

**Austin Peay State  
University**

**Misconduct, Discrimination, and Harassment Based on Sex  
(Including Pregnancy, Sexual Orientation, and Gender  
Identity/Expression)**

**POLICIES**

**Issued:** September 17, 2018

**Responsible** Director of Equal Opportunity and Affirmative

**Official:** Action/Title IX Coordinator

**Responsible** Office of Equal Opportunity and Affirmative

**Office:** Action

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**Policy Statement**

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It is the policy of Austin Peay State University (APSU) that students, faculty, and staff learn, live, and work in a safe learning, living, and working environment. APSU is committed to eliminating all acts of sexual misconduct, discrimination, and harassment on its campus. An environment free from such acts is necessary to a healthy learning, working, and living atmosphere because such misconduct, discrimination, and harassment undermine human dignity and the positive connection among all people at the University.

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**Purpose**

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The purpose of this policy is to specifically address misconduct, discrimination, and harassment based on sex (hereinafter to include claims based on pregnancy or sexual orientation/gender identity/expression) as well as the following offenses defined herein: dating violence, domestic violence, sexual assault and stalking; and, to establish procedures for responding to incidents of sexual misconduct, discrimination, and harassment. Sexual misconduct and harassment are forms of sexual discrimination prohibited by Title IX of the Education Amendments of 1972, as amended, and APSU.

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## **Procedures**

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### **I. Scope**

- A. These procedures shall be utilized by:
  - 1. Any employee or student, including applicants for employment or admission as a student, who has been a victim of sexual misconduct, discrimination, and/or harassment;
  - 2. Any former employee or student who has been a victim of sexual misconduct, discrimination, and/or harassment, if the conduct took place during the time of employment or enrollment at APSU, and the conduct has a reasonable connection to the University;
  - 3. Any employee or student who has knowledge of an act of sexual misconduct, discrimination, and/or harassment against another employee or student in order to report such conduct; and
  - 4. All third parties with whom APSU has an educational or business relationship who have been a victim of sexual misconduct, discrimination, and/or harassment when the conduct has a reasonable connection to the University.
- B. This policy is adopted specifically to address the offenses defined herein.
- C. This policy applies to all University programs and activities, including, but not limited to, sexual misconduct, discrimination, and harassment in athletics, instruction,

grading, university housing, and university employment. In addition, the law prohibits retaliation against an individual for opposing any practices forbidden under this policy, for bringing a complaint of sexual misconduct, discrimination, or harassment, for assisting someone with such a complaint, for attempting to stop such conduct, or for participating in any manner in an investigation or resolution of a complaint of sexual misconduct, discrimination, or harassment. It is central to the values of this University that any individual who believes he/she may have been the target of unlawful sexual misconduct, discrimination, or harassment feel free to report his/her concerns for appropriate investigation and response, without fear of retaliation or retribution.

D. Other forms of discrimination are also strictly prohibited and are subject to the procedures described in APSU Policy 6:004 (Discrimination and Harassment Based on Protected Categories other than Sex).

## II. Definitions

- A. **Accuser/Accused and Complainant/Respondent.** In most cases, the victim of conduct prohibited by this policy will be referred to as the “accuser” and/or the “complainant” during the process set forth herein. The “accused” will typically be referred to as the “respondent” during this process.
- B. **Consent.** An informed decision, freely given, made through mutually understandable words or actions that indicate a willingness to participate in mutually agreed upon sexual activity. Consent cannot be given by an individual who is asleep, unconscious, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or is under duress, threat, coercion, or force. Past consent does not imply future consent. Silence or an absence of resistance does not imply consent. Consent can be withdrawn at any time.
- C. **Dating Violence.** T.C.A. § 36-3-601(5)(c). Violence against a person when the accuser and accused are dating, or who have dated, or who have or had a sexual relationship. “Dating” and “dated” do not include fraternization between two (2)

individuals solely in a business or non-romantic social context. Violence includes, but is not necessarily limited to:

1. Inflicting, or attempting to inflict, physical injury on the accuser by other than accidental means;
2. Placing the accuser in fear of physical harm;
3. Physical restraint;
4. Malicious damage to the personal property of the accuser, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by the accuser; or,
5. Placing the accuser in fear of physical harm to any animal owned, possessed, leased, kept, or held by the accuser.

**D. Domestic Violence.** T.C.A. § 36-3-601.

1. Violence against a person when the accuser and accused:
  - a. Are current or former spouses;
  - b. Live or have lived together as a spouse or intimate partner;
  - c. Are related by blood or adoption;
  - d. Are related or were formally related by marriage; or,
  - e. Are adult or minor children of a person in a relationship described above.
2. Violence includes, but is not necessarily limited to:
  - a. Inflicting, or attempting to inflict, physical injury on the accuser by other than accidental means;
  - b. Placing the accuser in fear of physical harm;
  - c. Physical restraint;
  - d. Malicious damage to the personal property of the accuser, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by the accuser; or,
  - e. Placing the accuser in fear of physical harm to any animal owned, possessed, leased, kept, or held by the accuser.

**E. Responsible Employee.** An APSU employee who has the authority to redress sexual misconduct, discrimination, and/or harassment; who has the duty to report incidents of sexual misconduct, discrimination, and/or harassment; or, whom a student or employee could reasonably believe has this authority or duty. See Section IV.B. for additional information on Responsible Employees.

