I. General
A. Dixie State University (DSU) employees, students, and visitors are expected to conduct themselves in a manner that demonstrates respect for others and does not infringe upon the rights of others. DSU is firmly committed to maintaining an environment that is safe for work and education activities. All forms of sexual harassment, sexual assault, domestic violence, dating violence, and stalking are strictly prohibited. Retaliation against individuals who report or may report any of these offenses is also strictly prohibited. When these offenses are reported to the University, DSU will take prompt action to investigate, convey the availability of support services, end the misconduct, prevent its recurrence, provide recourse for those whose rights have been violated, and provide resolution through equitable grievance procedures and appropriate sanctions.

B. DSU encourages all victims to report any instance or knowledge of sexual assault, relationship violence, stalking, or retaliation. Any person may file a report or make a complaint against any student, employee, or campus visitor about sexual harassment, sexual assault, relationship violence, or stalking, or in retaliation for reporting any of those offenses, whether the offense took place on-campus or off-campus. See policies 3-30, 4-33, and 5-34 Discrimination & Sexual Harassment.

C. Employees who engage in any form of sexual assault, relationship violence, stalking, or other discriminatory offenses are subject to disciplinary sanctions up to and including termination of employment. Procedures for complaints and disciplinary action against employees are specified in policies 3-30 and 4-33 Discrimination & Sexual Harassment.

D. Students who engage in any form of sexual assault, relationship violence, stalking, or retaliation are subject to disciplinary sanctions up to and including suspension and dismissal. A student who is also an employee may be subject to both student and employee disciplinary action for a single offense.

E. Nothing in this policy or its addenda should be construed as legal or medical advice. Readers are urged to consult the Utah State Code, a law enforcement officer, an attorney, and/or a health practitioner for specific information about their circumstance.
F. The DSU Title IX Coordinator is responsible for conducting an annual review of this policy and all procedures and programs associated with it to ensure compliance.

II. Definitions.

A. Addendum 1 contains the State of Utah definitions for all listed crimes and for consent.

B. Sexual misconduct includes the following offenses, all of which are violations of DSU policy.

i. Sexual harassment is any unwanted conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when the conduct is made as a term or condition of an individual’s employment or academic performance; when the acceptance or refusal of such conduct is used as the basis or a factor in decisions affecting an individual’s employment, education, living environment; or when participation in any aspect of the University community, or creates an intimidating, hostile, or offensive environment for that individual’s employment, education, living environment, or participation in the University community (hostile environment).

ii. Sexual discrimination of all kinds, including acts of verbal, non-verbal, or physical aggression, intimidation, and hostility based on gender, even if those acts do not involve conduct of a sexual nature, is prohibited. See policies 3-30, 4-33, and 5-34.

1. Sexual harassment includes all forms of sexual assault and many actions and behaviors that do not meet the definition of sexual assault or other criminal conduct.

2. Actions and behaviors that do not meet the definition of sexual harassment may meet the definition for discrimination, which is the prejudicial treatment of any individual(s) based on race, color, religion, gender, sexual orientation, gender expression, national or ethnic origin, age, pregnancy, disability, or veteran status.

3. Sexual harassment and discrimination are covered by DSU Discrimination & Sexual Harassment policies 3-30, 4-33, and 5-34 based on Title IX and Equal Opportunity laws and are referred to herein only insofar as they relate to sexual assault, domestic violence, dating violence, stalking, and retaliation.

ii. Sexual assault, according to the Utah State Code, is defined as intentionally touching a non-consenting person's intimate body parts; forcing a non-consenting person to touch intimate body parts; sexual intercourse without consent, rape, object rape, and all other forms of rape; forcible sodomy or sodomy on a child; all forms of sexual abuse; or the attempt to commit any of those crimes.

