

# POLICY ON SEXUAL MISCONDUCT, RELATIONSHIP VIOLENCE, STALKING, AND RETALIATION

Effective August 16, 2016  
Updated April 13, 2018

## TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION</b> .....	<b>1</b>
<b>II.</b>	<b>PROHIBITED CONDUCT</b> .....	<b>4</b>
<b>III.</b>	<b>REPORTING PROHIBITED CONDUCT</b> .....	<b>9</b>
<b>IV.</b>	<b>CARE AND SUPPORT</b> .....	<b>18</b>
<b>V.</b>	<b>UNIVERSITY PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS OF PROHIBITED CONDUCT</b> .....	<b>28</b>
<b>VI.</b>	<b>REQUIREMENTS AND GUIDELINES FOR MANDATORY REPORTERS</b> .....	<b>34</b>
<b>VII.</b>	<b>OTHER UNIVERSITY POLICIES/PROCEDURES; DUE PROCESS; ACADEMIC FREEDOM AND FIRST AMENDMENT RIGHTS</b> .....	<b>36</b>
<b>VIII.</b>	<b>PREVENTION AND AWARENESS PROGRAMS</b> .....	<b>38</b>
<b>APPENDIX A:</b>	<b>ADDITIONAL POLICY DEFINITIONS</b> .....	<b>39</b>
<b>APPENDIX B:</b>	<b>MANDATORY REPORTERS WHEN THE COMPLAINANT IS A UNIVERSITY STUDENT</b> .....	<b>43</b>
<b>APPENDIX C:</b>	<b>MANDATORY REPORTERS WHEN THE COMPLAINANT IS A UNIVERSITY EMPLOYEE</b> .....	<b>44</b>
<b>APPENDIX D:</b>	<b>CONFIDENTIALITY EXCEPTIONS UNDER TENNESSEE LAW</b> .....	<b>45</b>
<b>APPENDIX E:</b>	<b>COMPLAINT PROCEDURES</b> .....	<b>47</b>
<b>APPENDIX F:</b>	<b>CONSENT UNDER TENNESSEE CRIMINAL LAW</b> .....	<b>48</b>

## I. INTRODUCTION

### A. PURPOSE AND OVERVIEW

The University of Tennessee Health Science Center's campuses in Memphis, Knoxville, Chattanooga and Nashville are committed to creating and maintaining a learning, living, and working environment free from Sexual Misconduct, Relationship Violence, Stalking, and Retaliation. Those prohibited types of conduct will not be tolerated and will be grounds for disciplinary action up to, and including, permanent dismissal from the University and termination of employment.

Sexual Misconduct, Relationship Violence, Stalking, and Retaliation are collectively referred to in this policy as Prohibited Conduct. This policy: (1) describes Prohibited Conduct; (2) explains multiple options for reporting Prohibited Conduct; (3) sets forth the procedures the University will follow for promptly, thoroughly, and equitably investigating and resolving reports of Prohibited Conduct in order to eliminate Prohibited Conduct, prevent their recurrence, and address their effects on Complainants or the University community; (4) identifies resources for students and employees, including Complainants; (5) outlines the University's prevention and awareness programs relating to Prohibited Conduct; and (6) implements the requirements of Title IX, Title VII, and the Clery Act with respect to Prohibited Conduct.

### B. SCOPE AND APPLICABILITY; DEFINITIONS

#### 1. Individuals Covered by This Policy

This policy applies to the conduct of and protects:

- students of the University of Tennessee Health Science Center campuses (Memphis, Chattanooga, Knoxville and Nashville);
- employees of the University of Tennessee of Tennessee Health Science Center (Memphis, Chattanooga, Knoxville and Nashville); and
- University volunteers, University 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. Prohibited Conduct 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.

#### 2. Jurisdiction

The University's jurisdiction concerning by students committed away from University-controlled property is outlined in the *CenterScope* <http://catalog.uthsc.edu/index.php?catoid=14>. With respect to employees and other non-students, this policy applies to conduct which: (i) occurs on University-controlled property; (ii) occurs in the context of a University employment or education program or activity; and/or (iii) occurs outside the context of a University employment or education program or activity, but has continuing adverse effects on University-controlled property or in any University employment or education program or activity.

#### 3. Definitions

For the purposes of this policy, the "Complainant" is the person who may have been subjected to Prohibited Conduct regardless of whether that person makes a report or seeks action under this policy. The "Respondent" is the person or registered student organization who has been accused of committing Prohibited Conduct. These terms do not imply pre-judgment concerning whether Prohibited Conduct occurred.

Other key terms used in this policy (such as Sex Discrimination, Sexual Misconduct, and Relationship Violence) are defined in either **Section II** or **Appendix A** and are capitalized throughout this policy.

### C. TITLE IX COORDINATOR/TITLE IX OFFICIALS

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's **Non-Discrimination Statement** (<http://uthsc.edu/oed/aa.php>) 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.

Reports or complaints of Sex Discrimination, Prohibited Conduct, or questions about the University’s policies, procedures, resources, or programs concerning any of those issues, may be directed to the University’s Title IX Coordinator or one of the University’s Deputy Title IX Coordinators. The responsibilities of the Title IX Coordinator and the Deputy Title IX Coordinators are summarized below and are described in more detail in other sections of this policy. The Title IX Coordinator and the Deputy Title IX Coordinators generally are available Monday – Friday on University business days from 8:00 a.m. to 5:00 p.m.

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

**The University’s Title IX Coordinator is:**

Michael Alston, EdD  
 Title IX Coordinator  
 Assistant Vice Chancellor for Equity, Diversity and Student Rights  
 Office of Equity and Diversity  
 910 Madison, Suite 826  
 Memphis, TN 38163  
**901-448-2112 (main) or 901-448-2133 (direct)**  
**901-448-1120 (fax)**  
[Malston1@uthsc.edu](mailto:Malston1@uthsc.edu)  
<http://uthsc.edu/oed/>

In fulfilling those responsibilities, the Title IX Coordinator is assisted by four trained Deputy Title IX Coordinators who also are accessible to members of the University community for consultation and assistance.

Area	Name and Title	Contact Information
Deputy Title IX Coordinator for Faculty	Cindy Russell, PhD Associate Vice Chancellor Academic, Faculty, and Student Affairs	400 O.W. Hyman Building Memphis, TN 38163 901-448-6158 <a href="mailto:crussell@uthsc.edu">crussell@uthsc.edu</a>
Deputy Title IX Coordinator for Staff	Chandra Alston, EdD Associate Vice Chancellor Human Resources	910 Madison, 7 <sup>th</sup> floor Memphis, TN 38163 901-448-1955 <a href="mailto:calston@uthsc.edu">calston@uthsc.edu</a>
Deputy Title IX Coordinator for Students	Dustin Fulton, MS Associate Director of Student Affairs for Conduct and Community Standards Student Affairs	910 Madison, Suite 312 Memphis, TN 38163 901-448-2110 <a href="mailto:dfulton2@uthsc.edu">dfulton2@uthsc.edu</a>
Deputy Title IX Coordinator for International Programs	Connie Childs, MA Director International Programs	910 Madison, Rm 105 Memphis, TN 38163 901-448-8484 <a href="mailto:cburk@uthsc.edu">cburk@uthsc.edu</a>
Deputy Title IX Coordinator for GME Administration	Aaron Haynes, MSBA Director GME Administration	920 Madison, Suite 447 Memphis, TN 38163 901-448-5364 <a href="mailto:ahaynes@uthsc.edu">ahaynes@uthsc.edu</a>
Deputy Title IX Coordinator for Clery Compliance	Carolyn Smith Accreditation Specialist Campus Police	740 Court Ave. Rm 111 Memphis, TN 38163 901-448-6450 <a href="mailto:cnsmith@uthsc.edu">cnsmith@uthsc.edu</a>

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**

**D. QUESTIONS ABOUT THIS POLICY; ADDITIONAL INFORMATION ABOUT PROHIBITED CONDUCT**

Questions about this policy should be directed to the Title IX Coordinator or a Deputy Title IX Coordinator. For additional information about the University's procedures and programs relating to Prohibited Conduct, please visit [http://uthsc.edu/oed/sexual\\_assault2014.php](http://uthsc.edu/oed/sexual_assault2014.php).

## II. PROHIBITED CONDUCT

This policy prohibits the following conduct defined below:

- Sexual Misconduct
  - Sexual Assault
    - Nonconsensual Sexual Penetration
    - Nonconsensual Sexual Contact
  - Sexual Harassment
  - Sexual Exploitation
- Relationship Violence
  - Dating Violence
  - Domestic Violence
  - Relationship Violence Crime
- Stalking
- Retaliation

### A. DEFINITIONS OF PROHIBITED CONDUCT

1. **Sexual Misconduct:** A term that encompasses Sexual Harassment, Sexual Assault, Sexual Exploitation, and all other words and/or conduct that would constitute a Sex Offense Crime.
  - (i) **Sexual Assault:** Engaging in Sexual Contact or Sexual Intercourse with another person without the Consent of that person.
    - (1) **Sexual Contact:** The intentional touching of another person (including another person's clothing) in a sexual manner with any part of one's body or with any object. Sexual Contact also includes intentionally causing another person to touch themselves (including their clothing) in a sexual manner. Whether a touching was done in a sexual manner is determined from the perspective of a sober, objectively reasonable person in the same situation and with the same sex, gender identity, and sexual orientation as the person who was touched.
    - (2) **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.
  - (ii) **Sexual Harassment:** 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 without limitation: the context in which the conduct and/or words occurred; and the frequency, nature, and severity of the conduct and/or words. Depending on the severity of the conduct, a single incident may not be considered sexual [or other discriminatory] harassment.
    - (1) With respect to an employee's conduct, Sexual Harassment means prohibited by **University of Tennessee System Human Resources Policy 0280 ("Sexual Harassment")** ([http://policy.tennessee.edu/hr\\_policy/hr0280/](http://policy.tennessee.edu/hr_policy/hr0280/))
    - (2) 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, a copy of which can be found in CenterScope.)*
  - (iii) **Sexual Exploitation:** An act or attempted act by a person for the purpose of sexual arousal or gratification, financial gain, or other personal benefit through the abuse or exploitation of another

person's sexuality. Examples of Sexual Exploitation include, without limitation: observation of a person who is undressed or is engaging in Sexual Contact or Sexual Intercourse, without the Consent of all persons being observed (in a place where a person has a reasonable expectation of privacy); creation or distribution of images, photography, audiotaping, or videotaping of Sexual Contact, Sexual Intercourse, or a person's intimate parts (i.e., genitalia, groin, breasts, buttocks) without the Consent of all persons being recorded or photographed; prostituting another person; allowing others to observe, either in person or electronically, Sexual Contact or Sexual Intercourse without the Consent of all persons involved in the Sexual Contact or Sexual Intercourse (in a place where a person has a reasonable expectation of privacy); and knowingly exposing another person to a sexually transmitted infection without informing the other person that one has a sexually transmitted infection.