- F. Retaliation.** Action taken against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop, or attempted to stop, actual or perceived sexual misconduct, discrimination, or harassment. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation. Action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.
- G. Sexual Assault.** The nonconsensual sexual contact with the accuser by the accused, or the accused by the accuser when force or coercion is used to accomplish the act, the sexual contact is accomplished without consent of the accuser, and the accused knows or has reason to know at the time of the contact that the accuser did not or could not consent. Sexual contact includes, but is not limited to, the intentional touching of the accuser's, the accused's, or any other person's intimate parts, or the intentional touching of the clothing covering the immediate area of the accuser's, the accused's, or any other person's intimate parts, if that intentional touching can be reasonably construed as being for the purpose of sexual arousal or gratification.
- H. Sexual Discrimination.** Treating individuals less favorably because of their sex (including pregnancy or sexual orientation/gender identity/expression) or having a policy or practice that has a disproportionately adverse impact on protected class members.
- I. Sexual Harassment.** Includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, including sexual assault, where a tangible employment or educational action is conditioned upon submission to or rejection of unwelcome sexual advances, or where conduct is so severe, pervasive, or objectively offensive that the individual is effectively denied equal access to the University's resources and opportunities. Sexual harassment, including sexual assault, can involve persons of the same or opposite sex.

Harassment does not have to include intent to harm, be directed at a specific person or group of people, or involve repeated incidents. Sex-based harassment includes sexual harassment, which is further defined below, and non-sexual harassment based on stereotypical notions of what is female/feminine versus male/masculine or a failure to conform to those gender stereotypes.

Consistent with the law, this policy prohibits two (2) types of sexual harassment:

1. **Tangible Employment or Educational Action.** This type of sexual harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment, or participation in a University activity is conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome sexual advances or requests for sexual favors, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a University program or activity. Generally, perpetrators will be agents or employees with some authority from the University.
2. **Hostile Environment.** A hostile environment based on sex exists when harassment is sufficiently serious (i.e., severe, pervasive, or persistent) and objectively offensive so as to effectively deny or limit a person's ability to participate in or benefit from the University's programs, services, opportunities, or activities; or harassment that creates a hostile environment violates this policy. A hostile environment can be created by anyone involved in a University program or activity (i.e., administrators, faculty members, students, and campus guests). Mere offensiveness is not enough to create a hostile environment. Although repeated incidents increase the likelihood that harassment has created a hostile environment, a single serious incident, such as a sexual assault, even if isolated, can be sufficient.

In determining whether harassment has created a hostile environment, consideration will be made not only as to whether the conduct was unwelcome to the person who feels harassed, but also whether a reasonable person in a

similar situation would have perceived the conduct as objectively offensive.

Examples of sexual harassment include, but are not limited to, the following. The examples listed below are not exclusive, but simply represent types of conduct that may constitute sexual harassment.

- I. Refusing to hire, promote, or grant or denying certain privileges because of acceptance or rejection of sexual advances;
  - II. Promising a work-related benefit or a grade in return for sexual favors;
  - III. Suggestive or inappropriate communications, email, notes, letters, or other written materials displaying objects or pictures, which are sexual in nature, that would create hostile or offensive work, living, or educational environments;
  - IV. Sexual innuendoes, comments, and remarks about a person's clothing, body, or activities;
  - V. Suggestive or insulting sounds;
  - VI. Whistling in a suggestive manner;
  - VII. Humor and jokes about sex that denigrate men or women;
  - VIII. Sexual propositions, invitations, or pressure for sexual activity;
  - IX. Use in the classroom of sexual jokes, stories, remarks, or images that are in no way or only marginally relevant to the subject matter of the class;
  - X. Implied or overt sexual threats;
  - XI. Suggestive or obscene gestures;
  - XII. Patting, pinching, and other inappropriate touching;
  - XIII. Unnecessary touching or brushing against the body;
  - XIV. Attempted or actual kissing or fondling;
  - XV. Suggestive or inappropriate acts, such as comments, innuendoes, or physical contact based on one's actual or perceived sexual orientation and/or gender identity/expression;
  - XVI. Graphic or written statements (including the use of cell phones and the internet), or other conduct that may be physically threatening, harmful, or humiliating in a manner related to sex.
- J. Sexual Misconduct.** For the purposes of this policy, sexual misconduct is defined as dMisconducting violence, domestic violence, stalking, and sexual assault.

**K. Stalking.** T.C.A. § 39-17-315. A willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested, and that actually causes the accuser to feel terrorized, frightened, intimidated, threatened, harassed, or molested. Harassment means conduct directed toward the accuser that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable person to suffer emotional distress and that actually causes the accuser to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

**L. Title IX Coordinator.** The Title IX Coordinator is the APSU official responsible for overseeing the University's response to sexual misconduct, discrimination, and harassment reports and complaints and for addressing any patterns or systemic problems identified by such reports and complaints. This official oversees and coordinates the University's programs and training (in conjunction with the Deputy Title IX Coordinator) efforts with regard to sexual misconduct, discrimination, and harassment. The Title IX Coordinator conducts investigations and has the authority to implement all interim measures deemed appropriate. The Deputy Title IX Coordinator also has investigatory responsibility and is also authorized to implement appropriate interim measures. All requests by complainants for confidentiality should be evaluated by the Title IX Coordinator in conjunction with the University Attorney. Refer to Section V. for additional information.