1. For the purposes of this policy, sexual assault includes other forcible and non-forcible offenses, such as sexual battery, sexual exploitation of a minor, sexual exploitation of a vulnerable adult, unlawful sexual activity with a minor (14-15 years old when the perpetrator is at least three years older than the victim), sexual abuse of a minor (14-15 years old when the perpetrator is at least seven years older than the victim), unlawful sexual conduct with a 16- or 17-year old (when the perpetrator is at least seven years older than the victim), possession or distribution of child pornography, and distribution of intimate images will be considered sexual assault in the campus disciplinary process.
2. For the purposes of this policy, lewdness and voyeurism may be considered sexual assault in the campus disciplinary process.

iii. Consent to a sexual act, according to the Utah State Code, is implied or assumed, except when the use of force, element of surprise, or threat of retaliation is involved. A victim must express non-consent through the use of “words or conduct” to express a lack of consent to any sexual act. A victim can express non-consent at any time. The victim’s age or various physical and mental impairments can remove the need to express non-consent. No one under age 14 can legally consent to sexual activity.

1. For the purposes of this policy and within the campus disciplinary process, consent means words or action that show an active, knowing, and voluntary agreement to engage in a mutually agreed-upon sexual activity. Consent is not automatic even if the activity was previously engaged in between the parties. Consent can be withdrawn at any time during an activity.

C. Relationship violence, a form of sexual violence, is comprised of two crimes, both of which are also violations of DSU policy.

i. Cohabitant abuse (also known as domestic violence) refers to any criminal offense involving violence or physical harm or threat of violence or physical harm committed by one cohabitant against another. Cohabitant includes a number of relationships other than sharing a single residence.

ii. Dating violence means any criminal offense involving violence or physical harm, or threat of violence or physical harm, when committed by a person against a current or sought after dating partner or any attempt, conspiracy, or solicitation to commit such as offense.

D. Stalking is intentionally or knowingly engaging in a course of conduct directed at a specific person knowing, or reasonably should know, that the course of conduct would cause a reasonable person to fear for the person’s own safety or the safety of a third person or suffer other emotional distress, whether or not the motive or motivation of the actor was an intent to cause the victim fear or other emotional distress. A victim of stalking does not have to give notice that the course of conduct is unwanted.

E. Retaliation, for the purposes of this policy, is making a threat of harm or causing harm against a witness, victim, or informant or a “closely associated” person believing that an official proceeding or investigation of sexual assault is pending, is about to be instituted, or has been concluded as retaliation or retribution against the witness, victim, or informant. Retaliation also includes any intentional differentiation subjecting a person to discrimination in response to a complaint.

F. Campus Security Authority (CSA) is a term designated by the Clery Act to designate employees or offices to which individuals may or are likely to report criminal behavior. Although the University encourages reporting to appropriate channels as listed in this policy; Campus Safety & Security policy [NEW]; Discrimination & Sexual Harassment policies 3-30, 4-33, and 5-34; and other policies, the University has designated the following positions / departments as “Campus Security Authorities” (CSAs) which will receive specialized training in responding to reports of criminal behavior.

i. DSU police.
ii. Any official of the institution who has significant responsibility for student and/or campus activities including but not limited to Dean of Student and professional staff in that office, student affairs and activities professional staff, student housing employees (including Resident Managers and Resident Assistants), individuals designated to receive reports of crime, individuals involved with the student conduct disciplinary process, advisors to any student club or organization, intercollegiate athletics professional staff and coaches, supervisors of mentoring and Study Abroad programs, human resources employees, individuals serving on the Emergency Alert Team or similar committee, Title IX Coordinator, and any other individual having significant responsibility for student and/or campus activities and/or the ability to impact etc.

iii. Any individuals who have responsibility for campus security but are not officially part of a campus police department, including temporary or part-time employees and/or those who provide monitoring and/or serve as safety escorts, even on a voluntary basis.

III. Reporting.

A. Addendum 2 contains specific information on reporting and resources for victims.

B. The first priorities of an individual who has been subject to a violent crime, including sexual assault, should be to get to a place of safety and then to obtain necessary medical treatment.

   i. A victim of sexual assault may seek and receive medical care free of charge from the Dixie Regional Medical Center Emergency Department, whether or not they decide to report the incident to law enforcement or to the University.

C. Victims of sexual assault are urged to preserve all evidence as proof of a criminal offense. Time is a critical factor in evidence collection.

D. Any individual subjected to sexual assault, relationship violence, dating violence, stalking, or retaliation by a DSU student or employee on- or off-campus or who has knowledge of such an incident is urged to report the incident to one of the following University offices.

   i. DSU Police.

   ii. Dean of Students.

   iii. Housing and Resident Life.

   iv. DSU Title IX Coordinator or designee.

