



HEALTH EDUCATION
AND WELLNESS



**VOLS HELP VOLS:
YOU ARE NOT ALONE**

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Developed for you by the

**Center for Health
Education & Wellness**
1800 Volunteer Blvd., Suite 201
Knoxville, TN 37996-3104
865-974-5725

wellness.utk.edu

The University of Tennessee is committed to providing a safe living, learning, and working environment. If you have experienced sexual assault, domestic violence, dating violence, or stalking, remember you are not alone. The purpose of this booklet is to provide you with guidance on caring for yourself and understanding your rights, the resources available to you, and the university's procedures. You may have already spoken with the university's Title IX coordinator, a member of the university's Sexual Assault Response Team, or a member of the University of Tennessee Police Department about the incident; if so, this booklet will serve as a supplement to that conversation.



The term *prohibited conduct*, as used in this booklet, refers to sexual misconduct, sexual assault, sexual harassment, sexual exploitation, dating violence, domestic violence, and stalking. Definitions of these terms, along with the UT Code of Conduct and Tennessee criminal law definitions of consent, are listed in Appendix 1.

What to Do First

WHAT TO DO IF YOU HAVE EXPERIENCED PROHIBITED CONDUCT

Go to a safe place.

Talk to someone you trust.

As soon as you are in a safe place, tell someone you can trust about the incident—a roommate, friend, resident advisor or hall director, minister, or counselor—someone who can provide emotional support and objectively help you make a plan.

Preserve all physical evidence.

If you have experienced sexual assault, do not change your clothing, bathe, shower, douche, use the bathroom, brush your teeth, drink liquids, wash your hands or face, or comb your hair. If you change clothes, you should place all of your clothing that was worn at the time of the incident in a paper (not plastic) bag. Preservation of evidence does not mean that you have to pursue criminal charges, but it preserves that option for you.

Seek medical care.

You may seek medical care at any time following an assault, but we strongly recommend that you do so within seventy-two hours (three days). A medical professional will

examine you, provide appropriate medical treatment, and, if applicable, talk with you about the prevention of sexually transmitted infections and pregnancy.

You may seek medical care by contacting one of the following, twenty-four hours a day, seven days a week:

Emergency

911

Sexual Assault Center of East Tennessee

865-522-7273

6215 Kingston Pike, Suite A,
Knoxville, TN 37919

mcnabbcenter.org/sacet

The mission of the Sexual Assault Center of East Tennessee is to provide excellent and compassionate services for victims and survivors of sexual assault and to empower our communities through education and social change. The Sexual Assault Center of East Tennessee has four program areas: Forensic Nursing, Advocacy, Therapy, and Prevention Education. All services provided by the SACETN are free, including no-cost medical examinations, pregnancy prevention, and testing and preventative treatment for sexually transmitted infections.

**University of Tennessee
Police Department**
865-974-3114

Contact the UTPD if you would like an officer to take you either to a local hospital or the Sexual Assault Center of East Tennessee for a medical examination.

Calling 911, contacting the Sexual Assault Center of East Tennessee, or contacting the UTPD does not mean that you must make a formal report to the university or to law enforcement. A medical examination simply preserves evidence in the event that you wish to pursue a criminal prosecution. If unwanted sexual activity occurred and if you think you might want to prosecute, you are strongly encouraged to have a medical examination for the collection and preservation of evidence within seventy-two hours. Please note that the collection of evidence for use in a criminal prosecution relating to unwanted sexual activity can only be performed by trained personnel at a hospital emergency room or at the Sexual Assault Center of East Tennessee. Physical examinations by other health care providers are likely to impede potential future legal remedies.



Seek counseling.

If you wish to speak confidentially with someone, you can contact one of the following:

Student Counseling Center

865-974-2196
Licensed psychologist available during weekday business hours

Student Health Services

865-974-3648
Licensed psychiatrist available during weekday business hours

**Knoxville Sexual Assault
Crisis Center Crisis Hotline**

865-522-7273
Staff members available twenty-four hours a day

A licensed university counselor or Sexual Assault Center staff member can guide you in exploring options and provide you with information and emotional support. Whether you seek immediate assistance or choose to wait, counseling can help you deal with the psychological impact and begin the healing process.

Report the incident.

Reporting prohibited conduct is a deeply personal choice that only you can make.