- (iv) **Sex Offense Crime:** This term is defined in **Appendix A**.
2. **Relationship Violence:** A term that encompasses Dating Violence, Domestic Violence, 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.
- (i) **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 the reporting party's statement and with 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.
- (ii) **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.
- (iii) **Relationship Violence Crime:** This term is defined in **Appendix A**.
3. **Stalking:** Stalking includes both the crime of stalking in Tennessee and the crime of stalking defined by the Clery Act:
- (i) **Tennessee Crime:** The crime of stalking in Tennessee is defined in Tennessee Code Annotated § 39-17-315.
- (ii) **Clery Act Crime:** Engaging in a Course of Conduct directed at a specific person that would cause a reasonable person to: (1) fear for the person's safety or the safety of others; or (2) suffer Substantial Emotional Distress. For the purposes of this definition:
- "Course of Conduct" means two or more acts, including, but not limited to, acts in which the stalker 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;
  - For the purpose of this definition only, "reasonable person" means a reasonable person under similar circumstances and with similar identities to the victim; and
  - "Substantial Emotional Distress" means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Engaging in either conduct that falls under the definition of the Tennessee Crime or Clery Act Crime violates this policy. Stalking may be a form of Sex Discrimination prohibited by federal and state antidiscrimination laws, such as Title VII and Title IX.

4. **Retaliation:** An act or attempted act taken because of a person’s participation in a protected activity that would discourage a Reasonable Person from engaging in protected activity. Protected activity includes a person’s Good Faith: (1) opposition to Prohibited Conduct; (2) report of Prohibited Conduct to the University or a state or federal agency; (3) participation (or reasonable expectation of participation) in any manner in an investigation, proceeding, hearing, or Interim Measure under this policy; or (4) exercise of rights or responsibilities under any provision of the Clery Act. 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 Prohibited Conduct is reported under this policy (**Section III**). 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 penalty or Interim Measures imposed in response to the underlying allegation of misconduct. The University generally will investigate and resolve reports of Retaliation in the same manner in which it handles reports of Prohibited Conduct under this policy (**Section V**).

**B. RELATED DEFINITIONS: CONSENT; COERCION; INCAPACITATION; GOOD FAITH; REASONABLE PERSON**

1. **Consent (or Consensual):** Consent is an affirmative and voluntary agreement by a person to engage in a specific sexual act.<sup>1</sup>

**Consent Must Be Obtained**

Consent must be obtained, and the responsibility for obtaining Consent rests with the individual who voluntarily and physically initiates a specific sexual act, even if the other person initiated the sexual encounter. 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.

**Consent Must Be Affirmative**

Consent must be affirmative, which means that Consent is communicated only through words and/or non-verbal actions that convey a clear agreement to engage in a specific sexual act. Whether person has communicated an agreement to engage in a specific sexual act generally is evaluated from the perspective of what a Reasonable Person who perceived the individual’s words and/or non-verbal actions would have understood; however, in the context of a long-term relationship between persons that has involved sexual activity and a pattern of communicating Consent, whether Consent has been communicated may be evaluated based on a subjective standard (i.e., what did the specific person who initiated the specific sexual act conclude?). A verbal “no” (or words equivalent to “no”) or the nonverbal communication of “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. Because interpreting non-verbal actions may lead to misunderstanding and a violation of this policy, persons subject to this policy are strongly encouraged to err on the side of caution and not rely solely on the non-verbal actions of another person in concluding that the other person has communicated Consent. The University urges persons subject to this policy to communicate with one another before engaging in a sexual act to ensure that they both wish to engage in the same sexual act.

---

<sup>1</sup>The definition of Consent for the purposes of criminal law in the State of Tennessee is explained in **Appendix E**. 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.

Consent cannot be obtained by or inferred from:

- Silence that is not accompanied by non-verbal actions conveying 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.

### **Consent Must be *Voluntary***

Consent is not voluntary if it is obtained by Coercion. Nor is Consent voluntary if it is obtained from a person who is incapacitated if one knows (or a Reasonable Person would know) that the other person is 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.)

### **Consent Must be *Continual***

Consent must be continual, i.e., consent must exist from the beginning to the end of each sexual encounter and for each specific sexual act that occurs during a sexual encounter. A person has a right to change his/her mind; thus, Consent to engage in a specific sexual act may be withdrawn by a person at any time. A withdrawal of Consent is communicated through clear words and/or clear non-verbal actions that indicate that a person no longer agrees to engage in a specific sexual act. Once a person's withdrawal of Consent has been communicated, the other person must cease the specific sexual act and must obtain Consent before reinitiating the specific sexual act or any other sexual act. Consent is automatically withdrawn when a person becomes **incapacitated**. 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. The University urges persons subject to this policy to communicate with one another throughout a sexual encounter to ensure that any progression of sexual activity is done with Consent.

**Coercion:** Words or conduct that, viewed from the perspective of a Reasonable Person, substantially impair(s) 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 or impairment of a job benefit; threat of the loss or impairment of an academic benefit; kidnapping of the person or a third person; or disclosure of sensitive personal information (e.g., disclosure of a person's sexual orientation, gender identity, or gender expression).

**Incapacitated (or Incapacitation):** A temporary or permanent physical or mental 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; intermittent consciousness; 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).

Alcohol and drugs are common causes of Incapacitation. When alcohol or drugs are involved, Incapacitation is

a state beyond mere drunkenness or intoxication. The impact of alcohol and drugs varies from person to person; however, warning signs 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.

A person who is under the age of eighteen (18) (i.e., a minor) is incapable of giving Consent; however, a person who is at least the age of thirteen (13) and less than the age of eighteen (18) is capable of giving Consent to sexual acts with another person who is less than four (4) years older than them.

4. **Good Faith:** Having a belief in the truth of information that a reasonable person in the same situation 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.
5. **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.

### C. **DISCIPLINE FOR PROHIBITED CONDUCT**

Prohibited Conduct committed by students violates the University's Standards of Conduct for students, which can be found in **CenterScope** (<http://catalog.uthsc.edu/index.php?catoid=14>). The disciplinary penalties that may be imposed on students who violate the Standards of Conduct can be found in **CenterScope**.

Prohibited Conduct committed by employees violates standards of conduct that have been established in existing University policies, including without limitation, the University's **Nondiscrimination Statement** (<http://www.uthsc.edu/oed/aa.php>), **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>2</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 Health Science Center Faculty Handbook**.

---

<sup>2</sup> For example, **University of Tennessee Human Resources Policy 0280 (Sexual Harassment)** also prohibits an employee from engaging in the Sexual Harassment of another employee. Sexual Assault is an extreme type of Sexual Harassment

### III. REPORTING PROHIBITED CONDUCT

The University encourages Complainants of Prohibited Conduct, and others who are aware of Prohibited Conduct, to promptly report the incident to the University and/or to law enforcement.<sup>3</sup>

This policy describes two options for informing someone about Prohibited Conduct:

1. Report Prohibited Conduct to a University “Mandatory Reporter” (described in [Section III.A](#));
2. Report Prohibited Conduct to UTHSC-PD or local law enforcement (described in [Section III.B](#)); and/or

Those options are not mutually exclusive; in other words, a Complainant may pursue one or both of those options. This policy describes both options in detail so that members of the University community can make informed choices about whether and how to report Prohibited Conduct

#### A. REPORTING PROHIBITED CONDUCT TO A UNIVERSITY MANDATORY REPORTER

**Complainants<sup>4</sup> are not required to report Prohibited Conduct to the University if they do not want the University to respond to the incident or assist with Interim Measures.** 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 Prohibited Conduct to the University, there is no requirement that the Complainant pursue criminal prosecution or University discipline against a Respondent.** The University recognizes that a Complainant’s decision on how to proceed after a report is filed is a process that may unfold over time; thus, at the time a report is made to the University, a Complainant does not have to decide whether to request any particular course of action.

**This policy requires University employees, called Mandatory Reporters, to report information they receive concerning Prohibited Conduct to the University in accordance with Section VI.** University employees are Mandatory Reporters.<sup>5</sup> All University employees, except as noted below, are required to disclose Prohibited Conduct to the Title IX Coordinator or Deputies. Specific University employees, called Confidential Employees ([Section IV.A.1](#)), are legally or ethically prohibited from disclosing Prohibited Conduct to the University.

**The only way for a Complainant (or any other person) to provide notice to the University of an incident of Prohibited Conduct is to report the incident to a Mandatory Reporter.** A Complainant may opt to report an incident of Prohibited Conduct to a Mandatory Reporter but decline to disclose the identity of the Respondent; in that case, the University will offer Complainant Interim Measures, but the University’s ability to investigate the incident and pursue disciplinary action against the Respondent or take other remedial action will be limited. If an incident is not reported to a Mandatory Reporter, then the University will not be able to take steps to: identify resources for the Complainant, such as Interim Measures; or promptly, thoroughly, and equitably investigate the incident and/or resolve the situation in order to eliminate the Prohibited Conduct, prevent its recurrence, and address its effects on the Complainant or the University community. Because Prohibited Conduct often involves behaviors or interactions that are not witnessed by third parties, reports of Prohibited Conduct cannot always be corroborated by additional evidence. However, the University encourages Complainants to not allow the lack of such evidence to dissuade them from reporting Prohibited Conduct to a Mandatory Reporter.

