

Dixie State University Policy

154 Title IX, Harassment and Nondiscrimination



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I. Purpose

- 1.1 Dixie State University adheres to all federal and state civil rights laws prohibiting discrimination in public institutions of higher education. Dixie State University will not discriminate against any employee, applicant for employment, student, or applicant for admission on the basis of race, religion, color, sex, pregnancy, creed, ethnicity, national origin, age, sexual orientation, gender, gender identity, gender expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), or any other protected category under applicable local, state, or federal law, including those protections for those opposing discrimination or participating in any resolution process on campus or within the Equal Employment Opportunity Commission or other human rights agencies.
- 1.2 This policy covers nondiscrimination in employment and in access to educational opportunities. Therefore, any member of the campus community who acts to deny, deprive, or limit the educational, employment, access, benefits, and/or opportunities of any member of the campus community, guests or visitors on the basis of their actual or perceived membership in the protected classes listed above is in violation of the University policy on nondiscrimination. When brought to the attention of the University, any such discrimination will be appropriately addressed and remedied by the University according to the Equity Resolution Process described below. Non-members of the campus community who engage in discriminatory actions within Dixie State University (DSU) programs or on University property are not under the jurisdiction of this policy, but can be subject to actions that limit their access and/or involvement with University programs as the result of their

misconduct. All vendors serving the University through third-party contracts are subject by those contracts to the policies and procedures or their employers.

II. Scope

- 2.1 Dixie State University affirms its commitment to promote the goals of fairness and equity in all aspects of the educational enterprise. All policies below are subject to resolution using the University's Equity Resolution Process (ERP), as detailed below. When the responding party is a member of the University community, the ERP is applicable regardless of the status of the reporting party who may be a member or non-member of the campus community, including students, student organizations, faculty, administrators, staff, guests, visitors, campers, etc.
- 2.2 Jurisdiction: This policy applies to behaviors that take place on the campus, at University-sponsored events and may also apply off-campus and to actions online when the Title IX Director determines that the off-campus conduct affects a substantial University interest. A substantial University interest includes:
 - 2.2.1 Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal laws;
 - 2.2.2 Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
 - 2.2.3 Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
 - 2.2.4 Any situation that is detrimental to the educational interests of the University.

III. Definitions

- 3.1 ***Dixie State University Policy on Discriminatory Harassment:*** Students, staff, administrators, and faculty are entitled to a working environment and educational environment free of discriminatory harassment. DSU's harassment policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom. The

sections below describe the specific forms of legally prohibited harassment that are also prohibited under Dixie State University policy.

3.1.1 ***Discriminatory and Bias-Related Harassment:*** Harassment constitutes a form of discrimination that is prohibited by Dixie State University policy as well as the law. DSU condemns and will not tolerate discriminatory harassment against any employee, student, visitor, or guest on the basis of any status protected by policy or law. DSU will remedy all forms of harassment when reported, whether or not the harassment rises to the level of creating a hostile environment. When harassment rises to the level of creating a hostile environment, DSU may also impose sanctions on the harasser through application of the Equity Resolution Process. Dixie State University's harassment policy explicitly prohibits any form of harassment, defined as unwelcome conduct on the basis of actual or perceived membership in a protected class.

3.1.1.1 A hostile environment may be created by harassing verbal, written, graphic, or physical conduct that is severe or persistent/pervasive, and objectively offensive such that it interferes with, limits or denies the ability of an individual to participate in or benefit from educational programs or activities or employment access, benefits or opportunities.

3.1.1.2 The University reserves the right to address offensive conduct and/or harassment that 1) does not rise to the level of creating a hostile environment, or 2) that is of a generic nature not on the basis of a protected status. Addressing such behavior may not result in the imposition of discipline under Dixie State University policy, but will be addressed through respectful confrontation, remedial actions, education and/or effective conflict resolution mechanism. For assistance with conflict resolution techniques, employees should contact the Executive Director of Human Resources and students should contact the Dean of Students.

3.1.2 ***Sexual Harassment:*** The Department of Education's Office for Civil Rights (OCR), the Equal Employment Opportunity Commission (EEOC), and the State of Utah regard sexual harassment as a form of sex/gender discrimination and therefore, as an unlawful discriminatory practice. Dixie State University has adopted the following definition of sexual harassment in order to address the special environment of an academic community, which consists not only of employer and

employees, but of students as well.

3.1.2.1 Sexual harassment is unwelcome, sexual, sex-based and/or gender based, verbal, written, online and/or physical conduct. [See Addenda 1 for examples of Possible Sexual Harassment.]

3.1.2.2 Anyone experiencing sexual harassment in any University program is encouraged to report it immediately to the Title IX Director or a Deputy Title IX Coordinator. Remedies, education, and/or training will be provided in response.

3.1.2.3 Sexual harassment may be disciplined when it takes the form of *quid pro quo* harassment, retaliatory harassment, and/or creates a hostile environment.

3.1.2.3.1 A hostile environment is created when sexual harassment is severe, or persistent or pervasive, and objectively offensive, such that it unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the University's educational, employment, and/or residential program.

3.1.2.3.2 ***"Quid Pro Quo" Sexual Harassment:*** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature by a person having power or authority over another constitutes sexual harassment when submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational development or performance.

