# TUSCULUM UNIVERSITY UNIVERSITY POLICY

| Sexual Misconduct and Title IX Policy |
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# **Sexual Misconduct and Title IX Policy**

**Adopted October 3, 2025**

## **1. Overview**

Tusculum University, affirms its commitment to providing a safe, respectful, and Christ-centered educational environment free from sexual misconduct. Every member of our campus communities — students, faculty, staff, administrators, volunteers, and third parties — has the right to be free from sexual harassment, sexual assault, sexual violence, sexual exploitation, domestic or dating violence, stalking, and other forms of prohibited conduct.

This policy:

* Ensures compliance with Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681–1688 and 34 CFR Part 106).
* Incorporates requirements of related federal laws, including the Violence Against Women Act (VAWA), the Clery Act, and Title VII of the Civil Rights Act of 1964.

This policy prohibits retaliation against any person who makes a report, files a complaint, participates in proceedings, or supports another individual under this policy. Retaliation may include intimidation, threats, harassment, or adverse actions.

## **2. Scope and Jurisdiction**

### **a. Covered Individuals**

The policy applies to:

* All students (full-time, part-time, residential, commuter, online, graduate).
* All employees (faculty, staff, administrators, adjuncts, contractors).
Third parties (visitors, vendors, volunteers, applicants, and others participating in University programs or activities).

### **b. Jurisdiction (Title IX Cases)**

Title IX applies where the university has:

1. **Actual Knowledge** – notice of sexual harassment or misconduct made to the Title IX Coordinator or any official with authority to institute corrective measures.
2. **Sexual Harassment or Misconduct** – defined by federal regulation as follows:

**Sexual Harassment under Title IX means:** (i) an employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct [Quid pro quo harassment];
 (ii) unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity [Hostile Environment Harassment]; or
 (iii) sexual assault as defined in 34 CFR 668.46(a) [Sexual Assault, Dating Violence, Domestic Violence, and Stalking].
 *[Note: The material in brackets is provided to clarify these provisions. More information may be found in Appendix A: Definitions.]*

1. **Educational Program or Activity** – incidents that occur in locations, events, or circumstances over which the University exercises substantial control over both the respondent and the context. This includes:
	* On-campus incidents,
	* Off-campus incidents in University-owned or -controlled property, and
	* Off-campus programs or activities officially recognized (e.g., athletics travel, study abroad, conferences).
2. **Within the United States** – Title IX jurisdiction is limited to conduct occurring within the U.S. (though supportive measures may still be provided otherwise).

### **c. Non-Title IX Misconduct**

Alleged misconduct that does not fall within Title IX jurisdiction may still be addressed under other institutional policies (e.g., student code of conduct, employee handbooks). However, such cases are outside the scope of this Title IX policy.

## **3. Definitions**

For purposes of this policy, the following categories of conduct are prohibited and are defined in detail in **Appendix A: Definitions**:

1. **Sexual Harassment**, including:
	* Quid Pro Quo Harassment
	* Hostile Environment Harassment
2. **Sexual Assault**
3. **Domestic Violence**
4. **Dating Violence**
5. **Stalking**
6. **Sexual Exploitation**
7. **Sexually Inappropriate Conduct**
8. **Retaliation**
9. **Inducing Incapacitation for Sexual Purposes**
10. **Other Non-Consensual Sexual Contact**

Additional definitions provided in Appendix A include: Consent, Incapacitation, Complainant, Respondent, Advisor, Supportive Measures, and the Standard of Evidence.

## **4. Roles and Responsibilities**

### **a. Title IX Coordinator**

The university will designate a Title IX Coordinator, who will serve as the primary point of contact for reports and complaints at the institution. The Title IX Coordinator is responsible for:

* Receiving and responding to reports and formal complaints of sexual misconduct.
* Ensuring compliance with Title IX regulations, including recordkeeping, notifications, supportive measures, and procedures.
* Communicating with all members of the campus community about this policy and available resources.
* Overseeing implementation of prevention and training efforts.
* Coordinating with the Title IX Team when a case requires investigation or adjudication.

The Title IX Coordinator reports to the Provost and President.

### **b. Title IX Team**

To address the needs of Title IX cases, the University will designate a Title IX team made up of faculty and staff to handle cases.