**III. Immediate Actions a Victim Should Take**

**A. Seek Medical Attention.** When a feeling of safety has been achieved, the victim should seek medical attention, regardless of his or her decision to report the crime to the police. It is very important for the victim of sexual misconduct to seek medical attention as soon as possible so that the victim can be screened for sexually transmitted diseases/pregnancy/date rape drugs, obtain emergency contraception, and receive treatment for any physical injuries. A victim has the right to accept or decline any or all parts of a medical exam. However, critical evidence may be lost or missed if not collected or analyzed.

**B. Preserve Evidence.** Valuable physical evidence can be obtained from the victim and the victim's clothing. A victim should make every effort to save anything that might contain the offender's DNA. Therefore, a victim should not:

1. Bathe or shower;
2. Wash his/her hands;
3. Brush his/her teeth;
4. Use the restroom;
5. Change clothes;
6. Comb hair;
7. Clean up the crime scene; or
8. Move anything the offender may have touched.

Even if the victim has not yet decided to report the crime, receiving a forensic medical exam and keeping the evidence safe from damage will improve the chances that the police can access and test the stored evidence at a later date. Victims of sexual misconduct are encouraged to preserve evidence by saving text messages, instant messages, social networking pages, other communications, and keeping pictures, logs or other copies of documents, if they have any, that would be useful to investigators.

#### **IV. Reporting Sexual Misconduct, Discrimination, and Harassment**

**Prompt reporting is encouraged.** Persons may report allegations of sexual misconduct, discrimination, and harassment at any time but are encouraged to make reports promptly in order to maximize the University's ability to obtain evidence and conduct a prompt, fair, and impartial investigation. Failure to promptly report allegations of sexual violence may result in the loss of relevant evidence and witness testimony and may impair the University's ability to respond and take appropriate action.

**Amnesty for Students Who Report Sexual Misconduct.** The University recognizes that a student who is under the influence of alcohol or drugs at the time of an incident may be hesitant to make a report because of threat of disciplinary sanctions for his or her own violation of the Student Code of Conduct. A student who reports sexual misconduct, either as a complainant or third party will not face disciplinary charges under the University's Student Code of Conduct.

#### **Confidentiality**

The University recognizes that sexual misconduct allegations are a sensitive subject for all parties involved. The University is committed to maintaining the privacy of the parties involved to the fullest extent possible under applicable law. There may be instances when the University determines it needs to investigate

and take reasonable action even when the complainant requests anonymity or requests that no action be taken. Thus, absolute confidentiality cannot be guaranteed. In such cases, the University will take all reasonable steps to investigate and respond to the complaint consistent with the complainant's requests and when it cannot do so, will keep the complainant informed, as deemed appropriate. In all cases, the University will take care to protect the identities of the parties by discussing the allegations with those who have a legitimate administrative or legal reason to know.

A. **Reporting Confidentially**

If a person desires to keep the details of an incident of sexual misconduct confidential, he/she should speak with individuals who have professional or legal obligations to keep communications confidential. When seeking advice and support, persons who are concerned about confidentiality should discuss their concerns about confidentiality with the person with whom they are speaking. Confidential resources include University mental-health counselors, pastoral counselors, social workers, psychologists, health center employees, or any other person with a professional license requiring confidentiality, or who is supervised by such a person. These resources do not report any information about an incident to the Title IX Coordinator or Deputy Title IX Coordinator without a victim's permission. The following are confidential resources:

- Psychological counselors or other mental health professionals, including counselors who work in Student Counseling Services at APSU. Telephone: (931) 221-6162; Website: <http://www.apsu.edu/counseling>.
- Individuals who work in Medical Health Centers, including employees who work in Health Services at APSU. Telephone: (931) 221-7107; Website: <http://www.apsu.edu/healthservices>.
- Therapists at Cornerstone: Harriett Cohn Center. Telephone: 931-920-7200; Website: <https://www.centerstone.org/locations/tennessee/facilities/centerstone-harriett-cohn-center>.
- Members of the clergy on or off campus.

If the victim chooses to report in a confidential manner,

the University may be unable to conduct an investigation into the matter or pursue disciplinary action against the alleged offender.

**B. Reporting to a Responsible University Employee**

Responsible employees are not confidential resources. A responsible employee includes any APSU employee: who has the authority to take action to redress sexual misconduct, discrimination, or harassment; who has been given the duty of reporting incidents of sexual misconduct, discrimination, or harassment; or whom a student could reasonably believe has this authority or duty. When a Responsible University Employee receives a report of sexual misconduct, discrimination, or harassment, he/she must promptly report such complaint to the Title IX Coordinator or a Deputy Title IX Coordinator. Deputy Title IX Coordinators must inform the Title IX Coordinator of all reports of sexual misconduct, discrimination, or harassment. Responsible employees are required to report possible violations of this policy including all relevant details about the alleged sexual misconduct, discrimination, or harassment so that the University can take steps to investigate the matter promptly and resolve it fairly. Conversations with responsible employees are otherwise kept private to the extent possible and are only disclosed to those with a need or right to know. See **Appendix A** for a list of Responsible University Employees. In addition, responsible university employees have the following obligations:

1. Before a complainant reveals any information to an employee, the employee must ensure that the complainant understands the employee's reporting obligations.
2. If the complainant wants to maintain confidentiality, the employee must direct the victim to confidential resources as detailed in Section IV.A.
3. If the complainant wants to tell an employee what happened but also maintain confidentiality, the employee must advise the complainant that the University will consider the request, but cannot guarantee that it will be able to honor it. In reporting the details of the incident to the Title IX Coordinator or a Deputy Title IX Coordinator, the employee will also inform the Coordinator of the complainant's

request for confidentiality.