Because Mandatory Reporters have an obligation to report information they receive about Prohibited Conduct (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 Mandatory Reporters so that students, employees and other persons can make informed decisions about whether to disclose information to those University employees. Whether an employee is a Mandatory Reporter will vary based on factors such as the status of the Complainant and the Respondent (i.e., whether they are students, employees, trainees and/or persons who are neither students nor employees) and the employee’s authority to address violations of this policy. [Appendix B identifies the University’s Mandatory Reporters. Questions concerning whether a particular employee is a Mandatory Reporter should be directed to the Title IX Coordinator.](#)

---

<sup>3</sup> Mandatory Reporters are required to report information they receive about Prohibited Conduct. The University strongly encourages employees and students who are not Mandatory Reporters to report any information about Prohibited Conduct to one of the reporting options described in [Section III.A](#).

<sup>4</sup> The reporting options in this section also are available to a Reporter who is not a Complainant.

<sup>5</sup> All employees are required to report suspected child abuse or child sexual abuse ([Section VII.A](#)).

**Mandatory Reporters are not confidential University resources like the Confidential Employees identified in Section IV.A.1** Nevertheless, information communicated to a Mandatory Reporter 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 Prohibited Conduct, except as required by (Section III.E) and subject to the University granting a Complainant's Request for Limited Action (Section III.A.5). Information about the report may need to be shared with the Respondent and witnesses in order to ensure a thorough investigation of the incident. However, information will not be shared with the Respondent or witnesses if the University grants a Complainant's Request for Limited Action (Section III.A.5). In accordance with FERPA, Mandatory Reporters who are not employees of UTHSC-PD will not share personally identifiable information with law enforcement agency other than UTHSC-PD without a Complainant's written consent or unless required or permitted by law.

An employee-Complainant's report of Prohibited Conduct that alleges Sex Discrimination committed by an employee-Respondent generally must be filed within 300 days of the alleged discriminatory action. In certain circumstances, however, at the discretion of the Title IX Coordinator, 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 Prohibited Conduct 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 (e.g., the Respondent may no longer be affiliated with the University).

### 1. Mandatory Reporters When the Complainant is a Student

This Section III.A.1 describes the non-law enforcement options for a Complainant who is a University student to report Prohibited Conduct to the University.

A Complainant who is a student is encouraged to report Prohibited Conduct to one of the following University employees, who are Mandatory Reporters:

- Title IX Coordinator or the Office of Equity & Diversity
- Deputy Title IX Coordinators

A Complainant who is a student may also report Prohibited Conduct to one of the University's other non-law enforcement Mandatory Reporters:

- Office of Equity and Diversity
- Office of Student Affairs
- Office of Student Life
- Chancellors, Vice Chancellors, Associate Vice Chancellors, or Assistant Vice Chancellors
- Deans, Associate Deans, Assistant Deans, Executive Directors, Directors, Associate Directors, Assistant Directors, or Department Heads
- Faculty members
- Staff members
- Academic advisors
- Faculty and staff advisors to registered student organizations
- Residency Coordinators
- The Complainant's University employment supervisor (only if the Complainant is a University student employee or trainee)
- The Respondent's University employment supervisor (only if the Respondent is a University employee, including a University student employee and trainee)
- The Associate Vice Chancellor of Human Resources (only if the Respondent is a University employee, including a student employee)
- All UTHSC employees
- A University employee designated as a Campus Security Authority for Clery Act compliance (<https://www.uthsc.edu/campuspolice/clery-act/index.php>)

## **2. Mandatory Reporters When the Complainant is an Employee**

### **(i) Respondent is not a University student**

A Complainant who is a University employee has four non-law enforcement options to report Prohibited Conduct to the University when the Respondent is not a University student (e.g., the Respondent is a University non-student employee):

- Title IX Coordinator or the Office of Equity & Diversity
- The Complainant's supervisor
- The Respondent's supervisor (if the Respondent is a University employee)
- The Associate Vice Chancellor of Human Resources

### **(ii) Respondent is a University student**

A Complainant who is a University employee has eight non-law enforcement options to report Prohibited Conduct to the University when the Respondent is a University student:

- Title IX Coordinator or the Office of Equity & Diversity
- The Complainant's supervisor
- The Respondent's supervisor (if the Respondent is a University employee)
- The Associate Vice Chancellor of Human Resources
- Deputy Title IX Coordinators
- Deputy Title IX Investigators
- Office of Student Affairs
- Office of Student Life

## **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 Prohibited Conduct to a Mandatory Reporter**

After receiving a report of Prohibited Conduct (either directly from a Reporter or indirectly from a Mandatory Reporter), the Title IX Coordinator, a Deputy Title IX Coordinator, a Deputy Title IX Investigator, or Deputy Title IX Intake Coordinator will initiate immediate and appropriate steps by the University to: have an appropriate University employee offer to meet with, or otherwise communicate with, the Complainant; in cases of Sexual Assault, Relationship Violence, and Stalking, 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 Mandatory Reporter); 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 V** of this policy if, based on an initial assessment, the alleged conduct meets the definition of Prohibited Conduct. The Title IX Coordinator or Deputy Title IX Coordinator also can assist a Complainant in reporting the incident to law enforcement.

## **5. If the Complainant Requests Limited Action: How the University Will Weigh the Request and Respond**

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

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

Such a request is referred to in the policy as a "**Request for Limited Action.**" The Title IX Coordinator or a Deputy Title IX Coordinator will evaluate a Request for Limited Action. If the Complainant makes a Request for Limited Action, the Title IX Coordinator will seriously weigh the request against the University's obligation to provide a safe, non-discriminatory environment for all members of the University community, including the Complainant. If the Title IX Coordinator honors the Request for Limited Action,

then the University's ability to respond fully to the incident (e.g., meaningfully investigate the incident and pursue disciplinary action against the Respondent or take other remedial action) may be limited.

There are limited circumstances in which the Title IX Coordinator may not grant a Request for Limited Action 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 other acts of Prohibited Conduct, then the balance of factors might compel the University to investigate the allegation, and, if appropriate, pursue disciplinary action in a manner that may make known the Complainant's identity to the Respondent.

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

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

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

If the Title IX Coordinator determines that it cannot grant the Request for Limited Action, then the Title IX Coordinator 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 Title IX Coordinator determines that it must disclose the Complainant's identity to the Respondent, then the Title IX Coordinator will inform the Complainant of that determination prior to the disclosure. The University will honor a request by the Complainant that the University inform the Respondent that the Complainant asked the University not to investigate or seek discipline. The University will take ongoing steps that it determines are reasonable and appropriate to protect the Complainant from Retaliation or harm and may work with the Complainant to create a safety plan. 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 IV**, 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).

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

### **Complainant's Participation in an Investigation or Disciplinary Proceeding**

The University will not require a Complainant to participate in any investigation, or a hearing before the Student Disciplinary Board. A Complainant may be required to participate in a UAPA Hearing if the Complainant receives a subpoena.

**6. Amnesty for Students Who Report Prohibited Conduct to the University<sup>6</sup>**

The University recognizes that a student or employee who is under the influence of alcohol and/or drugs at the time of an incident of Prohibited Conduct may be hesitant to report the incident to the University because of a fear of University disciplinary sanctions for the person’s own violation of the University standards of conduct. Because of the importance to the University of responding to incidents of Prohibited Conduct, a student or employee who reports Prohibited Conduct to the University or provides information in a University investigation into alleged Prohibited Conduct will not be subject to disciplinary action by the University for personal consumption of alcohol or other drugs, or minor offenses, at or near the time of the reported incident, but may be responsible for other, more serious conduct that harmed or placed the health or safety of any other person at risk (“Amnesty”). The University may, however, initiate an educational discussion or pursue other educational remedies with the student or employee regarding alcohol or drugs. The Title IX Coordinator has the discretion to grant Amnesty to other persons other than the person who reported Prohibited Conduct (e.g., Complainant, Respondent, witnesses). The Student Code of Conduct, Section 11, also contains a policy on amnesty for individuals acting as good Samaritans and students in need of emergency medical attention. This Section III.A.6 does not apply to reports to the police.

---

<sup>6</sup>This Section III.A.6 does not apply to reports to UTHSC-PD. The amnesty provision in this Section III.A.6 applies only to discipline for violations of the University’s Code of Conduct.

**B. REPORTING TO LAW ENFORCEMENT**

Prohibited Conduct may constitute both a violation of this policy and criminal law. Therefore, the University encourages persons to report incidents of Prohibited Conduct 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, a Deputy Title IX Coordinator, or another Mandatory Reporter.**

**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 Prohibited Conduct to law enforcement:

INCIDENT LOCATION	CONTACT
Regardless of where the incident occurred	Call <b>911</b> in an emergency  or  UTHSC Campus Police 740 Court Avenue, Memphis, TN <b>901-448-4444</b> <a href="http://www.uthsc.edu/campuspolice/">http://www.uthsc.edu/campuspolice/</a>

<p>In the City of Memphis, Nashville, Knoxville or Chattanooga</p>	<p><b>Memphis Police Department (MPD)</b>  201 Poplar Avenue, Memphis, TN  <b>901-636-3700</b>  <a href="http://www.memphispolice.org/">http://www.memphispolice.org/</a></p> <p><b>Metropolitan Nashville Police Department</b>  200 James Robertson Parkway  Nashville, TN 37201  Sex Crimes Section by calling (615) 862-7540  <a href="http://www.nashville.gov/Police-Department/Investigative-Services/Criminal-Investigations/Sex-Crimes.aspx">http://www.nashville.gov/Police-Department/Investigative-Services/Criminal-Investigations/Sex-Crimes.aspx</a>  <b>(615) 862-8600 (Non-Emergency)</b></p> <p><b>Knoxville Police Department</b>  800 Howard Baker Jr. Ave  Knoxville, TN 37915  <a href="http://www.knoxvilletn.gov/government/city_departments_offices/police_department">http://www.knoxvilletn.gov/government/city_departments_offices/police_department</a>  <b>865-215-7319</b>  <b>865-215-7135</b></p> <p><b>Knox County Sheriff</b>  400 Main Street, Suite L165, Knoxville, TN 37902  <b>865-215-2243</b>  <a href="http://www.knoxsheriff.org">http://www.knoxsheriff.org</a></p>
	<p><b>Chattanooga Police Department</b>  3410 Amnicola Hwy.  Chattanooga, TN 37406  <a href="http://www.chattanooga.gov/police-department">http://www.chattanooga.gov/police-department</a>  <b>423-643-5000</b>  <b>Dispatch: 698-2525</b></p> <p>or</p> <p>UTHSC-PD</p>
<p>In Shelby County but outside of the City of Memphis</p>	<p>Shelby County Sheriff's Office  201 Poplar Avenue, Memphis,  TN <b>901-222-5600</b>  <a href="http://www.shelby-sheriff.org/">http://www.shelby-sheriff.org/</a></p> <p>or</p> <p>UTHSC-PD</p>
<p>Outside of Shelby County</p>	<p>Contact the law enforcement agency that has jurisdiction over the location where the incident occurred</p> <p>or</p> <p>Contact UTHSC-PD for assistance in contacting another jurisdiction's law enforcement agency</p>

Upon the Complainant's request, the Title IX Coordinator or Deputy Title IX Coordinator will assist a Complainant in contacting UTHSC-PD or another appropriate local law enforcement agency.