### **c. Investigators**

* Investigators will be drawn from the Title IX Team.
* For standard cases, at least one trained investigator will be assigned.
* For serious or complex cases, two or more investigators may be assigned.
* Responsibilities include:
	+ Gathering evidence (interviews, documents, electronic data, physical evidence).
	+ Preparing an Investigation Report that includes all relevant evidence, both inculpatory and exculpatory.
	+ Ensuring both parties have equal opportunity to present evidence and respond to findings.

### **d. Hearing Panel / Adjudicators**

* Adjudicators will also be drawn from the Title IX Team.
* A Hearing Panel of at least three trained adjudicators will preside over hearings.
* Responsibilities include:
	+ Reviewing the Investigation Report and evidence.
	+ Overseeing the live hearing (in-person or virtual).
	+ Permitting cross-examination by advisors, subject to relevance rules.
	+ Issuing a Written Determination that addresses responsibility, sanctions, and remedies.

### **e. Appeals Officer**

* Appeals will be heard by a designated Appeals Officer who is a trained member of the Title IX Team but who had no involvement in the original investigation or adjudication.
* Grounds for appeal are limited to:
	1. Procedural irregularity that affected the outcome.
	2. New evidence that was not reasonably available earlier.
	3. Conflict of interest or bias.

### **f. Advisors**

* Each party (complainant and respondent) has the right to select an advisor of their choice.
* If a party does not have an advisor, the institution will provide one at no cost, drawn from a pool designated by the institution.
* Advisors may be present at all meetings and must conduct cross-examination during hearings.

### **g. Confidential Resources**

The institution designates the following as confidential resources: counseling staff, Campus Minister/Director of Spiritual Life. These confidential resources can listen, support, and advise complainants or respondents without triggering a formal report to the Title IX Coordinator, except in cases of immediate danger or abuse of a minor.

### **h. Mandatory Reporters**

**“Mandatory Reporters” include only the following categories of individuals:**

* All faculty and adjunct faculty,
* All full-time staff members,
* Non-student worker part-time staff members, and
* Student workers employed in:
	+ Campus Security / Police,
	+ Housing,
	+ Student Affairs,
	+ One of the offices of a Title IX Coordinator or Deputy Coordinator, or
	+ As Resident Assistants, Living-Learning Community Mentors, or Residential College Assistants.

Mandatory Reporters who learn of possible sexual misconduct must promptly share all known information with the Title IX Coordinator. Failure to fulfill this responsibility may result in disciplinary action.

## **5. Reporting and Confidentiality**

The University is committed to providing clear, accessible, and supportive avenues for reporting sexual misconduct. These procedures are designed to protect individuals, ensure compliance with Title IX, and uphold the integrity and safety of each participating campus community.

### **a. Reporting Options**

Reports of sexual misconduct may be made at any time (including outside normal business hours) through the following methods:

1. **Direct Report to the Title IX Coordinator**
	* Reports may be made in person, by telephone, by email, or by submitting an online report form.
	* The current Title IX Coordinator is:
		1. Erin Frizzell
2. **Report to an Official with Authority to Institute Corrective Measures**
	* Reports may also be made to senior administrators (e.g., President, Provost, Vice President for Student Affairs, Dean of Students, Director of Human Resources).
	* These officials are obligated to forward reports to the Title IX Coordinator.
3. **Anonymous Reports**
	* Anonymous reports may be submitted through an online system on the university’s website.
	* While anonymous reports may limit the institution’s ability to respond, supportive measures will be offered to the extent possible.

**Note:**

* **Third-Party Reports** – Any member of the campus community, including visitors, may submit a report on behalf of someone else.
* **Law Enforcement** – Complainants have the right to file a criminal complaint with local law enforcement. The University will provide assistance in contacting law enforcement if requested. The institution’s procedures under this policy are distinct from, and may proceed concurrently with, criminal proceedings.

### **b. Mandatory Reporters**

**“Mandatory Reporters” include only the following categories of individuals:**

* All faculty and adjunct faculty,
* All full-time staff members,
* Non-student worker part-time staff members, and
* Student workers employed in:
	+ Campus Security / Police,
	+ Housing,
	+ Student Affairs,
	+ One of the offices of a Title IX Coordinator or Deputy Coordinator, or
	+ As Resident Assistants, Living-Learning Community Mentors, or Residential College Assistants.

Mandatory Reporters who learn of possible sexual misconduct must promptly share all known information with the Title IX Coordinator. Failure to fulfill this responsibility may result in disciplinary action.