If you report, there is no requirement that you pursue criminal prosecution or university discipline against the accused student. Reporting the incident and having a medical examination performed within seventy-two hours are critical in preserving evidence and allowing law enforcement and/or the university to respond effectively; nevertheless, you may report an incident at any time.

The university strongly encourages you to report an incident of sexual misconduct. Reporting the incident is the only way the university and/or law enforcement can take action.

You may report an incident of prohibited conduct to any of the following:

University of Tennessee Administrative Units

Sexual Assault Response Team/Deputy Title IX Coordinator

865-974-HELP (4357)

Dean of Students

865-974-3179

Office of Student Conduct and Community Standards

865-974-3171

Title IX Coordinator, Office of Equity and Diversity

865-974-2498

Law Enforcement Authorities

University of Tennessee Police Department

865-974-3111 / 911

Knoxville Police Department

865-215-7000/ 911

You may report an incident to law enforcement before, during, or after an investigation and/or a resolution of the incident by the Sexual Assault Response Team, the dean of students, the Office of Student Conduct and Community Standards, or the Title IX coordinator.

You have the right to decline to report the incident to law enforcement. Even if you do not report the incident to law enforcement, you may still access medical care, counseling, and other support from the University of Tennessee by notifying the Sexual Assault Response Team, the dean of students, the Office of Student Conduct and Community Standards, or the Title IX coordinator.

What to Expect Next

WHAT TO EXPECT IF YOU REPORT AN INCIDENT TO LAW ENFORCEMENT

We hope you will decide to report the incident to the police. While there is no way to change what has happened, you have the right to seek justice and may be able to help stop prohibited conduct from happening to someone else—but the decision to report or not to report is yours to make. You are not legally obligated to report.

If you visit the emergency room and tell the nurse you have been raped, the hospital will generally perform a sexual assault forensic examination. This involves collecting evidence of the attack—such as hairs, fluids, and fibers—and preserving the evidence for forensic analysis. If you think you might want to pursue prosecution but are still unsure, we recommend that you make the police report right away while the evidence is still present and your memory is detailed.

If you choose not to make a police report at that time, the medical provider will provide the examination materials to local law enforcement with a unique identifying number that will also be provided to you. The law enforcement agency

with jurisdiction will store the examination materials for up to three years. If in that time you decide to make a police report, you may report to the law enforcement agency with jurisdiction and refer to the unique identifying number so that your examination materials may be matched up with your police report for evidentiary purposes.

The district attorney will decide whether to pursue prosecution; however, it is unusual for cases to proceed without the cooperation of the victim. Reporting the incident to law enforcement does not obligate you to cooperate with the district attorney's criminal prosecution. If prosecution is pursued, the chance of success will be much higher if you reported and allowed evidence to be collected immediately after the attack.

In most cases, the police will come to you and take a statement about what occurred. It helps to write down every detail you can remember as soon as possible so you can communicate the details to the police. In addition to taking a statement, police will collect physical evidence. While some physical evidence will be collected by a nurse or doctor, the police may also ask to examine the scene of the rape and collect bedding, clothing, or other items.

The police interview may take as long as several hours, depending on the circumstances of your case. Some questions will probably feel intrusive, and the officer will probably go over the details of your attack several times. The extensive questioning is not because the police do not believe you; it is the officer's job to get every detail down precisely. Due to the traumatic effect of sexual assaults on survivors, multiple interviews may be required to get all of the pertinent details of the assault. This is not unusual, and investigators are trained to expect gaps in memory due to trauma immediately after the assault. Investigators understand that as time passes, additional memories may become clearer. Throughout the process, law enforcement officials will keep you aware of the progress of your case.

If you report the incident to the UTPD, they will contact the Title IX coordinator, and an appropriate university official will get in touch with you. UTPD will also offer to call an on-call victim advocate to be present during your questioning if you choose to do so. UTPD will also provide you with an extensive list of available resources.

How can we support you?

After you report the incident to the university, the university can support you in a variety of ways:

- Informing you of your rights under the University's Title IX grievance procedures
- Issuing a no-contact directive to the respondent, which prohibits the respondent from having verbal, physical, or written contact with you for a definite or indefinite period of time
- Providing medical and counseling services
- Assisting you in reporting an incident to law enforcement, if you want to report the incident
- Exploring changes in living and working arrangements
- Arranging appointments with follow-up on-campus support services or off-campus support services (for example, arranging an appointment with the Knoxville Family Justice Center to discuss options for pursuing an order of protection in Knox County Fourth Circuit Court)
- Exploring changes in class schedules, including adjustments so that you and the alleged perpetrator do not share the same classes

- Assisting you in communicating with faculty
- Providing academic support, including tutoring
- Exploring the options of retaking a course, dropping a course, or withdrawing for a semester without penalty

These support services are available to you even if you do not want to report the incident to UTPD or the Knoxville Police Department.

