETY**

The Department of Public Safety 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 Department of Public Safety's law enforcement investigation.

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, the Department of Public Safety shall not cause the University's non-law enforcement investigation to be delayed pending the outcome of the Department of Public Safety's law enforcement investigation, except for the collection of evidence.

## **VIII. PREVENTION AND AWARENESS PROGRAMS**

The University implements comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to prevent 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 them 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.

## 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.
- 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 at: <http://www.utm.edu/departments/publicsafety/csa.php>.
- C. CHAPTER 1720-05-01:** The Chapter 1720-05-01 of the Rules of the University of Tennessee at Martin, a copy of which can be found at: <http://www.tn.gov/sos/rules/1720/1720-05/1720-05-01.20120928.pdf>.
- D. 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 at: <http://www.utm.edu/departments/publicsafety/>.
- E. CLERY GEOGRAPHY:** Clery Geography means property for which the University is required to report crime statistics pursuant to the Clery Act.
- F. 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 person's health, safety, or property or that of a third person; threat of the loss of a job benefit; or kidnapping of the person or a third person.

- G. COMPLAINANT:** A person who asserts that he/she has been subjected to Sexual Misconduct or Relationship Violence. This term does not imply pre-judgment concerning whether the person was subjected to Sexual Misconduct and/or Relationship Violence.

**H. 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 communicated for a particular act:

1. Whether an individual has communicated 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 communicated by the other person on a previous occasion;
  - Consent communicated 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 communicated 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 communicated, or if previously communicated, has been withdrawn. The absence of a verbal "No" does not necessarily mean that Consent has been communicated.
  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 his/her 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 E**.

**I. FERPA:** The Family Educational Rights and Privacy Act of 1974.

**J. GOOD FAITH:** Having a belief in the truth of information that a reasonable person in the same position could have, based on the information known to the person communicating the information at the time the information was communicated by that person. A report or other information communicated during an investigation, hearing, or other proceeding under this policy is not made in good faith if made with knowing or reckless disregard for information that would negate the report or information.

**K. 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: the person lacks the physical or mental capacity to understand the nature or consequences of their words and/or conduct; and/or the person is unable to physically or verbally communicate Consent. Incapacitation can be voluntary or involuntary. Incapacitation is determined based on the totality of the circumstances.

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.

- L. 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, potential witnesses).
- M. NON-CONSENSUAL SEXUAL CONTACT:** Engaging in Sexual Contact with another person without the Consent of that person.
- N. NON-CONSENSUAL SEXUAL INTERCOURSE:** Engaging in Sexual Intercourse with another person without the Consent of that person.
- O. 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 allegation has not been proven by a preponderance of the evidence. *(The source of this definition is Tennessee Pattern Jury Instruction 2.40.)*
- P. 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.)*
- Q. 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.
- R. REGISTERED STUDENT ORGANIZATION:** A student organization registered with the University in accordance with University rules.

- S. 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.
- T. 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 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 in Tennessee Code Annotated § 36-3-601 *et seq.*

U. **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.

V. **RESPONDENT:** A person 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.

**W. RESPONSIBLE EMPLOYEE:** A University employee identified in **Section III.A** (non-law enforcement), **Section III.B.1** (Department of Public Safety), and/or **Appendix B** as an option for reporting Sexual Misconduct or Relationship Violence to the University. Graduate assistants are not Responsible Employees unless they are a graduate teaching assistant and they receive a report in their teaching capacity. Notwithstanding anything in this policy to the contrary, 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).

**X. 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 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 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 rights or responsibilities under any provision of the Clery Act.

**Y. 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 at: <http://www.utm.edu/departments/publicsafety/index.php>.

**Z. 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. 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.

**AA. SEXUAL ASSAULT:** Engaging in Non-Consensual Sexual Contact or Non-Consensual Sexual Intercourse.

**BB. SEXUAL CONTACT:** The intentional touching of another person's intimate parts (including mouth, neck, genitalia, groin, inner thigh, anus, breast or buttocks, or clothing covering any of those areas) in a sexual manner with any part of one's body or with any object. Sexual Contact also includes causing another person to touch his/her own or another person's intimate parts in the manner described in the previous sentence.

**CC. 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, without limitation: 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.

**DD. 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.

**EE. SEXUAL HARASSMENT:**

- With respect to an employee's conduct directed toward another employee, Sexual Harassment means: "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment." *(The source of this definition is: University of Tennessee System Human Resources Policy 0280 ("Sexual Harassment") ([http://policy.tennessee.edu/hr\\_policy/hr0280/](http://policy.tennessee.edu/hr_policy/hr0280/)))*
- With respect to an employee's conduct directed toward a student or another non-employee, Sexual Harassment means: "Unwelcome sexual advances, requests for

sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's participation in an educational program; (2) submission to or rejection of such conduct by an individual is used as the basis for evaluation or advancement in an educational program; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's educational performance or creates an intimidating, hostile or offensive educational environment." *(This definition is based on: **University of Tennessee System Human Resources Policy 0280** ("Sexual Harassment") ([http://policy.tennessee.edu/hr\\_policy/hr0280/](http://policy.tennessee.edu/hr_policy/hr0280/)))*

- With respect to the conduct of a student or other non-employee, Sexual Harassment is defined as unwelcome conduct of a sexual nature that is so severe or pervasive, and objectively offensive, that it substantially interferes with the ability of a person to work, learn, live, or participate in or benefit from the services, activities, or privileges provided by the University. In no event shall the term "Sexual Harassment" be construed to prohibit speech protected by the First Amendment to the United States Constitution (e.g., mere insulting or offensive speech). Sexual Harassment may include, for example, unwelcome sexual advances, requests for sexual favors, and acts of Sexual Assault. *(This definition is based on **Standard of Conduct Number 6 for students, Chapter 1720-05-01-.04** (<http://www.tn.gov/sos/rules/1720/1720-05/1720-05-01.20120928.pdf>).*

Sexual Harassment is a form of Sex Discrimination. 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.