### **c. Filing a Formal Complaint**

* A Formal Complaint is a document signed by the complainant (or by the Title IX Coordinator when necessary) alleging sexual misconduct and requesting that the institution investigate.
* Formal Complaints may be submitted in person, by mail, by email, or through the institution’s online Title IX reporting system.
* At the time of filing, the complainant must be participating in or attempting to participate in the education program or activity of the institution.
* Once a Formal Complaint is filed, the Title IX Coordinator will notify the respondent and initiate the investigation procedures described in Section 6.

### **d. Requests for Anonymity or Non-Action**

* A complainant may request that their identity not be disclosed or that no action be taken.
* The Title IX Coordinator will consider such requests in light of the institution’s duty to provide a safe environment.
* If the Coordinator determines that honoring the request would prevent the institution from addressing a serious risk to the community, the Coordinator may sign a Formal Complaint to proceed with an investigation.
* In such cases, the complainant will be informed and offered supportive measures.

### **e. Amnesty**

In order to encourage reports of conduct prohibited under this policy, an individual who, in good faith, reports being the victim of, or witness to sexual harassment, sexual assault, dating or domestic violence, or stalking, or who assists in the investigation of a report, will be entitled to amnesty from disciplinary actions by the University relating to code of conduct violations that occurred as a part of the incident in question or which were reasonably related to the incident. The University reserves the right to investigate whether a report was made in good faith before granting amnesty. Additionally, amnesty does not apply to the reporting individual’s own acts, if any, of sexual misconduct.

### **f. Good Faith, False Reports, and Obstruction of Justice**

It is a violation of this policy for any party, witness, or advisor to make a false or misleading statement of any kind in a communication that is part of these proceedings.

It is also a violation of this policy to obstruct justice by interfering with the orderly administration of an investigation or adjudication of a sexual misconduct case or potential case. Obstruction of justice may include, but is not limited to:

* Influencing, threatening, harming, intimidating, or impeding a witness, potential witness, investigator, adjudicator, or Title IX Team member;
* Furnishing false information; or
* Otherwise interfering with a sexual misconduct case or potential case.

### **g. Preservation of Evidence**

Individuals who experience sexual assault or other physical forms of misconduct are strongly encouraged to seek medical attention as soon as possible to preserve forensic evidence. Evidence preservation can be important for both criminal investigations and University proceedings.

### **h. Case Designations, Interim Measures, and Initial Actions**

Upon receiving a Formal Complaint, the following steps will be taken as soon as possible:

1. **Notification of Parties**
	* The Title IX Coordinator will notify both the complainant and the respondent of the allegations, their rights under this policy, and the availability of supportive measures.
	* Written notice will include sufficient details of the complaint (including the conduct alleged, date, and location of the incident, if known).
	* The notice will also state that the respondent is presumed not responsible until proven otherwise, outline the right to an advisor, and describe the institution’s policy against making false statements.
2. **Advisors**
	* Both parties will be provided access to the Pool of Advisors (see Section 4).
	* If a party selects an Advisor from the pool, both the other party and the Advisor will be notified.
3. **Case Designation and Severity Level**
	* The Title IX Team will review the complaint and vote to determine:
		+ Whether the complaint will proceed under Title IX Procedures (Section 6), or other applicable University procedures if outside Title IX scope.
		+ Whether the case is classified as Standard or Severe, based on the seriousness of the allegations.
4. **Supportive Measures**
	* Supportive measures will be offered to the complainant regardless of whether a Formal Complaint proceeds.
	* These may include:
		+ No-contact directives,
		+ Academic schedule adjustments or exam accommodations,
		+ Housing changes,
		+ Work schedule modifications,
		+ Temporary removal from campus, or
		+ Other measures as deemed appropriate.
5. **Emergency Removal or Administrative Leave**
	* In cases where an individualized safety and risk analysis determines an immediate threat to the physical health or safety of any student or other individual, the institution may remove a respondent on an emergency basis.
	* A respondent removed under this provision will be given written notice and an opportunity to challenge the decision promptly before a Title IX Team member not previously involved in the case.
	* Institutions also retain the discretion to place an employee respondent on administrative leave during the investigation and adjudication process.