3.1.3 ***Sexual Misconduct:*** State law defines various violent and/or non-consensual sexual acts as crimes. While some of these acts may have parallels in criminal law, Dixie State University has defined categories of sex/gender discrimination as sexual misconduct, as stated below, for which action under this policy may be imposed. Generally speaking, Dixie State University considers Non-Consensual Sexual Intercourse violations to be the most serious of these offenses, and therefore typically imposes the most severe sanctions, including suspension or expulsion for students and termination for employees. However, Dixie State University reserves the right to impose any level of sanction, ranging from a reprimand up to and including suspension or

expulsion/termination, for any act of sexual misconduct or other sex/gender-based offenses, including intimate partner (dating and/or domestic) violence, non-consensual sexual contact and/or stalking based on the facts and circumstances of the particular allegation. Acts of sexual misconduct may be committed by any person upon any other person, regardless of the sex, sexual orientation, and/or gender identity of those involved. Violations include:

3.1.3.1 Sexual Harassment (as defined above in 3.1.2.1)

3.1.3.2 ***Non-Consensual Sexual Intercourse:*** any sexual intercourse, however slight, with any object, by a person upon another person, that is without consent and/or by force.

3.1.3.2.1 Sexual intercourse includes vaginal or anal penetration by a penis, tongue, finger or object, or oral copulation (mouth to genital contact) no matter how slight the penetration or contact.

3.1.3.3 ***Non-Consensual Sexual Contact:*** any sexual touching, however slight, with any object, by a person upon another person, that is without consent and/or by force.

3.1.3.3.1 Sexual touching includes intentional contact with the breasts, groin, or genitals, mouth or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any other bodily contact in a sexual manner.

3.1.4 ***Sexual Exploitation:*** Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and that behavior does not otherwise fall within the definitions of Sexual Harassment, Non-Consensual Sexual Intercourse, or Non-Consensual Sexual Contact. [See Addenda 2 for examples of Sexual Exploitation.]

3.1.5 ***Force and Consent:*** Consent to a sexual act, according to the Utah State Code, which is applicable in criminal prosecutions for sex offenses in Utah, 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 the age of 14 can legally consent to sexual activity.

- 3.1.5.1 However, for purposes of this policy and within the campus disciplinary process, **Consent** is knowing, voluntary, and clear permission by word or action to engage in mutually agreed upon sexual activity. Since individuals may experience the same interaction in different ways, it is the responsibility of each party to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be a clear expression in words or actions that the other individual consented to that specific sexual conduct. Consent can be withdrawn once given, as long as the withdrawal is clearly communicated.
- 3.1.5.2 Consent to some contact (such as kissing or fondling) cannot be presumed to be consent for other sexual activity (such as intercourse). A current or previous dating relationship is not sufficient to constitute consent. The existence of consent is based on the totality of the circumstances, including the context in which the alleged incident occurred and any similar previous patterns that may be evidence.
- 3.1.5.3 **Force** is the use of physical violence and/or imposing on someone physically to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that overcome resistance or produce consent (e.g. "Have sex with me or I'll hit you." "Okay, don't hit me, I'll do what you want.").
- 3.1.5.4 **Coercion** is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.
 - 3.1.5.4.1 NOTE: Silence or the absence of resistance alone is not consent. There is no requirement on a party to resist the sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of consent is not demonstrated by the absence of resistance. Sexual

activity that is forced is by definition non-consensual, but non-consensual sexual activity is not by definition forced. [See Addendum 3 for examples of Lack of Consent.]

3.1.5.5 ***Incapacitation:*** A person cannot consent if they are unable to understand what is happening or is disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has violated this policy.

3.1.5.5.1 It is not an excuse that the responding party was intoxicated and, therefore, did not realize the incapacity of the reporting party.

3.1.5.5.2 Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent (e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction). This policy also covers a person whose incapacity results from mental disability, involuntary physical restraint and/or from the taking of incapacitating drugs.

3.1.5.5.3 In Utah, a minor (meaning a person under the age of 18 years) cannot consent to sexual activity. This means that sexual contact by an adult with a person younger than 18 years old may be a crime, and a potential violation of this policy, even if the minor wanted to engage in the act.

3.1.6 ***Intimate Partner Violence:*** violence or abuse between those in an intimate interaction and/or relationship to each other. [See Addendum 4 for examples of Intimate Partner Violence.]

3.1.7 ***Stalking:*** a course of conduct, directed at a specific person, on the basis of actual or perceived membership in a protected class, that is unwelcome AND would cause a reasonable person to feel fear OR is repetitive and menacing; pursuit following, harassing and/or interfering with the peace and/or safety of another. [See Addendum 5 for examples of both types of stalking.]

3.1.8 ***Retaliation:*** any adverse action taken against a person participating in a protected activity because of their participation in that protected

activity. Retaliation against an individual for alleging harassment, supporting a party bringing an allegation or for assisting in providing information relevant to a claim of harassment is a serious violation of University policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Director and will be promptly investigated. DSU is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation. [See Addendum 6 for examples of Retaliation.]

- 3.2 **Reporting Party:** the person impacted by alleged discrimination.
- 3.3 **Responding Party:** the person who has allegedly engaged in discrimination.
- 3.4 **Remedial Action:** Upon notice of alleged discrimination, DSU will implement initial remedial, responsive and/or protective actions upon notice of alleged harassment, retaliation and/or discrimination. Such actions could include but are not limited to: no contact orders, providing counseling and or/medial services, academic support, living arrangement adjustments, transportation accommodations, visa and immigration assistance, student financial aid counseling, providing a campus escort, academic or work schedule and assignment accommodations, safety planning, referral to campus and community support resources.
 - 3.4.1 Dixie State University will take additional prompt remedial and/or disciplinary action with respect to any member of the community, guest or visitor upon a finding that they have engaged in harassing or discriminatory behavior or retaliation.
 - 3.4.2 The University will maintain as confidential any accommodations or protective measures, provided confidentiality does not impair the University's ability to provide the accommodations or protective measures.
- 3.5 **Resolution Administrator:** the person who has authority, in an administrative resolution, to address all collateral misconduct (e.g. hear all allegations of discrimination, harassment, and retaliation) and may address any additional alleged policy violations that have occurred in concert with this policy.