Employees of UTHSC-PD are also Mandatory Reporters for reports of Prohibited Conduct. Accordingly, if a person reports an incident to UTHSC-PD, and the incident has not been previously reported to a Mandatory Reporter outside of UTHSC-PD, then

UTHSC-PD will contact the Title IX Coordinator or a Deputy Title IX Coordinator. Then, the Title IX Coordinator or Deputy Title IX Coordinator 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 MPD or another law enforcement agency other than UTHSC-PD, then the Complainant also will need to report the incident to a Title IX Official if the Complainant wants the University to take any action under this policy.

## **2. What to Expect after Reporting Prohibited Conduct 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. 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 UTHSC-PD law enforcement officer also will conduct a thorough interview to record as many details as possible and as precisely as possible, which may take as long as several hours, depending on the circumstances of the case. Due to the traumatic effects of Sexual Assaults, multiple interviews may be required to get all of the pertinent details of the assault. When UTPD conducts the police interview, the UTPD police officer typically will offer resources from a local victim advocate center.

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 Prohibited Conduct.

## **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, or may choose neither. Neither law enforcement's determination whether to prosecute a Respondent nor the outcome of any criminal prosecution is determinative of whether Prohibited Conduct occurred in violation of 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 penalties imposed by the University are not based on a result of criminal or civil charges against a Respondent arising from the same incident being dismissed, reduced, rejected, sustained, or not prosecuted; however, a Respondent's plea or a finding against a Respondent in a criminal or civil proceeding may, at the University's discretion, be used by the University in a University disciplinary proceeding.

## **4. Anonymous Reporting to Law Enforcement**

### **Memphis**

Persons may report Sexual Misconduct or Relationship Violence anonymously to UTHSC Campus Police through the '**Confidential Silent Witness Report**' portal. The portal is an Internet-based tool that enables the public to send an anonymous tip to online, and enables the police to respond. UTHSC Campus Police generally will respond as described in **Section III.B**. The amount and level of detail of the information provided to UTHSC Campus Police will affect how thoroughly UTHSC Campus Police is able to respond to the report.

Persons also may report a crime anonymously to the Memphis Police Department by calling **(901) 545-2677** or visiting **CyberWatch**. Persons may report a crime anonymously to the Shelby County Sheriff by calling **(901) 379-7625**.

Emergency calls should be made to 911.

### **Knoxville**

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

## Nashville

Domestic Violence Section of the Metro Nashville Police Department: Call (615) 880-3000 if you need assistance. Phones are manned from 8:00 a.m. to 10:00 p.m. Monday through Friday, with evening investigators who may be in at other hours. For help, call (615) 862-8600; Call 911 if it is an emergency.

## Chattanooga

Chattanooga Police Department: To report a crime or request assistance: (423) 698-2525

Emergency calls should be made to 911.

Persons may report a crime anonymously to the Chattanooga Police Department or the Hamilton County Sheriff's Department by calling the Crime Stoppers Hotline: (423) 698-3333

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

## **C. CONFIDENTIAL RESOURCES**

Section IV.A describes options to communicate confidentially with someone regarding an incident of Prohibited Conduct.

## **D. THE UNIVERSITY'S DISCLOSURE OBLIGATIONS UNDER FEDERAL AND TENNESSEE LAW RELATING TO REPORTS OF PROHIBITED CONDUCT**

### **1. Clery Act**

Certain University employees, called Campus Security Authorities, have a duty to report certain incidents of Prohibited Conduct to UTHSC-PD to comply with the Clery Act. Campus Security Authorities are not required to report personally identifiable information to UTHSC-PD for Clery Act purposes, but statistical information must be sent to UTHSC-PD 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**. In addition to the Annual Security Report and in compliance with the Clery Act, UTPD maintains a daily crime log that includes entries for all crimes and alleged crimes that occurred within the University's Clery Geography or the patrol jurisdiction of UTHSC-PD. The crime log does not include personally identifying information about the Complainant or the Respondent.

Complainants of Prohibited Conduct also should be aware that the Clery Act requires the University to: issue timely warnings for crimes reported to UTHSC-PD 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 about a Complainant, Respondent, or Reporter who is a student that has been communicated to a Mandatory Reporter regarding Prohibited Conduct will be shared within the University only with the Title IX Coordinator and those University employees who "need to know" in order to assist with the University's response to the Prohibited Conduct. Personally identifiable information concerning a Complainant, 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) If, during a University's investigation or resolution of Prohibited Conduct, a Respondent who is a student makes a request to review documents concerning the investigation, the University will be required by FERPA to grant the Respondent's request to inspect and review records that relate specifically to the Respondent, but the University will redact the Complainant's name and any other identifying information to the maximum extent allowed by law.

### **3. Tennessee Public Records Act**

Incident reports prepared by UTHSC-PD 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. Robert (Robbie) Nottingham Campus Crime Scene Investigation Act**

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

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

#### **5. 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.

#### **E. TAKE BACK THE NIGHT AND OTHER PUBLIC AWARENESS EVENTS; RESEARCH-BASED DISCLOSURES**

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 Prohibited Conduct, are not considered notice to the University of Prohibited Conduct 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.

Disclosures of incidents of alleged Prohibited Conduct made by a University student during such student's participation as a subject in an Institutional Review Board-approved human subject research protocol are not considered notice to the University of Prohibited Conduct for purposes of triggering its obligation to investigate any particular incident(s).

#### **F. FALSE REPORTING**

An accusation of Prohibited Conduct 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 (as defined in Section II.B.4), even if the results of an investigation of the incident do not include a finding of a policy violation by a Preponderance of the Evidence. 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. CARE AND SUPPORT**

This section of the policy outlines a variety of University and external resources and measures relating to Prohibited Conduct. 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>.

There are campus resources and measures in Knoxville (<https://titleix.utk.edu/complainant-resources>) and Chattanooga (<https://www.utc.edu/sexual-misconduct/support-resources/on-campus-support.php>) for UTHSC students as well.

### **A. CONFIDENTIAL RESOURCES**

The persons 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 IV.A does not constitute notice or a report to the University of an incident of Prohibited Conduct.** In other words, a disclosure of Prohibited Conduct to a person identified in this Section IV.A (including a person supervised by them (e.g., assistants, and front-desk staff)) will not trigger a University response to an incident because the people identified in this Section IV.A are not Mandatory Reporters and do not report any information about an incident to the Title IX Coordinator, a Deputy Title IX Coordinator, a Mandatory Reporter, or UTHSC-PD without the Complainant's permission. As a result, the University will be unable to investigate the incident or pursue disciplinary action against the Respondent. If Prohibited Conduct is disclosed only to a University Confidential Employee, the University may be limited in its ability to provide Interim Measures to the Complainant depending on how much information the Complainant is willing to share with the University.

The persons identified in **Section IV.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 IV.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 IV.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. University “Confidential Employees”**

If a Complainant wants to confide in someone or seek counseling resources, but does not desire action by the University and would like the details of the incident to be kept confidential, the Complainant may speak with the following persons, who are called “Confidential Employees” for purposes of this policy:

- **University Health Services (UHS)** can be of service by calling **901-448-5630** (day time) or **901-541-5654** (evening/weekends).
- **Student Behavioral Health** at **(901-448-5064)**: Student Behavioral Health Services, which is part of UHS, can provide emotional support for the victim as well as maintain confidentiality. A counselor is available at all times. Medical and psychological follow-up is available as long as needed.
- **Student Academic Support Services and Inclusion (SASSI)** offers free counseling and other student support at **901-448-5056** or [uthsc.edu/sassi/](http://uthsc.edu/sassi/).

**A Professional employee, such as a physician, psychologist, psychiatrist, counselor, CARE Navigator, or social worker, identified in this section, is a Confidential Employee only if the Complainant is communicating as if they are a patient or client. The designation of “Confidential Employee” can also include non-professional employees (i.e., staff, student-**

trainees or student-employees) or advocates who work or volunteer in on-campus health centers or a student support services area under the supervision of a person with a professional license. For instance, a class professor or clinical preceptor, who happens to be a physician or psychiatrist, would not be a Confidential Resource because such conversations would be part of an academic course of instruction and not for purposes of professional medical treatment or counseling. All faculty members are Mandatory Reporters.

Confidential Employees may periodically report non-personally identifiable information about Prohibited Conduct to the Title IX Coordinator to keep the Title IX Coordinator informed about the general extent and nature of Prohibited Conduct on and off campus.

## **2. Confidential Resources Outside the University**

Complainants of Prohibited Conduct 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:

**Student Assistance Program (SAP)** at 800-327-2255. The [Student Assistance Program \(SAP\)](#) is a confidential program that motivates students experiencing difficult personal situations to seek or accept professional assistance thus preventing personal concerns from undermining their well-being and academic performance. The counselors at SAP are not university employees.

**Employee Assistance Program (EAP)** at 855-437-3486. A [counselor with the Employee Assistance Program](#) managed by Magellan Health Services (*resource option for employees only*).