Orders of protection

Contact the Knoxville Family Justice Center for assistance in pursuing legal remedies such as orders of protection:

Knoxville Family Justice Center

400 Harriet Tubman Street
Knoxville, TN 37915
24/7 helpline 865-521-6336
fjcknoxville.com

The center provides victims of domestic violence and sexual assault with a single location to access advocacy and other services necessary to build a future of choice, safety, and opportunity. It is a safe place with caring and trained staff available to help victims of domestic violence and sexual assault and their children.



VOLS **HELP** VOLS

Outside the classroom are challenges which can sometimes be overwhelming.

If you know someone who needs help, needs to talk to someone, or is acting in a way that makes you concerned for them or others.

Call 865-974-HELP (4357)

WE ARE ALL **VOLUNTEERS**.
WE LOOK OUT FOR EACH OTHER.

THE UNIVERSITY OF
TENNESSEE
KNOXVILLE 

CENTER FOR HEALTH
EDUCATION & WELLNESS

Confidentiality

A request that your identity not be disclosed to the alleged perpetrator may limit the university's ability to respond fully to a report.

In accordance with the Family Educational Rights and Privacy Act of 1974, or FERPA, documentation concerning a student report to a university official who is not a law enforcement officer (for example, to the Title IX coordinator or a member of the Sexual Assault Response Team) is confidential. Personally identifiable information concerning the complainant or the accused student will not be disclosed to third parties outside the university without the consent of the student except in response to a lawfully issued subpoena or as otherwise required or allowed by law.

If during a university investigation of misconduct, an accused student makes a request to review documents concerning the investigation, FERPA requires that the university grant the student's request to inspect and review records that relate specifically to him or her, but the university will redact the alleged victim's name and any other identifying information to the maximum extent possible. In addition, after the university has formally charged a student or employee with violating university policy, the accused student or employee will have a due process right to be informed of the nature of the allegations against him or her, including the identity of the person who accused him or her of misconduct.

In contrast to a report to a University administrative official, incident reports prepared by UTPD for law enforcement purposes are

generally considered public records under the Tennessee Public Records Act and are not protected by FERPA, which means they will be made available to any Tennessee citizen upon request unless the report is part of an ongoing criminal investigation. In addition, the UTPD is required by federal law to report the occurrence of certain crimes on campus, including sex offenses, in an annual report of crime statistics, but the report does not contain any personally identifiable information. The UTPD is also required by federal law to issue timely warnings for certain crimes that represent serious or continuing threats to the safety of students or employees, but such warnings do not contain any personally identifiable information.



Retaliation

The University of Tennessee and Title IX prohibit retaliation against anyone who reports sexual harassment, sexual assault, or sexual misconduct. The university will take reasonable steps to prevent retaliation, and will take strong responsive action if retaliation occurs.

Amnesty

If you were using alcohol and/or drugs at the time of the incident, the university does not want that to keep you from reporting. The university will not pursue disciplinary charges against you for personal consumption of alcohol or other drugs.

Student Resources & Information

Resources	Info & Support	Counseling or Medical Services	Interim Measures	Report to the University	Confidentiality Level of Conversations, Records
Center for Health Education & Wellness <i>Sexual Assault Response Team</i> Emergency: 865-974-HELP (4357) Office: 865-974-5725 sexualassault.utk.edu/get-help	●	●	●	●	<i>As private as possible, within policy and process</i>
UT Police Department Emergency: 911 Reporting an assault or rape: 865-974-3114 utpolice.utk.edu	●			●	<i>According to state law</i>
Office of Equity and Diversity <i>Title IX Coordinator:</i> <i>Jennifer L. Richter</i> 865-974-2498 oed.utk.edu/complaints/sexual-harrasment	●	●	●	●	<i>As private as possible, within policy and process</i>
Student Health Center 865-974-3135 studenthealth.utk.edu	●	●			<i>Strictly confidential with few legal exceptions</i>
Counseling Center 865-974-2196 counselingcenter.utk.edu	●	●		●	<i>Strictly confidential with few legal exceptions</i>
Dean of Students 865-974-3179 dos.utk.edu or Student Conduct & Community Standards 865-974-3171 studentconduct.utk.edu	●	●	●	●	<i>As private as possible, within policy and process</i>
OFF-CAMPUS RESOURCE: Sexual Assault Center of East Tennessee Crisis Line: 865-522-7273 Office: 865-558-9040 mcnabbcenter.org/sacet	●	●			<i>Can be strictly confidential, few legal exceptions</i>