**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.

**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 in 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 Appendix A.
- II. **TITLE IX:** Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*
- JJ. **TITLE IX COORDINATOR:** The person identified as the Title IX Coordinator in **Section I.D.** or a designee of the Title IX Coordinator employed in the Office of Equity & Diversity.
- KK. **TUAPA HEARING:** A hearing conducted by a University administrative judge or hearing officer in accordance with the University’s procedures for conducting a contested case hearing pursuant to the Tennessee Uniform Administrative Procedures Act, Tennessee Code Annotated, § 4-5-301 *et seq.*
- LL. **UNIVERSITY:** The University of Tennessee at Martin.
- MM. **DEPARTMENT OF PUBLIC SAFETY:** The campus police department at the University of Tennessee at Martin.

**APPENDIX B: SUMMARY OF OPTIONS FOR A  
COMPLAINANT TO REPORT SEXUAL  
MISCONDUCT OR RELATIONSHIP  
VIOLENCE TO THE UNIVERSITY**

## REPORTING OPTION FOR THE COMPLAINANT?

		Title IX Coordinator or the Office of Equity & Diversity	Department of Public Safety	Office of Student Conduct or Division of Student Affairs	University Employment Supervisor	Hall Director, Assistant Hall Director, or Resident Assistant	Faculty Member	Director of Human Resources	Athletic Director; Associate Athletic Directors; Assistant Athletic Directors; Coaches, Associate Coaches, and Assistant Coaches; Compliance staff; Training Staff; Strength and Conditioning staff;	Chancellor, Vice Chancellors, Associate Vice Chancellors, or Assistant Vice Chancellors	Deans, Associate Deans, Assistant Deans, Executive Directors, Directors, Associate Directors, Assistant Directors, Department Heads, or Coordinators	Faculty/Staff Advisor to a Registered Student Organization	Academic Advisor	Graduate Teaching Assistant	Clery Act "Campus Security Authorities" (CSA)
COMPLAINANT	Complainant is a student	Yes	Yes	Yes	No, unless the report is to: (1) the supervisor of the Complainant (if the Complainant is a student-employee); or (2) the supervisor of the Respondent (if the Respondent is an employee, including a student employee)	Yes	Yes	No, unless the Respondent is an employee, including a student employee	No, unless: (1) the Complainant is a University student-athlete; (2) the Respondent is a University student-athlete; or (3) the Respondent is an employee in the Dept. of Intercollegiate Athletics, including a student employee	Yes	Yes	Yes	Yes	No, unless the Complainant is a student of the graduate teaching assistant	Yes
	Complainant is an employee	Yes	Yes	No, unless the Respondent is a student	Yes, but only if the report is to the supervisor of either the Complainant or the Respondent	No, unless the report is to the supervisor of either the Complainant or the Respondent	No, unless the report is to a faculty member who is the supervisor of either the Complainant or the Respondent	Yes	No, unless the report is to the supervisor of either the Complainant or the Respondent	No, unless the report is to the supervisor of either the Complainant or the Respondent	No, unless the report is to the supervisor of either the Complainant or the Respondent	No	No, unless the report is to an academic advisor who is the supervisor of the Complainant or the Respondent	No	No, unless the report is to a CSA who is the supervisor of the Complainant or the Respondent
	Complainant is neither a student nor an employee	Yes	Yes	No	No	No	No	No	No	No	No	No	No	No	No

## APPENDIX C: CONFIDENTIALITY EXCEPTIONS UNDER TENNESSEE LAW

- 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.
- 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.
- Subpoenas or court orders - physicians.** A physician can be required to testify concerning confidential information by a subpoena or court order.
- 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.

**APPENDIX D: COMPLAINT PROCEDURES**

NATURE OF THE REPORT	STATUS OF THE RESPONDENT	UNIVERSITY COMPLAINT PROCEDURE
Non-Consensual Sexual Contact (Sexual Assault), Non-Consensual Sexual Intercourse (Sexual Assault), or a Sexual Violence Crime	Student	Section VI.B and Section VI.D of this policy
Dating Violence, Domestic Violence, Stalking, or a Relationship Violence Crime	Student	Section VI.B and Section VI.D of this policy
Sex Discrimination (e.g., Sexual Harassment) that does not involve Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, a Sexual Violence Crime, a Relationship Violence Crime, Dating Violence, Domestic Violence, or Stalking	Student	Section VI.B and Section VI.D of this policy
Non-Consensual Sexual Contact (Sexual Assault), Non-Consensual Sexual Intercourse (Sexual Assault), or a Sexual Violence Crime	Employee or Other Non-Student	Section VI.B and Section VI.C of this policy
Dating Violence, Domestic Violence, Stalking, or a Relationship Violence Crime	Employee or Other Non-Student	Section VI.B and Section VI.C of this policy
Sex Discrimination (e.g., Sexual Harassment) that does not involve Non-Consensual Sexual Contact, Non-Consensual Sexual Intercourse, a Sexual Violence Crime, a Relationship Violence Crime, Dating Violence, Domestic Violence, or Stalking	Employee or Other Non-Student	Discrimination Complaint Procedure <a href="http://www.utm.edu/departments/equalopp/complaintprocedure.php">http://www.utm.edu/departments/equalopp/complaintprocedure.php</a>

## **APPENDIX E: 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.