E. Sexual harassment can be reported to:

   i. Any employee supervisor.

   ii. Human Resources.

   iii. Title IX Coordinator or designee.

F. Individuals are encouraged to file a police report regarding knowledge of any crime occurring on- or off-campus, including sexual assault, domestic violence, dating violence, stalking, or retaliation.
Filing a police report does not obligate a person who has been the victim of a crime to pursue a complaint through the criminal process, and it will not subject that person to scrutiny or judgmental opinions from law enforcement officers.

i. Filing a police report will:

   a. Ensure that an individual who has been victimized by sexual assault receives the necessary medical treatment and tests at no expense to that individual.

   b. Provide the opportunity for collection of evidence helpful in prosecution that cannot be obtained at a later time.

   c. Alert authorities to a situation that may continue to be dangerous to the victim or others.

G. Any student or employee who reports to the University that s/he has been the victim of sexual assault, domestic violence, dating violence, or stalking will be provided written information listed in Addendum 3 and which includes the following.

i. Right to and limits of confidentiality.

ii. Information on a student’s option to notify appropriate law enforcement and/or campus authorities after a sexual offense has been committed.

   1. Option to inform on-campus and/or local police agencies.

   2. Option to decline to notify such authorities.

iii. Option for the student to request institutional personnel to assist in notifying these authorities.

iv. Applicable rights of victims and the institution’s responsibilities regarding orders of protection, no contact orders, restraining orders, or similar lawful orders.

v. Specific rights within the campus disciplinary process, including seeking a no-contact order, right to file a follow up complaint, right to have someone present during disciplinary hearings, and right to know the outcome of any campus disciplinary proceedings.

vi. Right to file a complaint through the DSU disciplinary process, a description of that process, and the range of possible sanctions or protective measures the institution may impose following a final determination of an institutional disciplinary procedure regarding sexual assault, domestic violence, dating violence, dating violence, stalking, or retaliation.

vii. Statement that both the accuser and the accused will simultaneously be informed in writing of the final determination with respect to the alleged offense and the outcome, including any sanction that is imposed against the accused of any institutional disciplinary proceeding that is brought alleging sexual assault, domestic violence, dating violence, or stalking.

viii. Notification to student victims who report to the institution about options for and available assistance in changing academic, living, transportation, and working situations, if requested by the victim and if such accommodations are reasonably available, regardless of whether the
victim chooses to report the crime to campus police or local law enforcement, if such changes are requested by the victim and are reasonably available.

ix. Potential right to file a Title IX complaint.

x. Availability of on- and off-campus medical services, legal assistance, community victim advocacy, and confidential counseling resources.

H. An individual who has been victimized by sexual assault, domestic violence, dating violence, stalking, or retaliation may choose to pursue or not to pursue the matter as a complainant through the criminal justice system and/or through the campus disciplinary system. State of Utah law requires peace officers who respond to instances of domestic and dating violence to arrest or cite any person that the officer has probable cause to believe has committed an act of violence.

I. The University’s actions will be guided by the goals of empowering victims and allowing victims to retain as much control over the process as possible, but no employee other than an employee working as licensed mental health counselor or licensed health care provider at the time of disclosure can or should promise confidentiality.

J. DSU employees, including student employees and law enforcement, are mandatory reporters.

i. All DSU employees who have any knowledge of on- or off-campus sexual assault, domestic violence, dating violence, stalking, or retaliation that involves a DSU student as victim or alleged perpetrator are required to report the incident to DSU Police, Dean of Students, Housing & Resident Life Director, or Title IX Coordinator.

ii. All DSU employees who have any knowledge of on-campus sexual assault, domestic violence, dating violence, stalking, or retaliation that involves a DSU employee as a victim or alleged perpetrator are required to report the incident to DSU Police, Dean of Students, Housing & Resident Life Director, or Title IX Coordinator.

iii. All DSU employees who have any knowledge of sexual harassment or discrimination occurring on-campus, are required to report the incident to an employee supervisor, Human Resources, or the Title IX Coordinator. See policies 3-30, 4-33, and 5-34.

iv. All DSU employees who have any knowledge of off-campus sexual harassment or discrimination toward a student by a DSU employee or another student are required to report the incident to an employee supervisor, Human Resources, or the Title IX Coordinator. See policies 3-30, 4-33, and 5-34.