IV. Policy

- 4.1 **Confidentiality and Reporting of Offenses Under this Policy:** All Dixie State University employees (faculty, staff, administrators) are expected to report

actual or suspected discrimination or harassment to appropriate officials immediately, though there are some limited exceptions. In order to make informed choices, it is important to be aware of confidentiality and mandatory reporting requirements when consulting campus resources. On campus, some resources may maintain confidentiality – meaning they are not required to report actual or suspected discrimination or harassment to appropriate university officials – thereby offering options and advice without any obligation to inform an outside agency or campus official unless a reporting party has requested information to be shared. Other resources exist for reporting parties to report crimes and policy violations and these resources will take action when an incident is reported to them. The following describes the reporting options at Dixie State University:

4.1.1 Confidential Reporting

4.1.1.1 If a reporting party would like the details of an incident to be kept confidential, the reporting party may speak with on-campus licensed professional counselors and staff, and/or on-campus health service providers and staff.

4.1.1.2 Off-campus (non-employees), which include, licensed professional counselors, local rape crisis counselors, domestic violence resources, local or state assistance agencies, and Clergy/Chaplains/Bishops.

4.1.1.3 All of the above-listed individuals will maintain confidentiality except in cases of immediacy of threat or danger or abuse of a minor. DSU employees listed above will submit anonymous statistical information for Clery Act purposes unless they believe it would be harmful to their client or patient.

4.1.2 Formal Reporting Options: All Dixie State University employees have a duty to report, unless they fall under the “Confidential Reporting” section above. Reporting parties may want to consider carefully whether they share personally identifiable details with non-confidential employees, as those details must be shared with the Title IX Director. Employees must promptly share all details of the reports they receive. Generally, climate surveys, classroom writing assignments or discussion, human subjects research, or events such as Take Back the Night marches or speak-outs do not provide notice that must be reported to the Title IX Director by employees, unless the reporting party clearly indicates that they wish a report to be made. Remedial

action may result from such disclosures without formal DSU action.

- 4.1.3 If a reporting party does not wish for their name to be shared, does not wish for an investigation to take place, or does not want a formal resolution to be pursued, the reporting party may make such a request to the Title IX Director, who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. Note that the University's ability to remedy and respond to a reported incident may be limited if the reporting party does not want the institution to proceed with an investigation and/or the Equity Resolution Process.
 - 4.1.4 In cases indicating pattern, predation, threat, weapons and/or violence, the University will likely be unable to honor a request for confidentiality. In cases where the reporting party requests confidentiality and the circumstances allow the University to honor that request, the University will offer interim supports and remedies to the reporting party and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have allegations taken seriously by Dixie State University when formally reported, and to have those incidents investigated and properly resolved through these procedures.
 - 4.1.5 Formal reporting still affords privacy to the reporter, and only a small group of Dixie State University officials who need to know will be told, including but not limited to: Dean of Students, Campus Police, and CARE Team. Information will be shared as necessary with investigators, witnesses and the responding party. The circle of people with this knowledge will be kept as tight as possible to preserve a reporting party's rights and privacy. Additionally, anonymous reports can be made by victims and/or third parties using the online compliant reporting form posted at <http://titleix.dixie.edu/>. Note that these anonymous reports may prompt a need for the institution to investigate.
 - 4.1.6 Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex/gender harassment or discrimination of which they become aware is a violation of Dixie State University policy and can be subject to disciplinary action for failure to comply.
- 4.2 Federal Timely Warning Obligations: Parties reporting sexual misconduct should be aware that under the Clery Act, Dixie State University

administrators must issue timely warnings for incidents reported to them that pose a substantial threat of bodily harm or danger to members of the campus community. DSU will ensure that a victim's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

- 4.3 False Allegations: Deliberately false and/or malicious accusations under this policy, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.
- 4.4 Amnesty for Reporting Party and Witnesses: The Dixie State University community encourages the reporting of misconduct and crimes by reporting parties and witnesses. Sometimes, reporting parties or witnesses are hesitant to report to DSU officials or participate in resolution processes because they fear that they themselves may be accused of policy violations, such as underage drinking at the time of the incident. It is in the best interests of this community that reporting parties choose to report to university officials, and that witnesses come forward to share what they know. To encourage reporting, DSU pursues a policy of offering reporting parties and witnesses amnesty from minor policy violations related to the incident. Sometimes, students are hesitant to offer assistance to others for fear that they may get themselves in trouble (for example, a student who has been drinking underage might hesitate to help take a sexual misconduct victim to the Campus Police). The University pursues a policy of amnesty for students who offer to help others in need. While policy violations cannot be overlooked, the university will provide educational options, rather than punishment, to those who offer their assistance to others in need.
- 4.5 Parental Notification for allegations involving students: Dixie State University reserves the right to notify parents/guardians of dependent students regarding any health or safety risk, change in student status or conduct situation, particularly alcohol and other drug violations. The university may also notify parents/guardians of non-dependent students who are under age 21 of alcohol and/or drug policy violations. Where a student is non-dependent, the University will contact parent/guardians to inform them of situations in which there is significant and articulable health and/or safety risk. The University also reserves the right to designate which University officials have a need to know about incidents that fall within this policy, pursuant to the Family Educational Rights and Privacy Act.