### **j. Presumptions and Other General Matters**

* **Presumption of Non-Responsibility:** All respondents are presumed not responsible until a determination of responsibility is made at the conclusion of the process.
* **Burden of Proof:** The institution bears the burden of gathering evidence and proving responsibility under Title IX regulations.
* **Standard of Evidence:** Responsibility will be determined using the clear and convincing evidence standard (see Appendix A).
* **Credibility:** No presumption of credibility or bias will be given to any party or witness. Each party’s and witness’s credibility will be judged objectively, and all individuals will be treated with respect and without bias throughout the process.

### **k. Informal Resolution Process**

* **Availability:** At the outset of a case, the Title IX Coordinator will inform both parties if a voluntary Informal Resolution Process is available. Both parties must consent for it to proceed.
* **Limitations:** Informal Resolution is not available in situations where the Title IX Team determines that good cause exists to deny informal resolution in order to protect the safety and well-being of the community.
* **Process:** Informal Resolution generally involves a mediation-style process, facilitated by a trained neutral party, where parties may be separated and a facilitator communicates between them. Advisors may be present, but the parties themselves must sign any agreement reached.
* **Settlement Requirements:** A resolution becomes binding only if:
	1. Both parties agree in writing, and
	2. The Title IX Coordinator or a Title IX Team member reviewing the agreement determines that it does not compromise campus safety.
* **Outcome:** If a settlement is reached and approved, the case will be dismissed for purposes of formal procedures, and the agreement will be binding. If no settlement is reached, or if either party withdraws from the Informal Resolution Process, the case will continue under the procedures outlined in Section 6.
* **Confidentiality:** Statements made during the Informal Resolution Process are confidential and may not be used as evidence in subsequent proceedings.

## **6. Procedures for Title IX Cases**

The following procedures govern all cases in which the alleged conduct, geography of the incident, and parties meet the scope requirements outlined in Section 2. These procedures ensure compliance with Title IX regulations, protect the rights of all parties, and provide an equitable, thorough, and impartial process.

### **a. Initiation of Investigation**

1. Once a Formal Complaint is filed, the Title IX Coordinator will:
	* Provide written notice to the complainant and respondent, including the specific allegations, the date and location of the alleged incident (if known), parties involved, and the sections of this policy allegedly violated.
	* Inform both parties of their right to an Advisor of their choice, including one from the Pool of Advisors.
	* State that the respondent is presumed not responsible until he/she is proven responsible, and that a determination will only be made at the conclusion of the grievance process.
	* Provide both parties with a copy of this policy.
2. The Title IX Team will designate one or more trained investigators to conduct the investigation.

### **b. Investigation**

1. **Scope of Investigation**
	* The investigation will be thorough, impartial, and completed within a reasonable time, taking into account the complexity of the case, the timing within the academic calendar, the availability of witnesses, and other relevant factors.
	* Investigators will seek both inculpatory and exculpatory evidence.
2. **Process**
	* Interviews will be conducted with the complainant, respondent, and relevant witnesses.
	* Each party will have equal opportunity to present evidence, including documents, communications, or names of witnesses.
	* All directly related evidence will be shared with both parties and their Advisors, who will have at least 10 days to review and submit a written response.
3. **Investigative Report**
	* After considering party responses, investigators will prepare a written Investigative Report summarizing the relevant evidence.
	* Concurrently with, or shortly after, circulation of the draft Investigative Report, the Title IX Coordinator will notify both parties of the time, date, and location of the hearing.
	* Parties may submit a written response to the Investigative Report within ten (10) days of receiving it. Investigators may revise the Report or append party responses as addenda.
	* A Final Investigative Report will then be issued to the Title IX Coordinator, the Title IX Team, both parties, and their Advisors.
4. **Recusal**
	* Any Title IX Coordinator, investigator, hearing panel member, or appeals officer must recuse themselves if they have a conflict of interest or bias that could affect impartiality. Replacement personnel will be assigned from the Title IX team.

### **c. Hearing**

1. **Hearing Panel**
	* A panel of at least three (3) members of the Title IX Team not involved in the investigation will conduct the hearing.
	* One member will serve as the Chair, responsible for procedural rulings and ensuring compliance with hearing protocols.
2. **Format**
	* Hearings will be live, either in person or via secure videoconference, with parties able to see and hear one another.
	* The hearing will include opening statements (optional), presentation of evidence, witness testimony, cross-examination through Advisors, and closing statements (optional).
3. **Cross-Examination**
	* Advisors may conduct cross-examination directly, orally, and in real time.
	* The Chair will determine the relevance of each question before it is answered.
	* Questions about a complainant’s prior sexual history are prohibited except where permitted by federal Title IX regulations.
	* To protect all parties during questioning:
		+ If the hearing is held in person, the party being questioned will not be in the same physical room as the other party. Instead, they will be placed in a separate room and provided with technology to see and hear the proceedings in real time.
		+ If the hearing is held virtually, the party being questioned will be required to turn off their camera and microphone during cross-examination, but will continue to have real-time electronic access to observe the proceedings.
4. **Recording**
	* The hearing will be recorded by audio or audiovisual means. A transcript will be made available to both parties.