Campus Resources

Title IX Coordinator

Jenny Richter
Office of Equity & Diversity
1840 Melrose Avenue
phone 865-974-2498
fax 865-974-0943
jrichter@utk.edu
oed.utk.edu

Deputy Title IX Coordinator for Students

Ashley Blamey
Director, Center for Health
Education and Wellness
1800 Volunteer Blvd., Suite 201
865-974-5725 or
865-974-HELP
ashleyblamey@utk.edu

Deputy Title IX Coordinator for Athletics

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

In accordance with Title IX of the Education Amendments Act of 1972, UT policy prohibits discrimination on the basis of sex in any education program or activity. Reports or complaints of Sex Discrimination or 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..

Dean of Students

413 Student Services Building
865-974-3179
dos.utk.edu

The office seeks to engage and support students throughout their learning experience with co-curricular programs and services. The staff assists students in connecting with resources and understanding all available options for support and reporting.

Office of Student Conduct & Community Standards

409 Student Services Building
865-974-3171
studentconduct.utk.edu

The Office of Student Conduct and Community Standards is concerned with the individual rights and responsibilities of students. Staff members serve as advisors to the student judicial system and, when necessary, initiate appropriate disciplinary proceedings, including investigation and resolution of any accusation of sexual misconduct.



Center for Health Education & Wellness

1800 Volunteer Blvd
Suite 201
865-974-4357
wellness.utk.edu

The center coordinates campus-wide health and wellness education efforts, personal safety initiatives, and sexual assault response in the Division of Student Life, as well as alcohol and substance abuse prevention and intervention. It is the home of 974-HELP and the Sexual Assault Response Team (S.A.R.T.).

Student Counseling Center

1800 Volunteer Blvd, Suite 200
865-974-2196
counselingcenter.utk.edu

The Student Counseling Center provides students with personal counseling, psychotherapy, and psychological outreach and consultation services. Services

include walk-in sessions; crisis intervention; group, individual, and couples counseling; and Feel Better Fast workshops.

Student Health Services

1800 Volunteer Blvd
865-974-3135
studenthealth.utk.edu

Student Health Services provides students with an acute care clinic/triage nurse, primary care clinic, sports medicine clinic, and women's health clinic.

UT Police Department

1101 Cumberland Ave
865-974-3114
Campus Emergency:
865-974-3111
utpolice.utk.edu

UTPD works to ensure safety on campus and in the immediate surrounding area and provides programming for students to increase awareness, personal safety, and property security.

Appendix 1: Definitions

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.

(1) With respect to an employee's conduct directed toward another employee, Sexual Harassment means: "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . when: (1) submission to such conduct is made either explicitly or implicitly

a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment." (The source of this definition is: University of Tennessee System Human Resources Policy 0280 ("Sexual Harassment") (http://policy.tennessee.edu/hr_policy/hr0280/))

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

(3) 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 Harass-

ment” 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 Hilltopics.)

(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 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, an audiotape, or videotape 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;

"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.

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; (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 sanction 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 other Prohibited Conduct under this policy (Section V).

Related Definitions

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

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 or appears insincere or indecisive, always means that Consent has not been communicated, or if previously communicated has been withdrawn. The absence of a verbal “no” or the absence of a nonverbal communication of “no” does not necessarily mean that Consent has been communicated. 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.

Consent cannot be obtained by or inferred from:

silence that is not accompanied by non-verbal actions conveying a clear 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 other 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, which means that 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.

2. Coercion: Words and/or conduct that, viewed from the perspective of a Reasonable Person, substantially impair(s) a person's ability to voluntarily choose whether to 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).

3. 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 infor-

mation 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.