V. References

- 5.1 Utah State Code § 76-5-406
- 5.2 DSU Title IX and Clery Act Compliance webpage: <http://titleix.dixie.edu>

VI. Procedures

- 6.1 Equity Resolution Process (ERP) for Allegations of Harassment, Sexual Misconduct, and other Forms of Discrimination: Dixie State University will act on any formal or informal allegation or notice of violation of the policy on Harassment and Nondiscrimination, that is received by the Title IX Director or a member of the administration, faculty, or other employee.
- 6.2 The procedures described below apply to all allegations of harassment or discrimination on the basis of protected class involving students, staff, or faculty members. These procedures may also be used to address collateral misconduct occurring in conjunction with harassing or discriminatory conduct (e.g. vandalism, physical abuse of another, etc.). All other allegations of misconduct unrelated to incidents covered by this policy will be addressed through the procedures elaborated in the respective student, faculty, and staff policies.
- 6.3 Overview: Upon notice to the Title IX Director, this resolution process involves a prompt preliminary inquiry to determine if there is reasonable cause to believe the nondiscrimination policy has been violated. If so, the University will initiate a confidential investigation that is thorough, reliable, impartial, prompt, and fair. The investigation and the subsequent resolution processes determine whether the nondiscrimination policy has been violated. If so, the University will promptly implement effective remedies designed to end the discrimination, prevent its reoccurrence, and address its effects.
- 6.4 Equity Resolution Process (ERP): Allegations under the policy on nondiscrimination are resolved using the ERP. Members of the ERP pool are announced in an annual distribution of this policy to campus, prospective students, their parents, and prospective employees. The list of members and a description of the panel can be found online at <http://titleix.dixie.edu/>. Members of the ERP pool are trained in all aspects of the resolution process, and can serve in any of the following roles, at the direction of the Title IX Director:
 - 6.4.1 To serve in a mediation or restorative justice role in conflict resolution.

- 6.4.2 To act as process advisors to those involved in the Equity Resolution Process.
- 6.4.3 To serve on appeal panels for allegations.
- 6.5 The President, in consultation with the Title IX Director, appoints the pool that reports to the Title IX Director. ERP pool members receive annual training organized by the Title IX Director, including a review of University policies and procedures as well as applicable federal and state laws and regulations so that they are able to appropriately address allegations, provide accurate information to members of the community, protect safety, and promote accountability. This training will include, but is not limited to: how to appropriately remedy, investigate, render findings, and determine appropriate sanctions in reference to all forms of harassment and discrimination allegations; the University's Harassment and Nondiscrimination policies and procedures (including sexual misconduct); confidentiality and privacy; and applicable laws, regulations and federal regulatory guidance. All ERP pool members are required to attend this annual training to be eligible to serve.
- 6.6 The Equity Resolution Process pool includes:
 - 6.6.1 At least three (3) members of the academic affairs administration
 - 6.6.2 At least five (5) members of the administration/staff
 - 6.6.3 At least one (1) representative from Campus Safety
 - 6.6.4 At least one (1) representative from Human Resources
 - 6.6.5 At least one (1) representative from Athletics
 - 6.6.6 At least one (1) representative from student representatives selected by the Dixie State College Student Association (DSCSA) president.
 - 6.6.7 Two (2) co-chairs: *ex officio* members (comprised of the above representatives) and who respectively chair resolution panel hearings for allegations involving students and employee responding parties.
 - 6.6.8 ERP pool members are usually appointed to three-year terms. Appointments to the pool should be made with attention to representation of groups protected by this policy. No member of the pool may be a practicing attorney.
- 6.7 Reporting Misconduct: Any member of the community, guest, or visitor who

believes that this policy on Harassment and Nondiscrimination has been violated should contact the Title IX Director.

- 6.7.1 It is also possible for employees to notify a supervisor, or for students to notify an administrative advisor or faculty member. Any member of the community, including visitors, may contact Campus Police to make a report. These individuals will in turn notify the Title IX Director. The University website also includes a online complaint reporting form at <http://titleix.dixie.edu/> which may serve to initiate the resolution process.
 - 6.7.2 All employees receiving reports of a potential violation of this policy are expected to promptly contact the Title IX Director, within 24 hours of becoming aware of a report or incident. All initial contacts will be treated with privacy; specific information on any allegations received by any party will be reported to the Title IX Director, but subject to the University's obligation to redress violations, every effort will be made to maintain the privacy of those initiating an allegation. In all cases, Dixie State University will give consideration to the reporting party with respect to how the reported misconduct is pursued, but reserves the right, when necessary to protect the community, to investigate and pursue a resolution even when a reporting party chooses not to initiate or participate in the resolution process.
- 6.8 Preliminary Inquiry: Following receipt of notice or a report of misconduct, the Title IX Director engages in a preliminary inquiry to determine if there is reasonable cause to believe University policy has been violated. The preliminary inquiry is typically 1-3 days in duration. This inquiry may also serve to help the Title IX Director to determine if the allegations evidence violence, threat, pattern, predation, and/or weapon, in the event that the reporting party has asked for no action to be taken. In any case where violence, threat, pattern, predation, and/or weapon is not evidenced, the Title IX Director may respect a reporting party's request for no action, and will investigate only so far as necessary to determine appropriate remedies. As necessary, the University reserves the right to initiate resolution proceedings without a formal report or participation by the reporting party.
- 6.8.1 In cases where the reporting party wishes to proceed or the University determines it must proceed, and the preliminary inquiry shows that reasonable cause exists, the Title IX Director will direct a formal investigation to commence and the allegations will be resolved through one of the processes discussed briefly here and in greater detail below:

- 6.8.1.1 Conflict Resolution – typically used for less serious offenses and only when both parties agree to conflict resolution.
- 6.8.1.2 Administrative Resolution – resolution by a trained administrator.
- 6.8.2 The process followed considers the preference of the parties, but is ultimately determined at the discretion of the Title IX Director. Conflict resolution may only occur if selected by all parties, otherwise the administrative resolution process applies.
- 6.8.3 If conflict resolution is desired by the reporting party, and appears appropriate given the nature of the alleged behavior, then the report does not proceed to investigation, unless a pattern of misconduct is suspected or there is an actual or perceived threat of further harm to the community or any of its members.
- 6.8.4 Once a formal investigation is commenced, the Title IX Director will provide written notification of the investigation to the responding party at an appropriate time during the investigation.¹ The University aims to complete all investigations within a sixty (60) calendar day time period, which can be extended as necessary for appropriate cause by the Title IX Director with notice to the parties as appropriate.
- 6.9 Interim Remedies/Actions: the Title IX Director may provide interim remedies intended to address the short-term effects of harassment, discrimination, and/or retaliation, i.e., to redress harm to the reporting party and the community and to prevent further violations. These remedies may include but are not limited to: referral to counseling and health services; referral to the Employee Assistance Program; education to the community; altering the housing situation of the responding party (resident student or resident employee (or the reporting party, if desired)); altering work arrangements for employees; providing campus escorts; providing transportation accommodations; implementing contact limitations between the parties; offering adjustments to academic deadlines, course schedules, etc.
- 6.9.1 The University may interim suspend a student, employee or

¹ Notification will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties and indicated in official Dixie State University records; or emailed to the parties' University-issued email account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The reporting party is typically copied on such correspondence.

organization pending the completion of ERP investigation and procedures, particularly when in the judgment of the Title IX Director the safety or well-being of any member(s) of the campus community may be jeopardized by the presence on-campus of the responding party or the ongoing activity of a student organization whose behavior is in question. In all cases in which an interim suspension is imposed, the student, employee, or student organization will be given the option to meet with the Title IX Director prior to such suspension being imposed, or as soon thereafter as reasonable possible, to show cause why the suspension should not be implemented. The Title IX Director has sole discretion to implement or stay an interim suspension and to determine its conditions and duration. Violations of an interim suspension under this policy will be grounds for expulsion or termination.

- 6.9.2 During an interim suspension or administrative leave, a student or employee may be denied access to University housing and/or the University campus/facilities/events. As determined by the Title IX Director, this restriction can include classes and/or all other University activities or privileges for which the student might otherwise be eligible. At the discretion of the Title IX Director, alternative coursework options may be pursued to ensure as minimal an impact as possible on the responding party.
- 6.9.3 The institution will maintain as confidential any interim actions or protective measures, provided confidentiality does not impair the institution's ability to provide the interim actions or protective measures.
- 6.10 Investigation: Once the decision is made to commence a formal investigation, the Title IX Director and/or Deputy Title IX Coordinators will conduct an investigation (usually two people), usually within two (2) days of determining that an investigation should proceed. Investigations are completed expeditiously, normally within ten (10) days, though some investigations take weeks or even months, depending on the nature, extent, and complexity of the allegations, availability of witnesses, police involvement, etc.
 - 6.10.1 The University may undertake a short delay in its investigation (several days to weeks, to allow evidence collection) when criminal charges on the basis of the same behaviors that invoke this process are being investigated. The University will promptly resume its investigation and resolution processes once notified by law enforcement that the initial evidence collection process is complete. University action will not

typically be altered or precluded on the grounds that civil or criminal charges involving the same incident have been filed or that charges have been dismissed or reduced.

- 6.10.2 All investigations will be thorough, reliable, impartial, prompt, and fair. Investigations entail interviews with all relevant parties and witnesses, obtaining available evidence and identifying sources of expert information, as necessary.
- 6.10.3 The investigation will conclude by making a finding, based on a preponderance of the evidence (whether a policy violation is more likely than not).
- 6.10.4 Deputy Title IX Coordinators and/or the Title IX Director will finalize and present the findings to the parties, without undue delay between notifications.
- 6.10.5 At any point during the investigation, if it is determined there is no reasonable cause to believe that University policy has been violated, the Title IX Director has authority to terminate the investigation and end resolution proceedings.
- 6.10.6 Witnesses (as distinguished from the parties) are expected to cooperate with and participate in the University's investigation and the Equity Resolution Process. Failure of a witness to cooperate with and/or participate in the investigation or Equity Resolution Process constitutes a violation of policy and may be subject to discipline. Witnesses may provide written statements in lieu of interviews during the investigation and may be interviewed remotely by phone, Skype, or similar technology if they cannot be interviewed in person or if the investigators determine that timeliness or efficiency dictate a need for remote interviewing. Parties who elect not to participate in the investigation or to withhold information from the investigation do not have the ability to offer evidence later during the appeal if it could have been offered during the investigation. Failure to offer evidence prior to an appeal does not constitute grounds for appeal on the basis of new evidence.
- 6.10.7 No unauthorized audio or video recording of any kind is permitted during investigation meetings or other Equity Resolution Process proceedings.

6.11 Advisors: Each party is allowed to have an advisor of their choice present with

them for all ERP meetings and proceedings, from intake through to final determination. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available, and usually otherwise not involved in the resolution process, such as serving as a witness. The advisor may be a friend, mentor, family member, attorney, or any other supporter a party chooses to advise them who is available and eligible. Witnesses cannot also serve as advisors. The parties may choose advisors from inside or outside the campus community. The Title IX Director will also offer to assign a trained ERP pool member to work as an advisor for any party. The parties may choose their advisor from the ERP pool, choose a non-trained advisor from outside the pool, if preferred, or proceed without an advisor.

- 6.11.1 The parties may be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity, and in good faith. The University cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the University is not obligated to provide one.
- 6.11.2 All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting or interview unless invited to. The advisor may not make a presentation or represent the reporting party or the responding party during any meeting or proceeding and may not speak on behalf of the advisee to the investigators or hearing panelists. The parties are expected to ask and respond to questions on their own behalf, without representation by their advisor. Advisors may confer quietly with their advisees or in writing as necessary, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation.
- 6.11.3 Advisors are expected to refrain from interference with the investigation and resolution. Any advisor who steps out of their role will be warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present. Subsequently, the Title IX Director will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the

process.