### **Memphis/Shelby County-area resources available 24 hour/7 days a week**

- **Shelby County Rape Crisis Center** at 901-272-2020 from 8:30 a.m. to 5:00 p.m.  
[www.shelbycountyttn.gov/index.aspx?NID=737](http://www.shelbycountyttn.gov/index.aspx?NID=737)
- **YWCA of Greater Memphis**, YWCA-AWS CRISIS HOTLINE: 901-725-4277  
Safe haven  
<http://www.memphisywca.org/>

NOTE: You may choose to consult a private physician or go to an emergency department of your choice. As a result, a report to a private physician or emergency department does not put the University of Tennessee on notice of Sexual Misconduct or Relationship Violence.

### **Knoxville-area resources available 24 hour/7 days a week**

- Safe Haven Crisis & Recovery Center for Sexual Assault  
900 East Hill Avenue, Suite 145  
Knoxville, TN 37915  
**Phone: (865) 558-9040 ext. 122**  
**Fax: (865) 584-7872**  
Jane A. Peoples  
Executive Director  
[jpeoples@safehavencenter.org](mailto:jpeoples@safehavencenter.org)
- [YWCA Downtown Center](#)  
420 West Clinch Avenue  
Knoxville, TN 37902  
**Phone: 865-523-6126**  
<https://www.ywcaknox.com/>
- [Phyllis Wheatley Center](#)  
124 S. Cruze Street  
Knoxville, TN 37915  
**Phone: 865-546-0651**

<https://www.ywca-knox.com/contact/contact-phyllis-wheatley-center/>

- **Sexual Assault Center of East Tennessee**

6215 Kingston Pike, Suite A, Knoxville  
<http://www.mcNabbcenter.org/sacet>  
**865-522-7273** (24 hour crisis line)

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

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

- Sexual Assault Nurse Examinations. A Sexual Assault Nurse Examiner (SANE) is available 24/7, 365 days a year to provide forensic nursing to sexual assault crime victims ages 13 and older. SANE exams can be performed at a local hospital or at SACETN. All services provided by the SACETN are free, including no-cost SANE exams, pregnancy prevention, and testing and preventative treatment for sexually transmitted infections.
- Advocacy. The advocacy program of the SACETN provides victims of sexual assault with the support, information, and resources needed throughout the recovery process. Advocates work to ensure that Complainants' legal rights are protected, while also empowering Complainants to make their own decisions. Advocacy assistance includes: accompaniment during SANE exams, police interviews, legal appointments, and University and court proceedings; and assistance filing victim's compensation applications and petitions for orders of protection.
- Therapy. Therapy services are available to Complainants in crisis, Complainants who are victims of a recent sexual assault, and Complainants who were victims of a sexual assault or sexual abuse that happened months or years ago. The goal of the SACETN is to work collaboratively to address the many concerns and issues associated with sexual violence in order to promote healing. Therapists at the SACETN specialize in treating female, male, and LGBTQ Complainants and offer services to individuals of all ages.

- **University of Tennessee Medical Center**

1924 Alcoa Highway  
<http://www.utmedicalcenter.org/>  
**865-305-9000**

NOTE: The University of Tennessee Medical Center is a separate legal entity from the University of Tennessee. As a result, a report to the University of Tennessee Medical Center does not put the University of Tennessee on notice of Prohibited Conduct.

**Chattanooga area resources available 24 hour/7 days a week**

**Partnership Rape Crisis and Family Violence Center**

Location: 300 E. 8th St., Chattanooga

Phone: (423) 755-2700 (available 24/7)

Provides 24 hour referrals, crisis intervention, shelter services, and counseling.

- [Partnership for Families, Children & Adults: \(423\) 755-2822](#)
- [Legal Aid of East Tennessee: \(423\) 756-4013](#)
- [Southeast Tennessee Legal Services: \(423\) 756-0128](#)

Both of these offices can assist with orders of protection and legal issues surrounding violence for free or low cost.

NOTE: You may choose to consult a private physician or go to an emergency department of your choice. As a result, a report to a private physician or emergency department does not put the University of Tennessee on notice of Sexual Misconduct or Relationship Violence.

### **Nashville area resources available 24 hour/7 days a week**

- Nashville Crisis Hotline [\(615\) 244-7444](#)  
[Suicide Prevention Lifeline 800-SUICIDE \(784-2433\)](#) This hotline is a network of 161 crisis centers in 50 states and will connect you with the crisis center nearest to your location.  
 Davidson County Mobile Crisis Team [\(615\) 726-0125](#)  
[VU Psychiatric Hospital \(615\) 327-7000](#)

### Specialized Services in the Community

- **Sexual Assault**  
[Sexual Assault Center \(800\) 879-1999/\(615\) 256-8526](#)  
[National Sexual Assault Hotline \(800\) 656-HOPE \(4673\)](#)
- **Drugs and Alcohol**  
 Alcoholics Anonymous Referral Service and Treatment Program 24-Hour Helpline [\(800\) 711-6375](#)  
 Narcotics Anonymous Helpline [\(800\) 677-1462/\(615\) 251-7462](#)  
 Drug Helpline [\(800\) 662-HELP \(4357\)](#)
- **Intimate Partner Violence**  
[YWCA Domestic Violence Hotline \(800\) 334-4628/\(615\) 242-1199](#)  
 Tennessee Helpline Domestic Violence Hotline [\(800\) 356-6767](#)  
 National Domestic Violence Hotline (800) 799-SAFE (7233)  
[TN Coalition to End Domestic and Sexual Violence](#)

NOTE: You may choose to consult a private physician or go to an emergency department of your choice. As a result, a report to a private physician or emergency department does not put the University of Tennessee on notice of Sexual Misconduct or Relationship Violence

**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)**  
[www.thehotline.org](http://www.thehotline.org)
- **Love is Respect – National Dating Abuse Hotline** **866-331-9474**  
[www.loveisrespect.org/](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 Mandatory Reporters who are required to report knowledge of incidents of Prohibited Conduct 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 Prohibited Conduct. 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:

- **Michael Alston, Title IX Coordinator** **901-448-2112**

Area	Name and Title	Contact Information
Deputy Title IX Coordinator for Faculty	Cindy Russell, PhD Associate Vice Chancellor Academic, Faculty, and Student Affairs	400 O.W. Hyman Building Memphis, TN 38163 901-448-6158 <a href="mailto:crussell@uthsc.edu">crussell@uthsc.edu</a>
Deputy Title IX Coordinator for Staff	Chandra Alston, EdD Associate Vice Chancellor Human Resources	910 Madison, 7 <sup>th</sup> floor Memphis, TN 38163 901-448-1955 <a href="mailto:calston@uthsc.edu">calston@uthsc.edu</a>
Deputy Title IX Coordinator for Students	Dustin Fulton, MS Associate Director of Student Affairs for Conduct and Community Standards Student Affairs	910 Madison, Suite 312 Memphis, TN 38163 901-448-2133 <a href="mailto:dfulton2@uthsc.edu">dfulton2@uthsc.edu</a>
Deputy Title IX Coordinator for GME Administration	Aaron Haynes, MSBA Director GME Administration	920 Madison, Suite 447 Memphis, TN 38163 901-448-5364 <a href="mailto:ahaynes@uthsc.edu">ahaynes@uthsc.edu</a>
Deputy Title IX Coordinator for International Programs	Connie Childs, MA Director International Programs	910 Madison, Rm 105 Memphis, TN 38163 901-448-8484 <a href="mailto:cburk@uthsc.edu">cburk@uthsc.edu</a>
Deputy Title IX Coordinator for Clery Compliance	Carolyn Smith Accreditation Specialist Campus Police	740 Court Ave. Rm 111 Memphis, TN 38163 901-448-6450 <a href="mailto:csmith@uthsc.edu">csmith@uthsc.edu</a>

- **UTHSC Campus Police Department:** (24 hours/day, seven days/week) **901-448-4444**  
Please contact UTHSC Campus Police if you would like a UTHSC police officer to take you either to a local hospital or the [University Health Services](#) for medical treatment, including a sexual assault nurse examination.

### C. MEDICAL CARE

A Complainant may seek medical care at any time following Prohibited Conduct. The resources described in this Section V.C. are confidential resources, as described in **Section IV.A.**

Medical care may be obtained from the following:

- **University Health Services (UHS)** can be of service by calling **901-448-5630** (day time) or **901-541-5654** (evening/weekends). (*option for students only*)
- **Local Hospitals** in Memphis/Shelby/Knox/Hamilton/Davidson/ County areas (24 hours, seven days a week)

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 Shelby County Rape Crisis Center advises the following steps:

1. *Get to a safe place, far away from your attacker(s)*
2. *Call 9-1-1 or the Shelby County Rape Crisis Center (RCC) hotline at (901) 222-4350*
3. *If physically injured, go immediately to the nearest hospital emergency department*
4. *Don't bathe or change clothing*
5. *Don't brush your teeth*
6. *If you have to urinate, keep the urine in a container to give to RCC staff when you present to the center*
7. *If you are assaulted orally, don't eat or drink until seen by RCC staff*
8. *If you don't want to report the assault, you can still receive services from 8:30 am to 5:00 pm, Monday through Friday*
9. *Anyone sexually assaulted within Memphis or Shelby County is eligible to receive counseling that is free and confidential, whether or not you chose to report the assault, and regardless of when it occurred.*

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. INTERNATIONAL PROGRAMS**

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

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

Office of International Affairs  
One Stop Student Services  
910 Madison Avenue, Suite 105  
Memphis, TN 38163

Phone: (901) 448-8484  
Fax: (901) 448-1370  
Email: [oia@uthsc.edu](mailto:oia@uthsc.edu)

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

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

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

USCIS Find Help in your Community Webpage: [uscis.gov/citizenship/learners/findhelp-your-community](http://uscis.gov/citizenship/learners/findhelp-your-community) USCIS Find Legal Services Webpage: [uscis.gov/avoid-scams/find-legal-services](http://uscis.gov/avoid-scams/find-legal-services)

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

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

## **D. INTERIM MEASURES**

After a Mandatory Reporter receives a report of Prohibited Conduct, the University will implement Interim Measures designed to eliminate the reported Prohibited Conduct and protect the persons involved in the matter (e.g., Complainant, Reporter, Respondent 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 Prohibited Conduct occurred);
- prior to or during an investigation of Prohibited Conduct; and
- prior to a final determination that Prohibited Conduct 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 Prohibited Conduct (an interim suspension may be issued when the Vice Chancellor for Academic, Faculty and 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 Prohibited Conduct;
- 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 this **Section IV** (e.g., arranging an appointment with the [Family Safety Center of Memphis and Shelby County](#) to discuss options for pursuing an order of protection);
- 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 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 a Deputy Title