Appendix 2: UT Disciplinary Processes

B. University Procedures For Investigating and Resolving Reports of Prohibited Conduct

A. SUMMARY OF STUDENT AND EMPLOYEE PROCEDURES

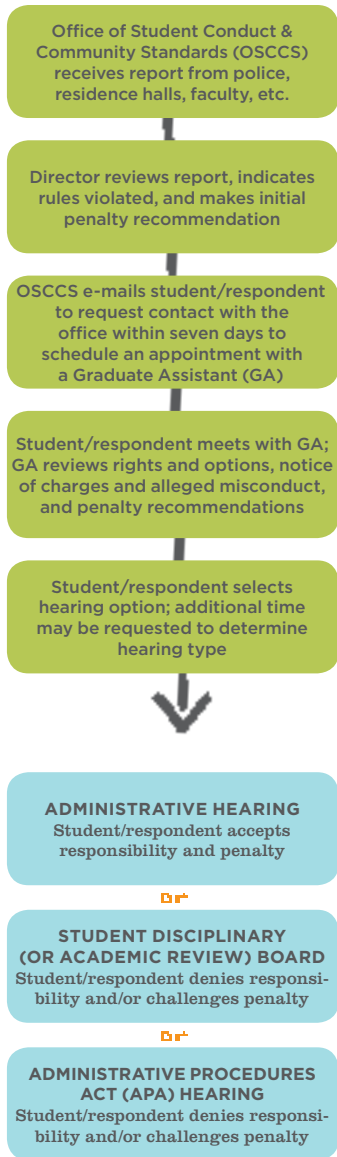
The University has specific procedures for investigating and resolving reports of Prohibited Conduct based on the relationship of the Respondent to the University and the type of Prohibited Conduct that was reported.

The procedures used to investigate and resolve Prohibited Conduct involving a Respondent who is a student a 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 generally 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 generally will be resolved



by the Office of Equity & Diversity in accordance with the University's Discrimination Complaint Procedure (<http://oed.utk.edu/complaints/>).

Appendix E 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 Misconduct. 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, 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 or other non-student) or the Office of Student Conduct (if the Respondent is a student). A separate law enforcement investigation may be conducted by UTPD.

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 to University meetings and hearings, but the person's role is limited to providing advice, guidance, and/or support for the Complainant or the Respondent, not acting as an advocate or participant (except in a TUAPA Hearing, in which a Complainant and a Respondent are entitled to have an attorney advocate on their behalf).

5. **Training:** University employees and students participating in University investigations and disciplinary hearings involving 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. **Complainants' Rights:** In addition to rights for Complainants described in other parts of this Section V and other sections of this policy, Complainants 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 Respondent to present an explanation of the facts during the University's investigation;

notice of the outcome of the University's investigation;

notice of the date, time, and location of a disciplinary hearing; the right to have a disciplinary hearing closed to the public if a hearing involves a student Complainant or Respondent; and the right to request rescheduling of a disciplinary hearing for good cause;

the same access as the Respondent to any information or documents that will be used by the University during a disciplinary hearing, unless prohibited by law;

to challenge the seating of any TUAPA administrative judge or hearing officer for good cause (determined at the discretion of the Chancellor/Agency Head); any member of a hearing board, panel, or committee for good cause (determined at the discretion of the chairperson of the hearing board, or, if the seating of the chairperson is challenged, then at the discretion of the majority of the hearing board; or any other hearing decision maker for good cause (determined at the discretion of the University employee responsible for supervising the hearing board);

the same opportunity as the Respondent to be present during a disciplinary hearing, present witnesses and other evidence, challenge the admissibility of evidence, and cross-examine

adverse witnesses during the disciplinary hearing;

to testify or remain silent in an investigation or disciplinary hearing;

not to be questioned directly by the Respondent during a disciplinary hearing or at any other time during the University's investigation or resolution;

to submit a written impact statement to a hearing board, panel, or committee, or other hearing decision maker, for consideration during the sanctioning phase of a disciplinary hearing, if the Respondent is found responsible for the charges, or to the Office of Student Conduct or other administrator for consideration during the sanctioning phase of an administrative hearing, if the Respondent admits responsibility for the charges;

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

7. Notice to Complainants and Respondents: 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 sanctions 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, without limitation: the complexity of the allegations; the complexity of the investigation and resolution; the severity and extent of the alleged misconduct; the number of parties, witnesses, and the types of other evidence (e.g., forensic evidence) involved; the availability of the parties, witnesses, and evidence (e.g., forensic evidence); a request by a Complainant to conduct an investigation or resolution at a slower pace; the effect of a concurrent criminal investigation; any intervening University holidays, breaks, or other closures; and/or other unforeseen circumstances. In the event that the need arises to significantly adjust the time frames in this policy or those previously communicated to the Complainant and the Respondent for good cause, the University will notify the Complainant and the Respondent in writing of the reason for the delay and the expected adjustment in time frames.