### **d. Determination of Responsibility**

1. **Deliberation**
	* The hearing panel will deliberate privately after the hearing.
	* A determination will be made using the clear and convincing evidence standard.
2. **Written Determination**
	* Within five (5) business days, the Chair will issue a written determination that includes:
		+ Allegations considered,
		+ Procedural steps taken,
		+ Findings of fact,
		+ Any disciplinary sanctions, and
		+ Any remedies provided to restore or preserve equal access for the complainant.
	* The written determination will be provided simultaneously to both parties, their Advisors, and the Title IX Coordinator.

### **e. Sanctions and Remedies**

* Remedies and sanctions will be determined based on the seriousness of the misconduct and the respondent’s prior disciplinary history.
* Possible remedies and sanctions for students may include, but are not limited to:
	+ Formal admonition,
	+ Restrictions from extracurricular activities,
	+ Dismissal from residence halls or apartments,
	+ Transition to online courses,
	+ Removal or reduction of institutional scholarships,
	+ Disciplinary probation,
	+ Suspension,
	+ Expulsion, or
	+ Withholding of degree.
* Possible remedies and sanctions for faculty/staff may include, but are not limited to:
	+ Verbal or written warning,
	+ Demotion,
	+ Reassignment,
	+ Probation,
	+ Suspension, or
	+ Termination.
* Community service, mandatory counseling/training, or other measures may be added to sanctions as appropriate.

### **f. Appeals**

1. **Grounds for Appeal** Either party may appeal a written determination or dismissal of a Formal Complaint on the following grounds:
	* Procedural irregularity that affected the outcome,
	* New evidence not reasonably available at the time of determination,
	* Conflict of interest or bias by Title IX personnel that affected the outcome.
2. **Appeals Officer**
	* Appeals will be reviewed by a member of the Title IX Team not involved in the original case.
	* The Appeals Officer may, at his/her discretion, hold an appeals hearing, but any such hearing will be limited strictly to the grounds for appeal listed above.
3. **Process**
	* Appeals must be submitted in writing within ten (10) calendar days of the written determination.
	* The non-appealing party will be allowed to submit a written response.
	* The Appeals Officer will issue a written decision within a reasonable timeframe.
	* The Appeals Officer’s decision is final.

## **7. Procedures When the Complainant Does Not File a Formal Complaint or Requests Anonymity**

There may be situations where a complainant:

1. Chooses not to pursue a Formal Complaint, and/or
2. Requests that his/her identity remain anonymous.

Even in these cases, the institution remains obligated to take action consistent with Title IX and other applicable federal requirements.

### **a. Initial Assessment**

* When a report is received without a Formal Complaint, the Title IX Coordinator will promptly contact the complainant (if identifiable) to discuss:
	+ The availability of supportive measures,
	+ The process for filing a Formal Complaint, and
	+ The complainant’s wishes regarding participation in the process.
* The Coordinator will respect the complainant’s request to not move forward whenever possible. However, the institution must balance this request with its duty to provide a safe and nondiscriminatory environment for the campus community.

### **b. Cooperative Team Review**

If the complainant does not wish to file a Formal Complaint, or requests anonymity, the Title IX Team will evaluate whether to move forward despite the complainant’s request. This assessment will consider:

* The seriousness of the alleged conduct,
* Whether there have been multiple reports involving the same respondent,
* The presence of weapons, threats, or predatory behavior,
* The age or vulnerability of the complainant,
* Whether the alleged behavior suggests a pattern of misconduct that could endanger others,
* Other factors deemed relevant by the Title IX Team.

### **c. Decision to Proceed Without Complainant Participation**

* If the Title IX Team determines that the safety of the broader community requires action, the Title IX Coordinator may sign a Formal Complaint on behalf of the institution.
* In such cases, the complainant is not required to participate in the process, though he/she may do so voluntarily.
* The institution will clearly document the rationale for proceeding without the complainant’s participation, ensuring the decision is not “clearly unreasonable” under Title IX standards.