- 6.11.4 The University expects that the parties will wish to share documentation related to the allegations with their advisors. The University provides a consent form that authorizes such sharing. The parties must complete this form before the University is able to share records with an advisor, though parties may share the information directly with their advisor if they wish. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the University. The University may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.
- 6.11.5 The University expects an advisor to adjust their schedule to allow them to attend University meetings when scheduled. The University does not typically change scheduled meetings to accommodate an advisor's inability to attend. The University will, however, make reasonable provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video, and/or virtual meeting technologies as may be convenient and available.
- 6.11.6 A party may elect to change advisors during the process, and is not locked into using the same advisor throughout.
- 6.11.7 The Parties must advise the investigators of the identity of their advisor at least one (1) day before the date of their first meeting with investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties must provide timely notice to investigators if they change advisors at any time.
- 6.12 Resolution: Proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with Dixie State University policy. While the contents of the hearing are private, the parties have discretion to share their own experiences if they so choose, and should discuss doing so with their advisors.
 - 6.12.1 Conflict Resolution is often used for less serious, yet inappropriate, behaviors and is encouraged as an alternative to the formal hearing process to resolve conflicts. The Title IX Director will determine if conflict resolution is appropriate, based on the willingness of the parties, the nature of the conduct at issue, and the susceptibility of the conduct

to conflict resolution. In a conflict resolution meeting, a training administrator will facilitate a dialogue with the parties to an effective resolution, if possible. Sanctions are not possible as the result of a conflict resolution process, though the parties may agree to appropriate remedies. The Title IX Director will keep records of any resolution that is reached, and failure to abide by the accord and result in appropriate responsive actions.

6.12.1.1 Conflict resolution will not be the primary resolution mechanism used to address reports of violent behavior of any kind or in other cases of serious violations of policy, though it may be made available after the formal process is completed should the parties and the Title IX Director believe that it could be beneficial. Mediation will not be used in cases of sexual violence. It is not necessary to pursue conflict resolution first in order to pursue administrative resolution, and any party participating in conflict resolution can stop that process at any time and request a shift to administrative resolution.

6.12.2 Administrative Resolution can be pursued for any behavior that falls within this policy at any time during the process.

6.12.2.1 In administrative resolution, the resolution administrator has the authority to address all collateral misconduct, meaning that they hear all allegations of discrimination, harassment, and retaliation, but also may address any additional alleged policy violations that have occurred in concert with the discrimination, harassment, or retaliation, even though those collateral allegations may not specifically fall within University policy. Accordingly, investigations should be conducted with as wide a scope as necessary.

6.12.2.2 Any evidence that the resolution administrator believes is relevant and credible may be considered, including history and pattern evidence. The resolution administrator may exclude irrelevant or immaterial evidence and may choose to disregard evidence lacking in credibility or that is improperly prejudicial.

6.12.2.3 Unless the resolution administrator determines it is appropriate, the investigation and the findings will not consider: 1) incidents not directly related to the possible violation, unless they show a pattern, 2) the sexual history of the reporting party (though there

may be a limited exception made in regards to the sexual history between the parties), or 3) the character of the reporting party. While previous conduct violations by the responding party are not generally admissible as information about the present allegation, the investigators will supply the resolution administrator with information about previous good faith allegations and/or findings to consider as evidence of pattern and/or predatory conduct.

- 6.12.2.4 Neither the resolution administrator nor investigators will meet with character witnesses, but investigators will accept up to two (2) letters supporting the character of each of the parties.
- 6.12.2.5 The resolution administrator will base the determination(s) on the preponderance of the evidence, whether it is more likely than not that the responding party violated policy as alleged.
- 6.12.2.6 The responding party may choose to admit responsibility for all or part of the alleged policy violations at any point during the investigation or administrative resolution process. If the responding party admits responsibility, the Title IX Director will render a determination that the individual is in violation of University policy.
- 6.12.2.7 If the responding party admits the violation, or is found in violation, the resolution administrator, in consultation with the Title IX Director and others as appropriate, will determine an appropriate sanction or responsive action, will implement it, and act promptly and effectively to stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct.
- 6.12.2.8 The resolution administrator will inform the parties of the final determination within three (3) days of the resolution, without significant time delay between notifications. Notifications will be made in writing and may be delivered by one or more of the following methods: in person; mailed to the local or permanent address of the parties as indicated in official Dixie State University records; or emailed to the parties' University-issued email account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered. The notification of outcome will specify the findings on each alleged policy

violation, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law. The notice will also include information on when the results are considered by the University to be final, any changes that occur prior to finalization, and any appeals options that are available.

6.12.3 Sanctions: Factors considered when determining a sanction/responsive action may include: the nature, severity of, and circumstances surrounding the violation; an individual's disciplinary history; previous allegations or allegations involving similar conduct; any other information deemed relevant by the hearing panel; the need for sanctions/responsive actions to bring to an end the discrimination, harassment, and/or retaliation; the need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation; and the need to remedy the effects of the discrimination, harassment, and/or retaliation on the reporting party and the community.

6.12.3.1 Student Sanctions: the following are the usual sanctions that may be imposed upon students or organizations singly or in combinations:

6.12.3.1.1 Warning: A formal statement that the behavior was unacceptable and a warning that further infractions of any University policy, procedure, or directive will result in more severe sanctions/responsive actions.

6.12.3.1.2 Probation: A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any University policy, procedure, or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders, and/or other measures deemed appropriate.

6.12.3.1.3 Suspension: Termination of student status for a definite period of time not to exceed two year, and/or until specific criteria are met. Students who return from suspension are

automatically placed on probation through the remainder of their tenure at Dixie State University. This sanction may be noted as a Conduct Suspension on the student's official transcript, at the discretion of the Title IX Director.