IX Coordinator, or 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 person who will benefit from the Interim Measures (e.g., the Complainant); whether the Complainant has made a Request for Limited Action (**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 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 Shelby County, Knox County, Hamilton County and Davidson County and other legal remedies, a Complainant may contact:

- **Family Safety Center of Memphis and Shelby**  
1750 Madison Avenue  
Suite 600 400 Harriet Tubman Street  
Memphis, TN 38104  
**24-HOUR CRISIS LINE (901-222-4400)**  
<http://www.familysafetycenter.org/>
- **Knoxville Family Justice Center**  
400 Harriet Tubman Street, Suite 219  
Knoxville, Tennessee 37915  
(865) 521-6336  
<http://www.familyjusticecenter.org/find-a-family-justice-center/location/58-Knoxville%20Family%20Justice%20Center/default.html>
- **Chattanooga Family Justice Center**  
3rd Floor City Hall  
101 E. 11th Street  
Chattanooga, TN 37402 - See more at: <http://www.chattanooga.gov/mayors-office/family-justice-center#sthash.Vp7j5jYW.dpuf>
- **Tennessee Justice Center**  
301 Charlotte Ave  
Nashville TN 37201  
Phone: 615-255-0331  
Toll Free Phone: 1-877-608-1009  
Fax: 615-255-0354  
<http://www.tnjustice.org/>

The Title IX Coordinator/Deputy Title IX Coordinators, or UTHSC-PD can assist a Complainant with arranging an appointment with a Family Safety Center to discuss options for pursuing an order of protection and other legal remedies.

Additional information on orders of protection can be found here:

- 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)

## V. UNIVERSITY PROCEDURES FOR INVESTIGATING AND RESOLVING REPORTS OF PROHIBITED CONDUCT

### A. SUMMARY OF STUDENT AND EMPLOYEE PROCEDURES

The University has specific procedures for investigating and resolving reports of Prohibited Conduct based on the relationship of the Respondent to the University and the type of Prohibited Conduct that was reported.

- The procedures used to investigate and resolve Prohibited conduct involving a Respondent who is a student as described in **Section V.B** and **Section V.D**.
- The procedures used to investigate and resolve Prohibited Conduct 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 Sexual Assault, a Sex Offense Crime, a Relationship Violence Crime, Dating Violence, Domestic Violence, or Stalking will be resolved in accordance with the procedures described in **Section V.B** and **Section V.C**.
- A report of Sex Discrimination (e.g., Sexual Harassment) that does **not** involve Sexual Assault, a Sex Offense 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://uthsc.edu/oed/EEOC/UNIVERSITY%20OF%20TENNESSEE%20DISCRIMINATION%20COMPLAINT%20PROCEDURE.pdf>).

**Appendix D** contains a chart that summarizes which complaint procedures will be used to resolve reports of Prohibited Conduct.

### B. STANDARDS APPLICABLE TO ALL PROCEDURES

The standards in this Section V.B apply to all procedures under this policy (i.e., **Section V.C** and **Section V.D**) for investigating and resolving reports of Prohibited Conduct, 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 Prohibited Conduct 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 Prohibited Conduct 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 Prohibited Conduct. Any investigator(s)

chosen to conduct the investigation must be impartial and free of any conflict of interest. The investigator(s) may be a University employee, a team of University employees, an external investigator(s) engaged to assist the University in its fact-gathering, or a team of investigators that pairs an external investigator(s) with a University employee. Investigations of reports of Prohibited Conduct are usually performed by the Office of Equity and Diversity (if the Respondent is an employee, other non-student, trainee, or a student). A separate law enforcement investigation may be conducted by UTHSC-PD.

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

All investigations and proceedings, including disciplinary hearings, relating to Prohibited Conduct 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 (who is not a party or witness) 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 UAPA 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 Prohibited Conduct receive annual training on issues related to Prohibited Conduct and how to conduct an investigation and/or hearing in a way that protects the safety of Complainants and promotes accountability.

### **6. Rights of Complainants and Respondents**

In addition to rights for Complainants Respondents described in other parts of this Section V and other sections of this policy, Complainants and Respondents have the following rights in cases involving Prohibited Conduct:

- 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 other party 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 other party 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 other party 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 (Complainant) or written mitigation statement (Respondent) 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 Equity and Diversity 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 other party 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**

Unless prohibited by federal law, with respect to any University disciplinary hearing that arises from an allegation of Prohibited Conduct, 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 V.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 penalties imposed by the University and include the rationale for the results.

Notice to the Complainant and the Respondent concerning other matters (e.g., appeals) shall be provided in writing simultaneously to the Complainant and Respondent.

**8. Time Frames**

The University will strive to meet the time frames described in this Section V. 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; a request by a district attorney to delay interviewing a witness; a witness’ compliance with the instruction of a district attorney not to participate in a University 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. Prior Conduct, Including Sexual History**

In general, a Complainant’s prior sexual history is not relevant to the issue of whether Prohibited Conduct occurred and will not be considered as evidence during an investigation or hearing. However, when the Respondent contends that the Complainant gave Consent for a particular sexual act, the prior sexual history between the Complainant and the Respondent may be relevant to assess the manner and nature of communications between the parties. As noted in Section II.B.1, however, the mere existence of a current or previous dating, romantic, intimate, or sexual relationship with the other person does not allow a Respondent to imply or infer Consent. The Complainant’s prior sexual history may also be relevant in other limited circumstances, such as to show intent,

motive, absence of mistake, or to explain an injury or physical finding.

Evidence of a pattern of similar or violent conduct, either before or after the alleged Prohibited Conduct, may be relevant to the issue of whether Prohibited Conduct occurred and/or in assigning a disciplinary penalty for Prohibited Conduct. Prior conduct of the Respondent may also be relevant to show intent, motive, or absence of mistake.

#### **10. 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.

#### **11. Alternative Resolution**

At any point during the investigation and resolution process, a report may be resolved through an alternative other than the procedures outlined in **Section III.A.5**. When an alternative resolution is proposed, the Title IX Coordinator will determine whether exploration of an alternative resolution is appropriate (including a determination whether the Complainant has been pressured by others to pursue alternative resolution). The University will not use mediation to resolve reports of Sexual Assault. If exploration of an alternative resolution is appropriate, the Title IX Coordinator will serve as an impartial facilitator (or designate another trained employee to do so) so that the Complainant and the Respondent do not have direct contact (unless both parties consent to direct contact). The University will not compel a Complainant or a Respondent to participate in an alternative resolution process. At any time during an alternative resolution process, either the Complainant or the Respondent may request that the process cease and the investigation and resolution process continue pursuant to **Section III.A.5**. The Title IX Coordinator will not approve an alternative resolution unless the Complainant and the Respondent agree to the alternative resolution. The Title IX Coordinator will ensure that any proposed alternative resolution is consistent with the University's Title IX obligations. If no alternative resolution is reached, then the University will continue with the investigation and resolution process.

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

This Section V.C describes procedures for investigating and resolving a report of Sexual Assault, Sexual Exploitation, Sex Offense 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 Prohibited Conduct from a Reporter or a Mandatory Reporter, the Title IX Coordinator will initiate immediate and appropriate steps by the University to: have an appropriate University employee offer to meet with, or otherwise communicate with, the Complainant; in cases of Sexual Assault, Relationship Violence, or Stalking, 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 Mandatory Reporter), which will include notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures; evaluate whether Interim Measures need to be implemented and with implementation of Interim Measures; and, subject to a Complainant's Request for Limited Action (**Section III.A.5**), initiate the investigation and resolution procedures outlined in **Section V.B** if, based on and initial assessment, the alleged conduct meeting the definition of Prohibited Conduct and falls within the scope of applicability of this policy. The Title IX Coordinator also can assist a Complainant in reporting the incident to law enforcement.

## **2. Investigation and Resolution**

Unless the University grants a Complainant's Request for Limited Action (**Section III.A.5**) and decides not to further investigate a report of Prohibited Conduct, the Title IX Coordinator will designate one or more persons to investigate the report, which likely will be an employee in the Office of Equity and Diversity. 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 equal opportunity for the Complainant and the Respondent to be heard, to submit information, and to identify witnesses and other evidence. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. The investigation is designed to provide a fair and reliable gathering of the facts. The investigation will be thorough and equitable, and all persons will be treated with appropriate sensitivity and respect. The investigation will be conducted in a manner that is respectful of individual privacy concerns.

The University's investigator will make findings and recommendations (including a statement outlining the basis for them) and transmit the findings and recommendations to the appropriate University administrator. The report will contain a conclusion, based on a Preponderance of the Evidence standard, concerning whether the Respondent violated this policy. The findings and recommendations will be made available simultaneously to the Complainant and the Respondent. The appropriate administrator 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 V.B.2 within 60 calendar days of the receipt of a report of Prohibited Conduct.

## **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, UTHSC 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 Prohibited Conduct can include, without limitation: termination, demotion, suspension without pay, and/or oral or written corrective action. When the person found to have committed Prohibited Conduct 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 V. D describes procedures for investigating and resolving reports of Prohibited Conduct involving a Respondent who is a student.

## **1. Meeting (Communication) with the Complainant**

After receiving a report of Prohibited Conduct from a Reporter (either directly from a Reporter or indirectly from a Mandatory Reporter), the Title IX Coordinator or a Deputy Title IX Coordinator 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 Mandatory Reporter); which will include notification about options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures; evaluate whether Interim Measures need to be implemented and assist with the implementation of Interim Measures; and, subject to a Complainant's Request for Limited Action (**Section III.A.5**), initiate the investigation and resolution procedures outlined in this section if, based on an initial assessment, the alleged conduct meets the definition of Prohibited Conduct and falls within the scope and applicability of this policy (**Section I.A**). The Title IX Coordinator or a Deputy Title IX Coordinator also can assist a Complainant in reporting the incident to law enforcement.

## **2. Investigation**

Unless the University grants a Complainant's request for Limited Action (**Section III.A.5**) and decides not to further investigate a report of Prohibited Conduct, 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 equal opportunity for the Complainant and the Respondent to be heard, to submit information, and to identify witnesses and other evidence. The interviews will be supplemented by the gathering of any physical, documentary, or other evidence, as appropriate and available. 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 Equity and Diversity.