**C. Filing an Institutional Complaint**

An institutional complaint can be filed directly with either or both of the following:

**Title IX Coordinator**

Sheila Bryant  
Director of Equal Opportunity & Affirmative Action  
601 College Street  
Browning Building, Room 6A  
Clarksville, TN 37044  
[bryantsm@apsu.edu](mailto:bryantsm@apsu.edu)  
(931) 221-7178

**Deputy Title IX Coordinator**

Gregory Singleton  
Associate Vice-President for Student Affairs/Dean  
of Students  
601 College Street  
Morgan University Center, Room 206  
Clarksville, TN 37044  
[singleton@apsu.edu](mailto:singleton@apsu.edu)  
(931) 221-7005

**D. Criminal Reporting**

Because sexual misconduct may constitute both a violation of University policy and a crime, the University encourages persons to report incidents of sexual violence that are crimes under Tennessee law to campus police or other appropriate law enforcement agencies. The Title IX Coordinator and the Deputy Title IX Coordinator are available to assist victims in notifying campus police. Criminal investigations may be useful in gathering of relevant evidence, particularly forensic evidence. However, victims have the option to decline to notify law enforcement.

Upon receipt of a report of alleged sexual misconduct that may also constitute a crime, campus police will initiate an investigation, at the request of the victim. Campus police will assist the victim in the collection of evidence at a medical facility and provide resource information for victim services. Campus police will work closely with the Clarksville Police Department and the District Attorney's Office to assist in prosecution of the accused.

T.C.A. § 49-7-2207; Public Acts 2005, Chapter 305: If the victim does not consent to the reporting, the chief security officer or chief law enforcement officer of each institution shall not report the offense to the local law enforcement agency.

Pursuant to policy, information will be shared with the Title IX Coordinator. Information will also be shared with the Dean of Students for University disciplinary action, if appropriate.

Proceeding with a University administrative investigation and resolution of a complaint of sexual misconduct under this policy is independent of any criminal investigation or proceeding. Reporting to law enforcement does not preclude a person from proceeding with a complaint of sexual misconduct under this policy. The University does not normally wait until a criminal investigation or proceeding is concluded before conducting its own investigation, implementing interim measures and taking appropriate action. Because the standards for violation of criminal law are different from the standards for a violation of this policy, criminal investigations and proceedings are not determinative of whether a violation of this policy has occurred. In other words, conduct may violate this policy even if law enforcement agencies or local prosecutors decline to prosecute. Complaints of sexual misconduct and related internal University processes may occur prior to, concurrent with, or following civil or criminal proceedings off campus.

#### **E. Anonymous and Third Party Reporting**

Persons may send anonymous texts or pictures to campus police at (931) 494-6672. Campus police generally will respond as described in Section IV.iii. The amount and level of detail of the information provided to campus police will affect how thoroughly campus police is able to respond to the report.

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

Austin Peay encourages third parties to report incidents of sexual misconduct, discrimination, or harassment to

campus police, the Title IX Coordinator, the Deputy Title IX Coordinator, or a responsible employee. The University may not be able to move forward with third-party reports if the victim does not wish to cooperate with an investigation. After providing the report, third parties are not entitled to information about the University's investigation and response due to privacy concerns and applicable state and federal laws.

#### **F. False Reports**

**A person who makes a report of Prohibited Conduct to the University that is later found to have been intentionally false or maliciously without regard for truth may be subjected to University disciplinary action. This provision does not apply to reports made in good faith, even if an investigation of the incident does not find a Policy violation. Similarly, a person who intentionally provides false information to the University during an investigation or disciplinary proceeding action may be subject to University disciplinary action.**

#### **V. Role of Title IX Coordinator and Deputy Title IX Coordinator(s)**

- A.** The University's Title IX Coordinator's responsibilities include, but are not limited to the following:
1. coordinating and maintaining ultimate oversight responsibility with respect to the University's compliance with Title IX and for implementation of this policy;
  2. investigation or oversight of investigations of allegations related to Title IX;
  3. receiving, investigating, tracking, and monitoring reports of sexual misconduct, discrimination, and harassment and maintaining records of such reporting;
  4. identifying and addressing patterns or systemic problems concerning sexual misconduct, discrimination, and harassment;
  5. maintaining oversight of educational programs including mandatory training for new students and awareness campaigns for current students;
  6. coordinating and maintaining oversight of educational programs including mandatory training for new employees and awareness campaigns for current employees.
  7. coordinating with campus and local law enforcement on matters related to allegations related to sexual misconduct, discrimination, and harassment;

8. coordination and oversight of training for anyone involved in responding to, investigating, or adjudicating sexual misconduct, discrimination, and harassment;
9. coordination and oversight of training for employees related to their responsibility when they are aware of sexual misconduct, discrimination, and harassment;
10. coordination and oversight of annual training for investigators, decision makers, hearing officers and hearing committee members on the issues related to sexual misconduct, discrimination, and harassment and on how to conduct an investigation and hearing process that protects the safety of complainants and promotes accountability;
11. coordinating the provision of Interim Measures to employee and students;
12. attending appropriate training annually on topics related to responding to or investigating allegations of sexual misconduct, discrimination, and harassment; and
13. being available to meet with students, employees, and others, including but not limited to Complainants, Respondents, and Reporters of violations of this policy.