v. Employees are required to report; reporting is not a violation of a request for confidentiality as the matter will remain strictly confidential, and any further notifications will be approved by the individual who was victimized and/or that individual’s identity will not be divulged.

vi. Both direct (first-hand) and indirect (second- or third-hand) disclosures must be reported.

vii. The only exemption to mandatory reporting is private communication with an employee who is a licensed mental health counselor or a licensed health care professional acting in that role when the disclosure is made, although such employees are encouraged to report crimes without violating privacy (“Jane Doe” Report) or voluntarily report crimes when possible.
viii. An employee supervisor, CSA, or DSU Police who receives such a report is required to inform the Title IX Coordinator within one business day.

K. Addendum 3 contains written procedures for required actions and processing of reports or complaints about sexual harassment, sexual assault, domestic violence, dating violence, stalking, or retaliation.

L. An individual who knowingly and intentionally makes a false accusation concerning a sexual assault, domestic violence, dating violence, stalking, or retaliation, or who knowingly and intentionally provides false information in connection with an accusation, investigation, or disciplinary proceeding will be subject to discipline under the Student Code (Policy 5-33), appropriate employee policies including but not limited to 4-26 Corrective & Disciplinary Action and 3-4 Faculty Rights & Responsibilities, and/or civil penalties under applicable law.

IV. Investigations.

A. DSU Police and the Title IX Coordinator are responsible for developing a working relationship that encourages reporting, supports victims, and results in the institutional actions required by the Clery Act and Title IX.

   i. DSU law enforcement employees must report all incidents of sexual harassment, sexual assault, domestic violence, dating violence, stalking, or retaliation to the Title IX coordinator.

   ii. DSU law enforcement employees must receive copies of Title IX policies and annual training about Title IX grievance procedures and procedures for reports of sexual violence.

   iii. Law enforcement employees must notify complainants of their right to file a Title IX sex discrimination complaint with the University in addition to or in place of filing a criminal complaint and/or student conduct complaint.

B. On- and off-campus law enforcement agencies are responsible for conducting criminal investigations according to State of Utah regulations. On- or off-campus law enforcement agencies can make referrals to the student conduct disciplinary process.

C. The DSU Title IX Coordinator must process all complaints – regardless of where conduct occurred – in accordance with established procedures. The University has an obligation to respond to all reports of sexual harassment, sexual assault, domestic violence, dating violence, stalking, and retaliation, including:

   i. Incidents involving students or employees that occurred on campus or during a University educational program or University activity.

   ii. Student-on-student and employee-on-student incidents which initially occurred off-campus or outside institution’s educational programs or University activities.

   iii. Incidents involving students or employees reported by a third party, including parents and community members.

D. The DSU Title IX Coordinator is responsible for conducting or directing a prompt, thorough, and impartial inquiry about each reported incident of sexual harassment, sexual assault, domestic violence, dating violence, stalking, and retaliation to determine if sexual discrimination has occurred. This inquiry is separate from any law enforcement investigation. In order to undertake and complete
the inquiry in a timely manner, the Coordinator is not required to wait until a law enforcement investigation or proceeding has concluded.

i. The purpose of the inquiry is to provide a prompt and effective remedy to the complainant. In addition, the University has a responsibility to exercise “reasonable” care in protecting the campus community based on information derived from this or a law enforcement investigation.

1. The Title IX coordinator may impose interim remedies including accommodations or safety measures during the duration of the Title IX investigation.

ii. If a victim requests confidentiality or asks that a complaint not be pursued through the campus disciplinary system, the University will take all reasonable steps to conduct the required Title IX inquiry and respond to the complaint in order to prevent prohibited conduct and limit its effects consistent with the request.

iii. If a victim insists that his/her name or other identifiable information not be disclosed to alleged perpetrator, the University must inform him/her that its ability to respond may be limited unless the inquiry reveals information that allows the University to act as complainant in the campus disciplinary procedures.

iv. The University is required by federal law to include these and other incidents without including identifying information as part of annual data collection and reports.

v. All employees and students are required to cooperate in the investigation process.