### **d. Limitations of Response Without a Formal Complaint**

* When the complainant chooses not to file and the Title IX Team does not proceed independently, the ability of the institution to investigate and adjudicate may be limited.
* Supportive measures will still be offered to the complainant to the extent possible, regardless of whether a Formal Complaint is filed.

### **e. Documentation**

* The Title IX Coordinator will maintain records of all reports, including:
	+ The complainant’s expressed preferences,
	+ The Team’s assessment of risk factors, and
	+ The final decision and rationale for either moving forward or not proceeding.

### **f. Withdrawal of Formal Complaints**

* A complainant may withdraw a Formal Complaint at any time by submitting a written request to the Title IX Coordinator.
* If a Formal Complaint is withdrawn, the Title IX Team will evaluate whether to:
	+ Dismiss the case, or
	+ Continue the investigation and adjudication if the circumstances present a significant risk to the campus community (e.g., multiple reports of misconduct, threats of violence, use of weapons, or predatory behavior).
* The rationale for the Team’s decision will be documented, including why dismissal or continuation was appropriate.

## **8. Prevention, Awareness, and Training**

The institution is committed to preventing sexual misconduct and ensuring that all members of the campus community are educated about their rights and responsibilities under this policy. Prevention and awareness efforts are designed not only to comply with Title IX and the Clery Act but also to reflect the institution’s Christian mission and values, emphasizing dignity, respect, and mutual accountability.

### **a. Training for Students, Faculty, and Staff**

* All students, faculty, and staff will receive annual Title IX training covering:
	+ The definitions of prohibited conduct,
	+ Reporting obligations,
	+ Resources and supportive measures available,
	The investigation and adjudication process,
	+ The institution’s expectations for maintaining a respectful, harassment-free environment.

### **b. Specialized Training for Title IX Personnel**

* The Title IX Coordinator, investigators, hearing panel members, advisors, and appeals officers will receive annual specialized training on:
	+ Conducting impartial and trauma-informed investigations,
	+ Evaluating evidence using the clear and convincing standard,
	Managing hearings, including cross-examination protocols,
	+ Avoiding conflicts of interest and bias.
* Training materials will be publicly posted on the institution’s Title IX website, in compliance with federal regulations.

### **c. Prevention and Awareness Programming**

The institution will engage in proactive programming that may include:

* Orientation sessions for new students, including freshmen and transfer students,
* Workshops for student-athletes, student leaders, and residence life staff,
* Campus-wide campaigns promoting a culture of respect and responsibility,
* Presentations in chapel, living-learning communities, and other faith-based settings that frame Title IX expectations within a biblical understanding of dignity and justice.

### **d. Communication and Notifications**

* At the beginning of each academic term, the Title IX Coordinator will send an all-campus communication that includes:
	+ A summary of this policy,
	+ Contact information for reporting,
	+ Available resources for complainants and respondents.
* The institution will also provide clear, accessible information about Title IX rights and responsibilities in:
	+ Student handbooks,
	+ Employee handbooks,
	+ Online course platforms, and
	+ Campus website.

# **Appendix A: Definitions**

For purposes of this policy, the following terms and definitions apply. These definitions are consistent with federal law (Title IX, Clery Act, VAWA).

### **1. Parties**

* **Complainant**: The individual(s) alleged to be the victim of conduct prohibited under this policy, regardless of whether they file a Formal Complaint.
* **Respondent**: The individual(s) alleged to have engaged in conduct prohibited under this policy.

### **2. Consent**

* Consent is a voluntary, informed, and mutual agreement to participate in sexual activity.
* It is the responsibility of the initiator of any sexual activity to ensure that he or she has the other person’s consent before engaging in sexual activity.
Consent may never be obtained through force, coercion (manipulation), or intimidation.
* Sexual contact with anyone who is incapacitated due to alcohol or drug consumption, a mental or physical impairment, unconsciousness, or any other reason is a violation of this policy. Individuals who are physically unable to communicate are assumed incapable of giving consent.
* In evaluating whether consent was given, the totality of the circumstances will be considered, including:
	+ Whether the complainant affirmatively used words or actions indicating a willingness to engage in sexual contact, free from manipulation, intimidation, fear, or coercion;
	+ Whether a reasonable person in the respondent’s position would have understood such words or actions as an expression of consent;
	+ Whether circumstances known or reasonably apparent to the respondent demonstrated incapacitation or fear.