- B. The University's Deputy Title IX Coordinator's** responsibilities include, but are not limited to the following:
1. receiving, investigating, tracking, and monitoring reports of sexual misconduct, discrimination, and harassment involving students;
  2. identifying and addressing patterns or systemic problems concerning sexual misconduct, discrimination, and harassment involving students in coordination with the Title IX Coordinator;
  3. coordinating training, prevention, and awareness efforts for students in coordination with the Title IX Coordinator;
  4. providing information to students about this policy;
  5. coordinating with campus and local law enforcement on matters related to allegations related to sexual misconduct, discrimination, and harassment;
  6. attending appropriate training annually on topics related to responding to or investigating allegations of sexual misconduct, discrimination, and harassment;
  7. coordinating the provisions of Interim Measures for students; and
  8. being available to meet with students and others, including but not limited to Complainants, Respondents, and Reporters of violation of this policy.

**VI. Investigation Requirements and Procedures**

- A.** All proceedings will include a prompt, fair, and impartial investigation and result. The University will provide the respondent and complainant equitable rights during the investigative process.
- B.** All complaints of sexual misconduct, discrimination, and harassment shall be presented to the Title IX Coordinator for appropriate disposition. For each report of sexual misconduct, discrimination, and harassment to be investigated, the University may select an investigator of its choosing, provided that the investigator has specific training and experience investigating allegations of sexual misconduct. Any investigator chosen to conduct the investigation must be impartial and free of any conflict of interest. The investigator may be a University employee or an external investigator engaged to assist the University in its fact gathering. Investigations of reports of sexual misconduct, discrimination, and harassment are usually performed by the Office of Equal Opportunity and Affirmative Action (if the Respondent is an employee or other non-student) or the Office of Student Affairs (if the Respondent is a student).
- C.** The University Attorney shall always be consulted prior to and throughout the investigation. The investigation will be under the direction of the Office of Legal Affairs, and all investigation notes and other documents created or gathered during the investigatory process shall be attorney work product.
- D.** The investigator shall also notify the President (if the Respondent is an employee) and the Title IX Coordinator that an investigation is being initiated.
- E.** Mediation between the complainant and respondent will never be considered an appropriate resolution in sexual misconduct cases.
- F. Initiating an investigation**
  - 1.** Absent good cause, within five (5) business days of receipt of a report of sexual misconduct, discrimination, or harassment, the Investigator shall attempt to get a written statement from the complainant that includes information related to the circumstances giving rise to the complaint, the dates of the alleged occurrences, and

names of witnesses, if any. The complainant should be encouraged to complete a complaint form and submit a detailed written report of the alleged incident.

[https://www.apsu.edu/sites/apsu.edu/files/ Complaint Report Form.pdf](https://www.apsu.edu/sites/apsu.edu/files/Complaint_Report_Form.pdf).

2. When the complainant chooses not to provide a written complaint, the Investigator will still investigate and take appropriate action.
3. Both before and during the pendency of the investigation, the Investigator shall consult with the complainant and consider what, if any, interim measures may be necessary.
4. Complaints made anonymously or by a third party will be investigated to the extent possible.
5. After consultation with the University Attorney, if the Investigator determines that the complaint contains an allegation of sexual misconduct, sexual discrimination, or sexual harassment, the Investigator shall follow the procedures set forth in this policy to investigate and adjudicate the complaint.
6. Only one person shall be identified as the Investigator for a complaint.
7. Investigations shall be conducted by officials who do not have a conflict of interest or bias for or against the complainant or respondent.
8. If the complainant or respondent believes the assigned Investigator has a conflict of interest, that party must submit a written explanation of the reason for that belief to the Title IX Coordinator. If the Title IX Coordinator is the assigned Investigator, the party must submit the written explanation to the University President. The explanation must be submitted within three (3) business days, absent good cause, of the time when the party knew or should have known the facts that would give rise to the alleged conflict of interest. The Title IX Coordinator or University President as applicable will determine if the facts warrant the appointment of a different Investigator and respond to the party in writing within three (3) business days, absent good cause. The decision shall be final.

**G. What the investigation should and should not entail**

1. Once the Investigator receives the complaint, the Investigator shall notify the complainant in writing of his/her rights and request a meeting.

2. The Investigator shall also notify the respondent in writing of the complaint and his/her rights and request a meeting with the respondent.
3. The Investigator shall notify the complainant, respondent and all individuals interviewed during the investigation that retaliation is strictly prohibited and may be grounds for disciplinary action. In addition, the Investigator shall advise all interviewees that they should contact the Investigator immediately if they believe they are being retaliated against.
4. The investigation shall include interviews with both the complainant and respondent, unless either declines an in-person interview.
5. The complainant and respondent shall be provided with the same opportunities to have others present during an interview, including the opportunity to be accompanied by the advisor of their choice to any related meeting or proceeding.
6. The University will not limit the choice of advisor for either the complainant or respondent; however, the Investigator may limit the participation of advisors during the investigation.
7. The investigation shall include interviews with relevant witnesses identified by the complainant and respondent or any other potential, relevant witness made known to the Investigator via other means.
8. The investigation shall include the gathering and reviewing of any documentary, electronic, physical, or other type of relevant evidence.
9. The Investigator is expected to request a list of relevant witnesses and evidence from the complainant and respondent and take such into consideration.
10. The Investigator shall not consider any evidence about the complainant's prior sexual conduct with anyone other than the respondent. Evidence of a prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual violence.

**VII. Outcome of Investigation and Determination of Appropriate Action**

- A. Upon completion of the investigation, the Investigator shall prepare a written report that includes the allegations made by the complainant, the response of the respondent, corroborating or non-corroborating statements of the witnesses, review of other evidence obtained, and conclusions that may be drawn from the evidence gathered.