9. Prior Conduct, Including Sexual History: In general, neither the Complainant’s nor the Respondent’s prior sexual history is 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 and the Respondent’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.

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.

C. Procedure for Investigating And Resolving a Report 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, Sex Offense Crimes, Relationship Violence, Stalking, 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: inform the Complainant about this policy, including the Complainant's rights, and give the Complainant an opportunity to ask questions; implement Interim Measures; and, subject to a Complainant's request for confidentiality (Section III.A.5), investigate and resolve the matter promptly, thoroughly, and equitably in accordance with the procedures outlined in this section if, based on an initial assessment, the alleged conduct meets the definition of Prohibited Conduct. Subject to the University's legal disclosure obligations, information about the report will be shared only as reasonably necessary with investigators, witnesses and the Respondent. The Title IX Coordinator will designate one or more persons to investigate the report, which most often will be an employee in the Office of Equity and Diversity.

2. Investigation and Resolution: Unless the University determines that it will not investigate a report of Prohibited Conduct following a Complainant's request for confidentiality (Section III.A.5), the investigator selected by the University will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the Complainant, the Respondent, and any witnesses. As part of the investigation,

the University will provide an 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 written findings and recommendations (including a statement outlining the basis for them) and transmit the findings and recommendations to the appropriate University administrator. 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, Knoxville 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. Procedure For Investigating And Resolving A Report Involving A Respondent Who Is A University Student

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 or a Mandatory Reporter, the Title IX Coordinator, a Deputy Title IX Coordinator, and/or a member of the S.A.R.T.

will initiate immediate and appropriate steps by the University to: have an appropriate University employee 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); evaluate whether Interim Measures need to be implemented and assist with the implementation of Interim Measures; and, subject to a Complainant's request for confidentiality (Section III.A.5), initiate the investigation and resolution procedures outlined in this section if, based on an initial assessment, the alleged conduct meets the definition of Prohibited Conduct. The Title IX Coordinator, a Deputy Title IX Coordinator, and/or a member of the S.A.R.T. also can assist a Complainant in reporting the incident to law enforcement.

2. Investigation: Unless the University determines that it will not investigate a report of Prohibited Conduct following a Complainant's request for confidentiality (Section III.A.5), the investigator(s) selected by the University will conduct the investigation in a manner appropriate in light of the circumstances of the case, which will typically include interviews with the Complainant, the Respondent, and any witnesses. As part of the investigation, the University will provide an 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 Student Conduct.

The investigator will prepare a written report at the conclusion of the investigation and submit the report to the Director of Student Conduct and Community Standards for further action, as necessary. The Director 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.D.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 engaged in Prohibited Conduct, then the University will take prompt and effective steps reasonably calculated to end the misconduct, prevent the misconduct from recurring, and address its effects. One of those steps likely will involve the Office of Student Conduct charging the Respondent with a violation of the Standards of Conduct and resolving the matter in accordance with Section V.B and the University's student disciplinary regulations and procedures described in Hilltopics.

4. Appeals: The procedures for appeals of decisions relating to investigations and/or resolutions can be found in Hilltopics.

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 mis-

conduct from recurring, and address its effects. Such steps likely will include imposing one or more of the following disciplinary sanctions: permanent dismissal, suspension, deferred suspension, disciplinary probation, disciplinary reprimand, restitution, education, loss of privilege, and/or warning. In addition to imposing disciplinary sanctions, the University may implement other remedial and protective actions, including: issuing a no-contact directive to the Respondent; providing medical and counseling services to the Complainant (for a student Complainant); exploring changes in living, transportation, dining, and working arrangements for the Complainant and the Respondent; providing an escort to ensure that the Complainant can move safely between classes and activities (for a student Complainant); exploring changes in class and extracurricular schedules, including adjustments so that the Complainant and the Respondent do not share the same classes (for a student Complainant); assisting the Complainant in communicating with faculty (for a student Complainant); providing academic support for the Complainant, including tutoring (for a student Complainant); and exploring options for re-taking a course, dropping a course, or withdrawing for a semester without financial or academic penalty (for a student Complainant). The University will take prompt and effective steps reasonably calculated to end the misconduct, prevent the misconduct from recurring, and address its effects.

Notes



Notes