E. Based on the results of the inquiry and using a preponderance of the evidence standard, the Title IX Coordinator can resolve the complaint including an outcome letter, refer the matter for DSU student conduct or employee disciplinary proceedings, and/or determine and impose a prompt and effective interim or permanent remedy outside of that process according to 3-30, 4-33, and 5-34.

i. Reports / allegations of sexual harassment, including sexual assault and sexual violence, must be resolved, including an “outcome” letter, within the designated and published “reasonably prompt time frames” typically not to exceed 60 calendar days although cases involving multiple incidents may take longer.

ii. The Title IX Coordinator will follow-up with complainants to determine whether any retaliation or new incidents of sexual harassment have occurred.

F. The DSU Title IX Coordinator has oversight responsibility for all complaints that fall under Title IX and is responsible for developing written procedures for processing reports of sexual harassment, sexual assault, domestic violence, dating violence, stalking, and retaliation and for identifying and addressing any patterns or systematic problems that arise related to such complaints.

G. Other than DSU Police in the course of their official duties, no employee is authorized to investigate or resolve complaints concerning sexual harassment, sexual assault, domestic violence, dating violence, stalking, or retaliation without the involvement of the Title IX Coordinator.

V. Student Disciplinary Procedures.

A. Specific DSU disciplinary procedures for a student accused of committing sexual assault are set forth in the DSU Code of Student Rights & Responsibilities (“Student Code,” policy 5-33, section 2).
i. The Vice President of Student Services may suspend a student or restrict a student’s access to University premises and/or activities for which the student might otherwise be eligible prior to an initial inquiry, hearing, or determination when there is reasonable cause to believe that a student poses a danger to him or herself, endangers the safety of other persons or property, or is an ongoing threat of disrupting the academic process or other function of the University.

ii. A disciplinary hearing for sexual assault, domestic violence, dating violence, stalking, or retaliation can be only held by the Student Conduct Committee or by a committee designed only to hear allegations of those crimes. In either case, the confidentiality of the victim will be respected, including allowing a victim to testify remotely as needed.

iii. A DSU student charged with or found responsible for sexual assault, domestic violence, dating violence, stalking, or retaliation through either DSU disciplinary proceedings or a court of law may incur any of the penalties included in the Student Code as sanctions, including but not limited to warning or reprimand, disciplinary probation, exclusion from specific campus areas or activities; loss of privileges for a specific period of time or until specific conditions are met; community service; change in academic schedule or program; modification to work and/or living arrangements; restitution; referral; registration or records hold; disciplinary suspension; or disciplinary dismissal. Failure to abide by the terms of a sanction will incur further progressive penalties.

1. Informal resolution is often not appropriate in instances of alleged sexual assault. A DSU student charged with or found responsible for sexual assault through either DSU disciplinary proceedings or a court of law may be suspended or dismissed, even for a first offense. DSU disciplinary action is not predicated on and does not preclude criminal prosecution or other civil action.

iv. A sanction imposed by the Dean of Students or a finding and/or sanction imposed by a disciplinary committee can be appealed to the Vice President of Student Services by either the accuser or the accused.

vi. The effective remedy imposed by the Title IX Coordinator may be appealed by either party to the President of the University. A sanction imposed by a hearing committee can be appealed to the Vice President of Student Services by either the accuser or the accused.

vii. Even if the University does not confront the accused because an individual who has made a complaint about sexual harassment has requested confidentiality, the University may pursue other reasonable steps to limit the effects of the alleged sexual harassment and prevent its recurrence.

B. In addition to the disciplinary procedures outlined in the DSU Code of Student Rights & Responsibilities and the DSU Sexual Harassment/Discrimination policy:

i. Proceedings about allegations of sexual harassment, sexual assault, domestic violence, dating violence, stalking, and retaliation must be conducted by officials who receive specialized annual training.

ii. The accuser and the accused are entitled to similar timely access to any information that will be used at the hearing.
iii. The accuser and the accused are afforded the same opportunity to have someone present during any institutional disciplinary proceeding.

iv. The accuser and the accused will have the same rights to present relevant witnesses and other evidence.

v. The accuser and the accused must receive written notification of the University’s final determination and any sanction that is imposed as the result of an institutional disciplinary proceeding or Title IX inquiry alleging a sex offense at the same time. If alleged victim is deceased, next of kin is notified. Such notification must include the right and process for either party to appeal.

vi. Either the accused or the accuser can file an appeal according to the procedure outlined in the Student Code (policy 5-33).