- B.** It is the responsibility of the Investigator to weigh the credibility of all individuals interviewed and to determine the weight to be given to information received during the course of the investigation.
- C.** The report shall be delivered to the Title IX Coordinator. After review of the report, the Title IX Coordinator shall make a determination based on a preponderance of the evidence presented as to whether or not a violation of this policy occurred.
- D.** If the complainant and respondent are students, the Associate Vice President for Student Affairs/Dean of Students or his/her designee shall communicate the determination in writing simultaneously to the complainant and respondent, along with notice to the parties of their right to appeal to the Sexual Misconduct Appeal Committee on the determination that a policy violation did or did not occur. A copy shall be sent to the Title IX Coordinator. Notice may be sent via United States mail, courier service, hand delivery, or University email. When notice is sent via United States mail or courier, the notice is effective on the date that the notice is mailed or delivered to the courier service. When notice is hand delivered, notice is effective on the date that the notice is delivered to the student to whom the notice is addressed. When notice is sent by email, the notice is effective on the date that the email is sent to the student's University-provided email address.

If the respondent or complainant is an employee, the Director of Equal Opportunity and Affirmative Action or his/her designee shall communicate the determination in writing simultaneously to the complainant and respondent, along with notice to the parties of their right to appeal to the University President on the determination that a policy violation did or did not occur. A copy shall be sent to the Title IX Coordinator.

**VIII. Timeframe for conducting the Investigation**

- A.** Every reasonable effort shall be made to conclude the investigation and resolve the complaint within sixty (60) calendar days following receipt of the complaint. Within this sixty (60) day timeframe, absent good cause, it is

expected that the Investigator will conclude the investigation, that the Investigator will present a report to the Title IX Coordinator of University President, and that the Investigator will notify the parties in writing of the determination. This timeframe does not include an appeal; see Section IX (Appeal Process).

- B.** If the Investigator or the Title IX Coordinator determines that additional time is needed, both parties shall be notified in writing of the delay, the anticipated date that the investigation will be concluded, and the reasons for such delay.
- C.** If either party determines that additional time is needed, that party shall request such in writing to the Investigator. The written request for additional time shall include the reasons for the requested delay and the number of additional days needed. The Investigator shall make every reasonable effort to respond to the request for additional time within two (2) business days following receipt of the request and shall notify both parties in writing as to whether or not the request is granted.

**IX. Institutional  
Hearing/Hearing  
Officer**

- A.** Either party may request a hearing of the Sexual Misconduct Appeal Committee or a Hearing Officer on the determination that a policy violation did or did not occur. Party(ies) must provide written notice of the request to the Investigator within ten (10) business days of receipt of the Title IX Coordinator's decision.
- B.** If a request is not received within ten (10) days, the Title IX Coordinator's determination is final.
- C.** The President of the University shall appoint a hearing officer or individuals to serve on the Sexual Misconduct Appeal Committee. The hearing officer or the Sexual Misconduct Appeal Committee members shall receive, at a minimum, annual training on issues related to domestic violence, dating violence, sexual assault, and stalking, and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
- D.** If the complainant or respondent believes the hearing officer or any Sexual Misconduct Appeal committee member has a conflict of interest, that party must submit a written explanation of the reason for that belief to the University

President. The explanation must be submitted within three (3) business days, absent good cause, of the time when the party knew of or should have known the facts that would give rise to the alleged conflict of interest. The University President will determine if the facts warrant the appointment of a different hearing officer or committee member and respond to the party in writing within three (3) business days, absent good cause. The decision of the University President shall be final.

- E.** At least seventy-two (72) hours prior to a student disciplinary proceeding concerning charges of sexual misconduct, the University shall provide both the complainant and accused student with notice of the following:
  - 1.** The time, place, and date of the disciplinary proceeding;
  - 2.** The name of each witness expected to present at the student disciplinary proceeding and those who may be present if the need arises;
  - 3.** The student's right to request a copy of the institution's investigative file, redacted in accordance with the Family Education Rights and Privacy Act of 1974; and
  - 4.** The student's right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that the institution has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment.
  
- F.** If such a hearing is requested, every reasonable effort shall be made to conclude the hearing and resolve the appeal, including any appeal to the University President, within thirty (30) days following the University's receipt of the party's request for a hearing.
  
- G.** The parties to the hearing may not engage in formal discovery.
  
- H.** Each party is entitled to have an advisor of choice available; however, the advisor may not participate in the proceeding other than to render advice to the party.

- I.** The University will not limit the choice of advisor for either the complainant or respondent.
- J.** The complainant and respondent shall be timely notified in writing of all meetings relevant to the proceeding.
- K.** The hearing officer or chair of the hearing committee shall control the procedures of the hearing with due consideration given to the parties' requests related to procedures such as, but not limited to, limitations on cross-examinations, recesses so the parties may consult with their advisors, and scheduling of hearings. The hearing officer or chair of the hearing committee shall conduct the proceedings in a manner that does not allow the respondent to directly question the complainant in person.
- L.** The hearing officer or hearing committee shall use a preponderance of the evidence standard when reaching a decision.
- M.** Absent good cause, within five (5) business days of the close of evidence, the hearing officer or committee shall issue a written determination as to whether or not a violation of this policy occurred and the justification for this decision.
- N.** Each party shall be simultaneously notified of the hearing officer or committee's decision in writing, which shall include notice of their rights to appeal the hearing officer's or committee's determination to the President or Vice President for Student Affairs.