### **3. Incapacitation**

* A person is incapacitated when they cannot understand the nature or fact of the sexual activity due to alcohol, drugs, sleep, unconsciousness, or another condition.
* Indicators may include lack of awareness, confusion, inability to communicate, or lack of control over movements.
* A minor, as defined by state law, is deemed incapacitated and therefore unable to give consent.
* Inducing incapacitation for sexual purposes (e.g., drugging someone) is a violation of this policy.

### **4. Coercion and Force**

* **Coercion**: Verbal or physical conduct, including manipulation, intimidation, unwanted contact, or threats of harm, that would reasonably place someone in fear and compel them to engage in sexual activity against their will.
* **Force**: The use or threat of physical violence or strength to overcome another person’s freedom of will to choose whether to participate in sexual activity.

### **5. Sexual Harassment (Title IX)**

Conduct on the basis of sex that falls into one of the following categories:

1. **Quid Pro Quo Harassment** – An employee of the institution conditions the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct.
2. **Hostile Environment Harassment** – Unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution’s education program or activity.

### **6. Sexual Violence**

The following behaviors constitute sexual violence and are prohibited under this policy. All forms of sexual violence are serious offenses and will result in University discipline. Sexual violence involving force, duress, inducement of incapacitation, or exploitation of a person’s incapacitation will be deemed especially egregious and may result in expulsion or termination.

* **Non-Consensual Sexual Penetration**: Any act of vaginal or anal penetration by a penis, finger, other body part, or object, or oral penetration by a penis, without consent.
* **Forceful Non-Consensual Sexual Contact**: Any sexual touching, other than penetration, that occurs without consent and results from coercion, force, or incapacitation. Examples: genital or oral-genital contact without penetration, contact with breasts, buttocks, or genitals (including over clothing), removing another person’s clothing, or kissing.
* **Non-Violent Sexual Contact**: Any sexual touching without consent that does not meet the definition of sexual violence above. Examples include genital or oral-genital contact not involving penetration, contact with breasts, buttocks, or genitals (including over clothing), removing another person’s clothing, or kissing.

### **7. Dating Violence**

* Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant.
* Factors considered include the relationship’s length, type, and frequency of interaction.
* Includes physical, emotional, or sexual abuse or threats thereof.

### **8. Domestic Violence**

* Violence, threats, or abuse committed by:
	+ A current or former spouse or intimate partner,
	+ A person with whom the complainant shares a child,
	+ A person who is cohabitating with or has cohabitated with the complainant as a spouse or partner, or
	+ Any person similarly situated under applicable family or domestic violence laws.

### **9. Stalking**

Stalking under this policy is a course of conduct (i.e., more than one act) directed at a specific person which would cause a reasonable person to feel fear, to experience substantial emotional distress, or to fear for their safety or the safety of a third person. Acts that together constitute stalking may be direct actions or may be communicated by a third party, and can include, but are not limited to, threats of harm to self, others, or property; pervasive pursuing or following; pervasive non-consensual (unwanted) communication by any means; trespassing; and surveillance or other related types of observation performed in a harassing or menacing manner.

### **10. Sexual Exploitation**

Sexual exploitation occurs when a person takes non-consensual or abusive sexual advantage of another. Examples include:

* Visual (e.g., video, photograph) or audio-recording of sexual activity,
* Producing, obtaining, or distributing photos, videos, audio recordings, streams, or other images of an individual’s sexual activity, intimate body parts, or nakedness,
* Intentionally observing another’s nudity or sexual activity, or allowing others to do so, without consent,
* Knowingly transmitting a sexually transmitted infection (STI), such as HIV, without disclosure,
* Exposing one’s genitals, buttocks, or (for females) breasts in non-consensual circumstances, or inducing another to do so,
* Distributing or forcing others to view pornography,
* Exploiting a person through force, fraud, or coercion for sexual purposes.

### **11. Retaliation**

* Any adverse action taken against someone for making a report, filing a complaint, participating in an investigation, or opposing conduct prohibited under this policy.
* Includes threats, intimidation, harassment, coercion, or discrimination.
* Prohibited regardless of the outcome of the underlying complaint.

### **12. Evidence Standard**

* **Clear and Convincing Evidence**: Proof that produces a firm belief or conviction that the allegations are true.