- 6.12.3.1.4 Expulsion: Permanent termination of student status, revocation of rights to be on campus for any reason or attend Dixie State University-sponsored events. This sanction will be noted as a Conduct Expulsion on the students' official transcript.
 - 6.12.3.1.5 Withholding Diploma: The University may withhold a student's diplomas for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending, or as a sanction if the student is found responsible for an alleged violation.
 - 6.12.3.1.6 Revocation of Degree: The University reserves the right to revoke a degree awarded from the University for fraud, misrepresentation, or other violation of University policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
 - 6.12.3.1.7 Organizational Sanctions: Deactivation, de-recognition, loss of all privileges (including University registration), for a specified period of time.
 - 6.12.3.1.8 Other Actions: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.
- 6.12.3.2 Employee Sanctions: Responsive actions for an employee who has engage in harassment, discrimination, and/or retaliation include: warning (verbal or written); performance improvement/management process; required counseling; required training or education; probation; loss of annual pay increase; loss of oversight or supervisory responsibility; demotion; suspension with pay; suspension without pay; and termination. In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

6.12.4 Withdrawal or Resignation While Charges Pending: The University does not permit a student to withdraw if that student has an allegation pending for violation of this policy on Harassment and Nondiscrimination. Should a student decide to leave and/or not participate in the ERP, the process will nonetheless proceed in the student's absence to a reasonable resolution and that student will not be permitted to return to Dixie State University unless all sanctions have been satisfied. The student will not have access to an academic transcript until the allegations have been resolved.

6.12.4.1 Should an employee resign with unresolved allegations pending, the records of the Title IX Director will reflect that status, and any University responses to future inquiries regarding employment references for that individual will indicate the former employee is ineligible for rehire.

6.13 Appeals: All requests for appeal consideration must be submitted in writing to the Title IX Director within five (5) business days of the delivery of the written finding of the Title IX Director. Any party may appeal the findings and/or sanctions only under the grounds described below.

6.13.1 A three-member appeals panel chosen from the ERP pool will be designated by the Title IX Director from those who have not been involved in the process previously. Any party may appeal, but appeals are limited to the following grounds:

6.13.1.1 A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantial bias, material deviation from established procedures, etc.).

6.13.1.2 To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.

6.13.1.3 The sanctions imposed fall outside the range of sanctions the University has designated for this offense and the cumulative record of the responding party.

6.13.2 The appeals panel will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. The party requesting appeal must show that the grounds for an

appeal request have been met, and the other party or parties may show the grounds have not been met, or that additional grounds are met. The original finding and sanction are presumed to have been decided reasonably and appropriately. When any party requests an appeal, the Title IX Director will share the appeal request with the other party(ies), who may file a response within three (3) days and/or bring their own appeal on separate grounds. If new grounds are raised, the original appealing party will be permitted to submit a written response to these new grounds within three (3) days. These response or appeal requests will be shared with each party.

- 6.13.3 Where the appeals panel finds that at least one of the grounds is met by at least one party, additional principles governing the hearing of appeals will include the following:
 - 6.13.3.1 Decisions by the appeals panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so.
 - 6.13.3.2 Appeals are not intended to be full re-hearings (de novo) of the allegation. In most cases, appeals are confined to a review of the written documentation or record of the investigation, and pertinent documentation regarding the grounds for appeal. An appeal is not an opportunity for appeals panelists to substitute their judgment for that of the original investigator(s) or Resolution Administrator merely because they disagree with its finding and/or sanction.
 - 6.13.3.3 Appeals granted based on new evidence should normally be remanded to the investigator(s) for reconsideration. Other appeals may be remanded at the discretion of the Title IX Director or, in limited circumstances, heard by the three-member appeals panel.
 - 6.13.3.4 Sanctions imposed as the result of Administrative Resolution are implemented immediately unless the Title IX Director or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal.
 - 6.13.3.4.1 For students: Graduation, study abroad, internships/externships, etc. do not in and of themselves

constitute exigent circumstances, and students may not be able to participate in those activities during their appeal.

- 6.13.3.5 The Title IX Director will confer with the appeals panel, incorporate the results of any remanded grounds, and render a written decision on the appeal to all parties within three (3) days of the resolution of the appeal or remand.
- 6.13.3.6 Where appeals result in no change to the finding or sanction, that decision is final. Where an appeal results in a new finding or sanction, that finding or sanction can be appealed one final time on the grounds listed above and in accordance with these procedures.
- 6.13.3.7 All parties will be informed in writing within three (3) days of the outcome of the appeals panel, without significant time delay between notifications, and in accordance with the standards for notice of outcome as defined above.
- 6.13.3.8 In rare cases where a procedural error cannot be cured by the original investigator(s) and/or resolution administrator (as in cases of bias), the appeals panel may recommend a new investigation and/or administrative resolution process, including a new resolution administrator. The results of a remand cannot be appealed. The results of a new administrative resolution process can be appealed, once, on any of the three applicable grounds for appeals.
- 6.13.3.9 In cases where the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the responding party to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

6.14 Long-Term Remedies/Action: Following the conclusion of the Equity Resolution Process and in addition to any sanctions implemented, the Title IX Director may utilize long-term remedies or actions to stop the harassment or discrimination, remedy its effects, and prevent their occurrence. These remedies/actions may include, but are not limited to: referral to counseling and health services; referral to the Employee Assistance Program; education to the community; permanently altering the housing situation of the responding party (resident student or resident employee (or the reporting party, if

desired)); permanently altering work arrangements for employees; providing campus escorts; climate surveys; policy modifications; providing transportation accommodations; implementing long-term contact limitations between the parties; offering adjustments to academic deadlines, course schedules, etc.

6.14.1 At the discretion of the Title IX Director, long-term remedies may also be provided even when the responding party is found not responsible.