C. The standard of proof in all disciplinary proceedings regarding sexual harassment, sexual assault, domestic violence, dating violence, stalking, and retaliation is a preponderance of the evidence, or a conclusion that a considered comparison of the evidence leads to the finding that the complaint is more likely to be true than not.

D. The University is not restricted in disclosing the outcome of a disciplinary proceeding in instances where a determination is made that student is alleged perpetrator of a crime of violence or a non-forcible sex offense in violation of institutional policy.

VI. University Services and Programs.

A. DSU offers any student or employee who makes an institutional report of sexual harassment, sexual assault, domestic violence, dating violence, stalking, or retaliation that occurred on- or off-campus counseling through the DSU Health & Wellness Center Mental Health Services. The fees for such counseling may be waived in specific circumstances.

B. DSU will, upon request, assist a student victim in notifying law enforcement authorities about sexual assault, domestic violence, dating violence, stalking, or retaliation.

   i. Housing & Resident Life will be responsible for providing such assistance to students living in on-campus housing. The Dean of Students will be responsible for providing such assistance to all other students.

C. DSU will, upon request, make reasonable changes to the on-campus living, academic, or work situation(s) of a student or employee victimized by sexual harassment, sexual assault, domestic violence, dating violence, stalking, or retaliation in order for that individual to avoid a hostile environment if such changes are reasonably available.

D. The Division of Student Services is responsible for developing and implementing student and community awareness, education, and prevention programs about sexual harassment, sexual assault, domestic violence, dating violence, stalking, and retaliation as follows.

   i. Comprehensive community awareness and student education and prevention programs.

   ii. Up-to-date, evidence-based programs for incoming students (freshmen, transfer students, and others taking courses for credit on campus for the first time).
iii. Addendum 4 lists the specific minimum content contained required in awareness, education, and prevention programs.

E. The DSU Office of Human Resources is responsible for providing or facilitating training about this policy for University employees, including student employees. The Office of Human Resources will provide the following services and resources:

   i. Training for all employees and for new employees within 90 days of hire, with each employee taking refresher training not less than once every two years.

   ii. Specialized annual training for CSAs and individuals involved with student conduct disciplinary proceedings for sexual harassment, sexual assault, domestic violence, dating violence, stalking, and retaliation.

   iii. Specialized annual training for law enforcement about Title IX reporting, inquiry, and processing requirements.

   iv. Annual training for all employee supervisors about responding to reports of sexual harassment in any form.

   v. Addendum 4 lists the specific minimum content required in each training program.

VII. Student Amnesty for Reporting Sexual Assault.

   A. A student who voluntarily reports a sexual assault or knowledge of a sexual assault that occurred on- or off-campus and who requests amnesty will not be subject to DSU disciplinary sanctions or proceedings for an alcohol or other drug violation that occurred contemporaneously to the sexual assault, in circumstances where the reporter voluntarily reports the assault before being accused of the other offense(s).

      i. Such amnesty refers solely to DSU disciplinary procedures and does not preclude criminal or civil action.

      ii. An individual victimized by sexual assault or an individual reporting knowledge of a sexual assault who seeks amnesty may be asked to complete an educational program on alcohol or other drugs, and/or may be asked to take an assessment about alcohol and other drugs, but will not incur a disciplinary hold or be liable for fees associated with the educational program.

VIII. Recordkeeping.

   A. DSU Police will include statistical information about all instances of on-campus domestic violence, dating violence, sexual assault, and stalking in the Daily Crime Log and the Annual Security Report. Statistics regarding sexual assault and other crimes on campus can be found on the DSU website.

   B. The DSU Title IX Coordinator will provide centralized reporting and statistical recordkeeping for Title IX compliance.

   C. The Division of Student Services will maintain records of student attendance at education programs related to this policy.

   D. The Office of Human Resources will maintain records of employee training on this policy.
Addendum 1: Resources for Victims of Sexual Assault
Addendum 2: Flow Chart of Reporting Procedures
Addendum 3: Written Information for Reporters and Victims
Addendum 4: Procedures for Processing Reports of Crimes and Sexual Harassment
Addendum 5: Content required in Awareness, Education, Prevention, and Training Programs