The investigator will prepare a written report at the conclusion of the investigation and submit the report to the Assistant Vice Chancellor for Equity, Diversity, and Student Rights for further action, as necessary. The report will contain a conclusion, based on a Preponderance of the Evidence standard, concerning whether the Respondent violated this policy. The report will not contain recommendations concerning a disciplinary penalty even if the investigator concludes that the Respondent violated the policy; recommended disciplinary penalties are made by the Assistant Vice Chancellor for Equity, Diversity and Student Rights. The Assistant Vice Chancellor for Equity, Diversity, and Student Rights will provide simultaneous written notice of the investigative finding and disciplinary penalty/remedy (if any) to the Complainant and the Respondent. The University strives to complete the procedures in this **Section V.C.2** within 60 calendar days of the receipt of a report of Prohibited Conduct.

## **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 Equity and Diversity charging the Respondent with a violation of the Standards of Conduct and resolve the matter in accordance with **Section V.B** and the University's student disciplinary regulations and procedures described in the CenterScope, the University's student handbook.

## **4. Appeals**

The procedures for appeals of decisions relating to investigations and/or resolutions can be found in CenterScope (<http://catalog.uthsc.edu/content.php?catoid=14&navoid=1167>).

## **5. Disciplinary Sanctions and Other Remedial and Protective Measures**

Following a final determination under University procedures that a student committed Prohibited Conduct (e.g., after appeals have been exhausted), the University will take prompt and effective steps reasonably calculated to end the misconduct, prevent the misconduct from recurring, and address its effects. Such steps likely will include imposing one or more of the following disciplinary penalties: permanent dismissal, indefinite suspension, suspension for a specific period of time, disciplinary probation, disciplinary reprimand, restitution, education, loss of privilege, and/or warning. The University also 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 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.

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

## **VI. REQUIREMENTS AND GUIDELINES FOR MANDATORY REPORTERS**

### **A. REQUIRED ACTIONS**

A Mandatory Reporter who receives information concerning an incident of Prohibited Conduct **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 a Deputy Title IX Coordinator promptly after receiving notice of the incident (no later than 48 hours after receiving the report<sup>8</sup>).<sup>9</sup> The Mandatory Reporter 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 a Deputy Title IX Coordinator that a Complainant has requested that the University maintain confidentiality.

Deputy Title IX Coordinators must inform the Title IX Coordinator of all reports of Prohibited Conduct. In cases involving Sexual Assault, Relationship Violence, Retaliation, or Stalking the Title IX Coordinator must ensure that a copy of this policy or another written publication approved by the Title IX Coordinator has been provided to the Complainant to inform the Complainant of their rights under this policy.

---

<sup>7</sup> In addition to the responsibilities of a Mandatory Reporter described in this Section VI, the Title IX Coordinator, Deputy Title IX Coordinators, and UTHSC PD also are responsible for carrying out responsibilities described in other sections of this policy. The Title IX Coordinator, Deputy Title IX Coordinators, and/or UTHSC-PD 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 Mandatory Reporter should report the incident as soon as possible on the next University business day.

<sup>9</sup> A Mandatory Reporter may also inform his/her supervisor of the incident. With the prior approval of the Title IX Coordinator, a University unit may adopt a policy that requires a Mandatory Reporter in the unit to report an incident of Prohibited Conduct to his/her supervisor or other designee within the unit, who, in lieu of the Mandatory Reporter who received notice of the incident, shall promptly report the incident to the Title IX Coordinator or a Deputy Title IX Coordinator.

Mandatory Reporters are required to inform a Title IX Official about all information known to them about the Prohibited Conduct. Failure to adhere to one's duty to report Prohibited Conduct to a Title IX Official may result in disciplinary action, up to and including termination of employment.

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

## **B. RECOMMENDED ACTIONS**

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

1. the Mandatory Reporter's obligation to report the names of a Respondent and a Complainant involved in the alleged Prohibited Conduct, as well as other relevant facts regarding the alleged incident, to the University;
2. the Complainant's ability to share the information confidentially with certain on- and off-campus resources (**Section IV.A**);
3. a Complainant's option under this Policy to make a Request for Limited Action (**Section III.A.5**), if the person indicates that he/she wants to disclose information to the Mandatory Reporter but wishes to maintain confidentiality or does not want the University to investigate the incident or pursue disciplinary action if Retaliation occurs, and;
4. if the Complainant indicates hesitancy to report an incident to the University, inform the Complainant that the University prohibits Retaliation and will not only take steps to prevent Retaliation but also take strong responsive action if Retaliation occurs.

After a Complainant reveals information about Prohibited Conduct to the Mandatory Reporter, the University recommends that a Mandatory Reporter take the following actions:

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 Mandatory Reporter will be reporting the incident to the Title IX Coordinator or a Deputy Title IX Coordinator, 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 (i.e. Student Rights and Conduct Notes) approved by the Title IX Coordinator, if available, to inform the Complainant of the Complainant's rights under this policy.

## **C. PROHIBITED ACTIONS**

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

1. guarantee a Complainant that the Mandatory Reporter 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 personally identifiable information about the incident with law enforcement (including UTHSC-PD) without the Complainant's consent; and/or
4. investigate or otherwise attempt to resolve reports of Prohibited Conduct without the approval of the Title IX Coordinator (this provision does not apply to UTHSC-PD), other than taking an action required or recommended in **Section VI.A-B**.

**D. UTHSC-PD**

UTHSC-PD 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 UTHSC-PD’s law enforcement investigation.

When the University’s non-law enforcement investigation of a report of Prohibited Conduct occurs concurrently with a law enforcement investigation of the same incident, UTHSC-PD shall not cause the University’s non-law enforcement investigation to be delayed pending the outcome of UTHSC-PD’s law enforcement investigation, except for the collection of evidence.

**VII. OTHER UNIVERSITY POLICIES/PROCEDURES; DUE PROCESS; ACADEMIC FREEDOM AND FIRST AMENDMENT RIGHTS**

**A. 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 Prohibited Conduct in the event of a conflict.

**B. STUDENT POLICIES AND PROCEDURES**

The Standards of Conduct for students can be found in CenterScope, the University’s student handbook (<http://www.uthsc.edu/centerscope/CenterScope.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, Stalking, and/or Retaliation. The terms “Sexual Misconduct,” “Relationship Violence,” “Stalking,” and “Retaliation” are defined in the University policy titled, “Policy on Sexual Misconduct, Relationship Violence, and Stalking,” a copy of which can be found at <http://www.uthsc.edu/oed/sexual-misconduct.php>.

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

**C. 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 Prohibited Conduct involving a University employee:

- **University of Tennessee Board of Trustees Policy 0006** (Policies Governing Academic Freedom, Responsibility, and Tenure)
- **University of Tennessee, UTHSC 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)

#### **D. UNIFORM ADMINISTRATIVE PROCEDURES ACT**

**Chapter 1720-1-5 of the Rules of the University of Tennessee** (<http://publications.tnsosfiles.com/rules/1720/1720-01/1720-01-12.20141015.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.

#### **E. CONSENSUAL RELATIONSHIPS**

Consensual romantic or sexual relationships between members of the University community also are subject to other University policies. UT Health Science Center's policy for establishing a professional standard applicable to amorous relationships involving persons employed as faculty or hold other institutional appointments with a student is currently in the campus review and approval process. As a result the content of UT Knoxville's policy on consenting romantic or sexual relationships between faculty and students should be referenced for understanding and applicability found in **Appendix 7 of the UTK Faculty Handbook** (<http://provost.utk.edu/faculty/manuals/faculty-handbook/>). Even if a romantic or sexual relationship between members of the University community begins as consensual, it can evolve into situations that lead to allegations of Prohibited Conduct. In addition, depending on the circumstances, a consensual sexual relationship may also violate other University policies, including, without limitation, University of Tennessee System Human Resources Policies **0220** ("Equal Employment Opportunity Affirmative Action and Diversity"), **0280** ("Sexual Harassment"), and **0580** ("Code of Conduct").

#### **F. DUE PROCESS**

This policy is designed to comply with Title IX while also ensuring that due process, as constitutionally required, is provided to Respondents who are accused of violating this policy.

#### **G. 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.

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

The University implements comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to prevent Prohibited Conduct 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 programming, initiatives, and strategies informed by research or assessed for value, effectiveness, or outcome that are intended to stop Prohibited Conduct before they occur 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 Prohibited Conduct; the definitions of Tennessee Sex Offense 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 or the Deputy Title IX Coordinator for Students.

### **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 Prohibited Conduct, promote safety, and reduce the perpetration of Prohibited Conduct.

Questions about the University's Primary Awareness Programs should be directed to the Title IX Coordinator or the Deputy Title IX Coordinator for Students.

### **C. ONGOING PREVENTION AND AWARENESS CAMPAIGNS**

The University implements 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 Prohibited Conduct using a range of strategies with audiences throughout the University and including information about:

- this policy, including: the University's prohibition against Prohibited Conduct; the definitions of Tennessee Sex Offense 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 or the Deputy Title IX Coordinator for Students. A description of ongoing prevention and awareness campaigns for students can be found at [http://www.uthsc.edu/oed/sexual\\_assault2014.php](http://www.uthsc.edu/oed/sexual_assault2014.php) or <http://www.uthsc.edu/oed/events.php>.