## **X. Appeal Process**

- A.** If either the complainant or respondent is dissatisfied with the determination of the Title IX Coordinator, Hearing officer or Sexual Misconduct Appeal Committee, that determination may be appealed to the University President, if the respondent is a faculty or staff person, or the Vice President for Student Affairs, if the respondent is a student by notifying the Investigator in writing within seven (7) business days of receipt of the determination.
- B.** If a written request for appeal is not received within seven (7) days, the determination of the Vice President for Student Affairs or President is final.
- C.** The appealing party(ies) must explain why it is believed the factual information was incomplete, the analysis of the facts

was incorrect, and/or the appropriate legal standard was not applied, and how this would change the determination in the case.

- D.** The Vice President for Student Affairs or President will issue a written response to the appeal as promptly as possible. This decision will constitute the University's final decision on the complaint. The complainant and respondent shall be simultaneously notified of the Vice President for Student Affairs or President's decision in writing.

**XI. Effect of a Finding of a Violation of this Policy**

- A.** If a final decision has been made that a policy violation occurred, the respondent shall be referred to the appropriate personnel for a determination of discipline.
- B.** The appropriate personnel will be determined by the status of the respondent. If the respondent is a student, then the matter shall be referred to the Associate Vice-President for Student Affairs/Dean of Students. If the respondent is an employee, the matter shall be referred to the appropriate Executive Level Administrator.
- C.** If the respondent is a student, Austin Peay will follow the procedures for disciplining students as described in [APSU Policy 1:013 \(Student Code of Conduct\)](#). The sanction(s) imposed shall be communicated to the Title IX Coordinator.
- D.** If the respondent is an employee, the University will follow the procedures related to disciplining employees as described in applicable employee policies. The sanction(s) imposed shall be communicated to the Title IX Coordinator.
- E.** Notwithstanding any policy to the contrary, the following additional requirements apply to disciplinary actions related to violations of this policy:
- 1.** The complainant shall receive sufficient notice of and be allowed to attend any meeting or hearing during the disciplinary process.
  - 2.** The complainant shall be allowed to have an advisor of her/his choice attend any meeting or hearing.
  - 3.** The complainant shall be allowed to testify at any hearing during the disciplinary process, even if neither party intends to call the complainant as a witness.
  - 4.** The complainant shall be allowed access to any evidence presented during any disciplinary meeting or hearing.

5. The Title IX Coordinator or Deputy Title IX Coordinator shall be appointed as the complainant's contact person for any questions or assistance during the disciplinary process.
  6. The complainant shall receive written notice of the outcome of the disciplinary process.
- F. If a final decision has been made that a policy violation occurred, the Title IX Coordinator or Deputy Title IX Coordinator shall determine if any remedies are required to address the campus-wide environment, taking into consideration the impact of an incident of sexual misconduct on the campus as a whole and on specific groups or areas on campus. For example, the Title IX Coordinator or Deputy Title IX Coordinator may determine that specific training is needed for a student group whose members have been accused of sexual misconduct.

## **XII. Interim Measures**

- A. In situations that require immediate action because of safety or other concerns, the University will take any reasonable administrative action that is appropriate. Examples of such interim actions include, but are not limited to:
1. providing an escort to ensure that the complainant can move safely between classes and activities;
  2. ensuring that the complainant and respondent do not attend the same classes;
  3. providing access to counseling services;
  4. providing or assisting in providing medical services;
  5. providing academic support services, such as tutoring;
  6. arranging for the complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant's academic record; and
  7. provide for alternative on-campus living arrangements if both complainant and respondent reside on campus.
- B. These remedies may be applied to one, both, or multiple parties involved.
- C. Student respondents may be placed on interim suspension under the appropriate circumstances pending the outcome of the investigation. The University shall follow [APSU Policy 1:013 \(Student Code of Conduct\)](#) before placing a student respondent on interim suspension.

- D. Employee respondents may be, consistent with University Personnel Policies, placed on administrative leave pending the outcome of the matter.

### **XIII. Education and Prevention Programs**

Because the courts have imposed strict obligation on employers with regard to discrimination and harassment, APSU is required to take measure to periodically educate and train employees and students regarding conduct that could violate this policy. All employees and students are expected to participate in such education and training. Further, all faculty members, students and staff are responsible for taking reasonable and necessary action to prevent and discourage all types of discrimination and harassment.

The Sexual Assault Response Team Advisory Committee and the Office of Equal Opportunity and Affirmative Action initiate and coordinate Sexual Misconduct prevention initiatives.

Educational programming consists of primary prevention and awareness programs for all incoming students and new employees and ongoing awareness and prevention campaigns for students, faculty, and staff that:

1. identifies domestic violence, dating violence, sexual assault and stalking as prohibited conduct;
2. defines what behavior constitutes domestic violence, dating violence, sexual assault and stalking;
3. defines what behavior and actions constitute consent to sexual activity in the State of Tennessee;
4. provides safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene when there is a risk of domestic violence, dating violence, sexual assault and stalking against a person other than the bystander; and
5. provides information on risk reduction so that students and employees may recognize warning signs of abusive behavior and how to avoid potential attacks.

### **XIV. Assistance for Victims of Sexual Violence: Rights and Options**

- A. The APSU Title IX Coordinator and/or the Deputy Title IX Coordinator will ensure that personal support and timely care is provided to victims of sexual misconduct and that the proper authorizes are consulted.
- B. Regardless of whether a victim elects to pursue a criminal complaint, APSU will assist victims of sexual misconduct and will provide each victim with a written explanation of her/his rights as a member of the University community.  
<http://www.apsu.edu/coaa/titleix/index.php>

- C. Additionally, in the Tennessee court system, a victim of domestic violence, dating violence, sexual assault and stalking has the following rights: the right to confer with the prosecution, right to be free from intimidation, harassment and abuse throughout the criminal justice system, the right to be present at all proceedings where the defendant has the right to be present, the right to be heard, when relevant, at all critical stages of the criminal justice process as defined by the General Assembly, the right to be informed of all proceedings, and of the release, transfer or escape of the accused or convicted person, the right to a speedy trial or disposition and a prompt and final conclusion of the case after the conviction or sentence, the right to restitution from the offender and the right to be informed of each of the rights established for victims. Information related to these rights may be found at <http://www.tndagc.com/vr.htm>.
- D. Protection from abuse orders may be available through <http://www.tncourts.gov/programs/self-help-center/forms/order-protection-forms> and additional information related to such orders may be found at <http://tncoalition.org/resources/legal-resources.html>.
- E. The University does not publish the name of crime victims nor maintain identifiable information regarding victims in the Daily Crime Log or in the release of timely warnings.

**XV. Resources for Victims of Sexual Violence**

The resources listed below are not exhaustive or limited to victims who wish to make an official report or participate in an institutional hearing, police investigation or criminal prosecution. However, in cases where a victim wishes to maintain complete confidentiality, the victim should review carefully Section IV.A above related to the limits on the University’s ability to maintain confidentiality.

**A. On Campus Resources**

Student Counseling Center	Ard Building, 524 College Street	931-221-6162 <a href="mailto:dalep@apsu.edu">dalep@apsu.edu</a>
Boyd Health Services (Student Health Services)	Ard Building, 524 College Street	931-221-7107 <a href="mailto:nelsonl@apsu.edu">nelsonl@apsu.edu</a>
Campus Police	Shasteen Building	931-221-7786 <a href="mailto:apsupolice@apsu.edu">apsupolice@apsu.edu</a>
Title IX Coordinator	Browning Administrative Building, Room 6A	931-221-7178 <a href="mailto:bryantism@apsu.edu">bryantism@apsu.edu</a>

Associate VP Student Affairs/Dean of Students/Deputy Title IX Coordinator	Morgan University Center, Room 206D	931-221-7341 <a href="mailto:singleton@apsu.edu">singleton@apsu.edu</a>
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**B. In the Clarksville/Montgomery County Area**

Police Department	135 Commerce Street	931-648-0656
County Sheriff	120 Commerce Street	931-648- 0611
Gateway Medical Center	651 Dunlop Lane	931-502-1000
United Methodist Urban Ministries Safehouse	217 S. Third Street	931-552-6900
Domestic Violence Intake Center (Protective Orders)		<a href="http://www.tncourts.gov/programs/self-help-center/forms/order-protection-forms">http://www.tncourts.gov/programs/self-help-center/forms/order-protection-forms</a>
Centerstone: Harriett Cohn Center	511 Eighth Street	931-920-7200 <a href="https://www.centerstone.org/locations/tennessee/facilities/center-stone-harriett-cohn-center">https://www.centerstone.org/locations/tennessee/facilities/center-stone-harriett-cohn-center</a>
Montgomery County Courts Complex	2 Millennium Plaza	931-648-7000

**C. On-line Resources:**

<http://tncoalition.org/> - State Coalition Against Rape and Domestic Violence

<http://www.thehotline.org/> - Website for LGBTQ survivors of sexual or domestic violence and minority women survivors of sexual or domestic violence

<http://www.pandys.org/malesurvivors.html> -Website for male survivors

<http://www.rainn.org> – Rape, Abuse and Incest National Network

<http://www.ovw.usdoj.gov/sexassault.html> - Department of Justice

<http://www2.ed.gov/about/offices/list/ocr/index.html>  
Department of Education, Office of Civil Rights

**XVI. Retaliation**

APSU faculty, staff, and students are strictly prohibited from retaliating, intimidating, threatening, coercing, or otherwise discriminating against any individual for exercising their rights or responsibilities under any provision of this policy. Retaliation will result in disciplinary measures, up to and including termination or expulsion.

**XVII. Consensual Relationships**

Intimate relationships between supervisors and their subordinates and between faculty members and students are strongly discouraged due to the inherent inequality of power in such situations. These relationships could lead to undue favoritism or the perception of undue favoritism, abuse of power, compromised judgment, or impaired objectivity.

Engaging in a consensual relationship with a student over whom the faculty member has either grading, supervisory, or other evaluative authority (i.e., member of dissertation committee, thesis director, etc.) constitutes a conflict of interest. The faculty member must take steps to remove the conflict by assigning a different supervisor to the student; resigning from the student's academic committees; or by terminating the relationship, at least while the student is in his/her class.

Likewise, it is a conflict of interest for a supervisor to engage in a consensual relationship with a subordinate over whom he/she has evaluative or supervisory authority. The supervisor must take action to resolve the conflict of interest by, for example, assigning another individual to supervise and/or evaluate the subordinate.

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**Revision Dates**

APSU Policy 6:001 – Rev.: September 17, 2018

APSU Policy 6:001 – Rev.: March 25, 2017

APSU Policy 6:001 – Issued: August 24, 2015

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**Subject Areas:**

Academic	Finance	General	Human Resources	Information Technology	Student Affairs
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**Approved**

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President: signature on file

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