## APPENDIX A: ADDITIONAL POLICY DEFINITIONS

In addition to the terms defined in **Section II**, the following definitions apply for the purposes of this policy:

- A. BYSTANDER INTERVENTION TRAINING:** Safe and positive options that may be carried out by an individual(s) to prevent harm or intervene when there is a risk of Prohibited Conduct. Bystander Intervention Training includes: recognizing situations of potential harm; understanding institutional structures and cultural conditions that facilitate violence; overcoming barriers to intervening; identifying safe and effective intervention options; and taking action to intervene. More information about Bystander Intervention Training is offered through “[Request A Workshop](#)”.
- 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.uthsc.edu/campuspolice/>.
- C. CLERY ACT:** The Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, 20 U.S.C. § 1092(f), as amended by the Violence Against Women Reauthorization Act of 2013. More information about the Clery Act, including the University’s Annual Security Report, can be found at: <http://www.uthsc.edu/campuspolice/>.
- D. CLERY GEOGRAPHY:** Clery Geography means property for which the University is required to report crime statistics pursuant to the Clery Act, as described in 34 C.F.R. § 668.46(c)(4).
- E. COMPLAINANT:** A person who may have been subjected to Prohibited Conduct regardless of whether that person makes a report or seeks action under this policy. This term does not imply pre-judgment concerning whether the person was subjected to Prohibited Conduct.
- F. CONFIDENTIAL COMMUNICATION:** Confidential communications are those communications which will not be disclosed to another person without your consent, except under very limited circumstances such as an imminent threat or danger to self or others.
- G. CONFIDENTIAL EMPLOYEE:** Confidential employees are not required to make a report to the Title IX Coordinator about a report of prohibited conduct. They will not disclose information about your report without your consent, except under very limited circumstances such as an imminent threat or danger to self or others.
- H. DEPUTY TITLE IX COORDINATOR(S):** The person(s) identified as Deputy Title IX Coordinators in **Section I.C**.
- I. FERPA:** The Family Educational Rights and Privacy Act of 1974.
- J. INTERIM MEASURES:** Reasonable and appropriate measures, as determined by the University, which are designed to eliminate reported Prohibited Conduct and protect the persons involved in the matter (e.g., Complainant, Reporter, potential witnesses).
- I. MANDATORY REPORTER:** A University employee identified in **Section III.A** (non-law enforcement), **Section III.B.1** (UTHSC-PD), and/or **Appendix B** as an option for reporting Prohibited Conduct to the University. Graduate assistants are not Mandatory Reporters unless they are a graduate teaching assistant and they receive a report in their teaching capacity. Notwithstanding anything in this policy to the contrary, Mandatory Reporters 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).
- J. OFFICE OF EQUITY AND DIVERSITY:** The University’s Office of Equity and Diversity.
- K. 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.)*
- L. PROHIBITED CONDUCT:** Sexual Misconduct, Relationship Violence, Stalking, and/or Retaliation.

- M. QUALIFIED MENTAL HEALTH PROFESSIONAL:** A person who is licensed in the state of Tennessee, if required for the profession, and who is: a psychiatrist; physician with expertise in psychiatry as determined by training, education, or experience; psychologist with health service provider designation; psychological examiner or senior psychological examiner; licensed master's social worker with two years of mental health experience or licensed clinical social worker; marital and family therapist; nurse with a master's degree in nursing who functions as a psychiatric nurse; professional counselor; or if the person is providing service to children, any of the above educational credentials plus mental health experience with children. (*The source of this definition is Tennessee Code Annotated § 33-1-101.*)
- N. REGISTERED STUDENT ORGANIZATION:** A student organization registered with the University in accordance with University rules.
- O. 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:** This term is defined in **Section II.A.**
    - b. **DOMESTIC VIOLENCE:** This term is defined in **Section II.A.**
    - c. **STALKING (CLERY ACT CRIME):** This term is defined in **Section II.A.**
  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 CRIME):** The crime of in 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.*
- P. REPORTER:** A person who communicates a concern to a Mandatory Reporter regarding the occurrence of Prohibited Conduct. A Reporter need not be a Complainant.
- Q. RESPONDENT:** A person or registered student organization who has been accused of committing Prohibited Conduct. This term does not imply pre-judgment concerning whether the person or registered student organization committed Prohibited Conduct.
- R. 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.uthsc.edu/campuspolice/>.
- S. 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. 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 Prohibited Conduct will be treated as a complaint of Sex Discrimination in violation of Title IX if it was based on the sex of the Complainant.

- T. SEX OFFENSE(S):** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
- U. SEX OFFENSE CRIME(S):** A term that encompasses both Clery Act Sex Offenses and Tennessee Sex Offenses, which are defined below:
1. **CLERY ACT SEX OFFENSES:** The Clery Act requires the University to report certain statistics for the following Sex Offenses 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, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
    - b. **INCEST:** 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):** Sexual Intercourse with a person who is under the statutory age of Consent.
  2. **TENNESSEE SEX OFFENSES:** The crimes below are crimes in the State of Tennessee that are the closest equivalents to Clery Act Sex Offenses:
    - 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.*
- V. **TITLE IX:** Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*
  - W. **TITLE IX COORDINATOR:** The person identified as the Title IX Coordinator in **Section I.C** or a designee of the Title IX Coordinator employed in the Office of Equity & Diversity and/or Human Resources.
  - X. **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.*
  - Y. **UNIVERSITY:** The University of Tennessee Health Science Center campuses (Memphis, Chattanooga, Knoxville, and Nashville).
  - Z. **UTHSC-PD:** The campus police department at the University of Tennessee Health Science Center.

**APPENDIX B: MANDATORY REPORTERS WHEN THE COMPLAINANT IS A UNIVERSITY STUDENT<sup>10</sup>**

EMPLOYEE	IS THE EMPLOYEE A MANDATORY REPORTER WHEN THE COMPLAINANT IS A UNIVERSITY STUDENT?
Title IX Coordinator/Office of Equity & Diversity	Yes
Deputy Title IX Coordinators and Deputy Title IX Intake Coordinator	Yes
Faculty members	Yes
Exempt and non-Exempt staff members (including Residents, Fellows, and Postdocs)	Yes (except for Confidential Employees identified in Article IV.A.1, who are not Mandatory Reporters if they receive the information from a Complainant who is a patient or a client)
Academic advisors, but not including student tutors	Yes
Faculty and staff advisors to registered student organizations	Yes
Residency Coordinators	Yes, if the Complainant is a trainee or student receiving supervision, work direction or instruction through participation in a clerkship or clinical education program.
A University employee whom the University has designated as a “Campus Security Authority” for purposes of Clery Act compliance ( <a href="http://www.uthsc.edu/campuspolice/clery-act/index.php">http://www.uthsc.edu/campuspolice/clery-act/index.php</a> )	Yes, if the report concerns a Clery Act crime that occurred on Clery Act Geography (the report shall be sent to UTHSC-PD)
Student-employees and non-UT Student Assistants	No

<sup>10</sup> If an employee has multiple roles, the employee is a Mandatory Reporter if the answer is “Yes” on this chart with respect to any of the employee’s roles in a particular situation. Also, as described in Article III.B.1, employees of UTHSC-PD are Mandatory Reporters for reports received in a law enforcement capacity.

**APPENDIX C: MANDATORY REPORTERS WHEN THE COMPLAINANT IS A UNIVERSITY EMPLOYEE<sup>11</sup>**

<b>EMPLOYEE</b>	<b>IS THE EMPLOYEE A MANDATORY REPORTER WHEN THE COMPLAINANT IS A UNIVERSITY EMPLOYEE?</b>
Title IX Coordinator/Office of Equity & Diversity, Deputy Title IX Coordinators and Deputy Title IX Intake Coordinator	Yes
The Associate Vice Chancellor of Human Resources or the Human Resources Team Leader for Employee Relations and/or Team Leader for Employment	Yes
Employees who are supervisors	<p>Yes, if the report is made to: (1) the immediate supervisor of either the Complainant or the Respondent; or (2) other employee who has the authority to redress the prohibited conduct.</p> <p>However, Confidential Employees identified in Article IV.A.1 are not Mandatory Reporters if they receive the information from a person who is a patient or a client.</p>
A University employee whom the University has designated as a “Campus Security Authority” for purposes of Clery Act compliance <a href="http://www.uthsc.edu/campuspolice/clery-act/index.php">http://www.uthsc.edu/campuspolice/clery-act/index.php</a>	Yes, if the report concerns a Clery Act crime that occurred on Clery Act Geography (the report shall be sent to UTHSC-PD)
Employees who are not identified in this Appendix C	No

<sup>11</sup> If an employee has multiple roles, the employee is a Mandatory Reporter if the answer is “Yes” on this chart with respect to any of the employee’s roles in a particular situation. Also, as described in Article III.B.1, employees of UTHSC-PD are Mandatory Reporters for reports received in a law enforcement capacity.

## APPENDIX D: CONFIDENTIALITY EXCEPTIONS UNDER TENNESSEE LAW

- A. 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.
- B. 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 **not** considered by the treating healthcare professional to be life threatening, or the victim is **not** being treated for injuries inflicted by strangulation, a knife, pistol, gun, or other deadly weapon.
- C. Subpoenas or court orders – physicians.** A physician can be required to testify concerning confidential information by a subpoena or court order.
- D. 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.
- E. 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.
- F. 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.

- G. 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 E: COMPLAINT PROCEDURES**

NATURE OF THE REPORT	STATUS OF THE RESPONDENT	UNIVERSITY COMPLAINT PROCEDURE
Sexual Assault or a Sex Offense Crime	Student or Trainee	Section V.B and Section V.D of this policy
Dating Violence, Domestic Violence, Stalking, or a Relationship Violence Crime	Student or Trainee	Section V.B and Section V.D of this policy
Sex Discrimination (e.g., Sexual Harassment) that does not involve Sexual Assault, a Sex Offense Crime, a Relationship Violence Crime, Dating Violence, Domestic Violence, or Stalking	Student or Trainee	Section V.B and Section V.D of this policy
Sexual Assault or a Sex Offense Crime	Employee or Other Non-Student	Section V.B and Section V.C of this policy
Dating Violence, Domestic Violence, Stalking, or a Relationship Violence Crime	Employee or Other Non-Student	Section V.B and Section V.C of this policy
Sex Discrimination (e.g., Sexual Harassment) that does not involve Sexual Assault, a Sex Offense Crime, a Relationship Violence Crime, Dating Violence, Domestic Violence, or Stalking	Employee or Other Non-Student	Discrimination Complaint Procedure ( <a href="http://www.uthsc.edu/oed/EEOC/UNIVERSITY%20OF%20TENNESSEE%20DISCRIMINATION%20COMPLAINT%20PROCEDURE.pdf">http://www.uthsc.edu/oed/EEOC/UNIVERSITY%20OF%20TENNESSEE%20DISCRIMINATION%20COMPLAINT%20PROCEDURE.pdf</a> )

## APPENDIX F: 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.