6.14.2 The institution will maintain as confidential any long-term remedies/actions or protective measures, provided confidentiality does not impair the institution's ability to provide the actions or protective measures.

6.15 Failure to Complete Sanctions/Comply with Interim and Long-term Remedies/Responsive Actions: All responding parties are expected to comply with conduct sanctions, responsive actions and corrective actions within the timeframe specified by the Title IX Director. Failure to abide by these conduct sanctions, responsive actions and corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the University and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Director.

6.16 Records: In implementing this policy, records of all allegations, investigations, resolutions, and hearings will be kept the Title IX Director indefinitely.

6.17 Policy and Procedure Revision: These policies and procedures will be reviewed and updated annually by the Title IX Director. The University reserves the right to make changes to this policy in accordance with University policy rules. Procedures in effect at the time of the resolution will apply to the resolution will apply to resolution of incidents, regardless of when the incident occurred. Policy in effect at the time of the offense will apply even if the policy is changed subsequently but prior to resolution, unless the parties consent to be bound by the current policy. If government regulations change in a way that impacts this document, this document will be construed to comply with government regulations in their most recent form.

VII. Addenda

7.1 Addendum 1 Examples of Possible Sexual Harassment

- 7.2 Addendum 2 Examples of Sexual Exploitation
- 7.3 Addendum 3 Examples of Lack of Consent
- 7.4 Addendum 4 Examples of Intimate Partner Violence
- 7.5 Addendum 5 Examples of Stalking
- 7.6 Addendum 6 Examples of Retaliation

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Policy Owner: General Counsel
Policy Steward: Title IX Director

History:
Approved 4/28/14
Revised 9/1/16

Addendum 1

Examples of Possible Sexual Harassment

1. A professor insists that a student have sex with him/her in exchange for a good grade. This is harassment regardless of whether the student accedes to the request and irrespective of whether a good grade is promised or a bad grade is threatened.
2. A student repeatedly sends sexually oriented jokes around on an email list s/he created, even when asked to stop, causing one recipient to avoid the sender on campus and in the residence hall in which they both live.
3. Explicit sexual pictures are displayed in a professor's office or on the exterior of a residence hall door.
4. Two supervisors frequently "rate" several employees' bodies and sex appeal, commenting suggestively about their clothing and appearance.
5. A professor engages students in her class in discussions about their past sexual experiences, yet the conversation is not in any way germane to the subject matter of the class. She probes for explicit details, and demands that students answer her, though they are clearly uncomfortable and hesitant.
6. An ex-girlfriend widely spreads false stories about her sex life with her former boyfriend to the clear discomfort of the boyfriend, turning him into a social pariah on campus.
7. Male students take to calling a particular brunette student "Monica" because of her resemblance to Monica Lewinsky. Soon, everyone adopts this nickname for her, and she is the target of relentless remarks about cigars, the president, "sexual relations" and Weight Watchers.
8. A student grabbed another student by the hair, then grabbed her breast and put his mouth on it. While this is sexual harassment, it is also a form of sexual violence.

Addendum 2

Examples of Sexual Exploitation

1. Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
2. Invasion of sexual privacy.
3. Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).
4. Prostitution.
5. Sexual exploitation also includes engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV), a sexually transmitted disease (STD) or infection (STI) without informing the other person of the infection.
6. Administering alcohol or drugs (such as "date rape" drugs) to another person without his or her knowledge or consent (assuming the act is not completed).
7. Exposing one's genitals in non-consensual circumstances.
8. Sexually based stalking and/or bullying may also be forms of sexual exploitation.

Addendum 3

Examples of Lack of Consent

1. Amanda and Bill meet at a party. They spend the evening dancing and getting to know each other. Bill convinces Amanda to come up to his room. From 11:00 p.m. until 3:00 a.m., Bill uses every line he can think of to convince Amanda to have sex with him, but she adamantly refuses. He keeps at her, and begins to question her religious convictions, and accuses her of being “a prude.” Finally, it seems to Bill that her resolve is weakening, and he convinces her to give him a “hand job” (hand to genital contact). Amanda would never had done it but for Bill’s incessant advances. He feels that he successfully seduced her, and that she wanted to do it all along, but was playing shy and hard to get. Why else would she have come up to his room alone after the party? If she really didn’t want it, she could have left. *Bill would have violated the University’s Harassment and Nondiscrimination policy due to Non-Consensual Sexual Contact. It is likely that campus decision-makers would find that the degree and duration of the pressure Bill applied to Amanda are unreasonable. Bill coerced Amanda into performing unwanted sexual touching upon him. Where sexual activity is coerced, it is forced. Consent is not valid when forced. Sex without consent is sexual misconduct.*
2. Jiang is a junior at the university. Beth is a sophomore. Jiang comes to Beth’s residence hall room with some mutual friends to watch a movie. Jiang and Beth, who have never met before, are attracted to each other. After the movie, everyone leaves, and Jiang and Beth are alone. They hit it off, and are soon becoming more intimate. They start to make out. Jiang verbally expresses his desire to have sex with Beth. Beth, who was abused by a babysitter when she was five, and has not had any sexual relations since, is shocked at how quickly things are progressing. As Jiang takes her by the wrist over to the bed, lays her down, undresses her, and begins to have intercourse with her Beth has a severe flashback to her childhood trauma. She wants to tell Jiang to stop, but cannot. Beth is stiff and unresponsive during the intercourse. Is this a policy violation? *Jiang would be held responsible in this scenario for Non-Consensual Sexual Intercourse. It is the duty of the sexual initiator, Jiang, to make sure that he has mutually understandable consent to engage in sex. Though consent need not be verbal, it is the clearest form of consent. Here, Jiang had no verbal or non-verbal mutually understandable indication from Beth that she consented to sexual intercourse. Of course, wherever possible, it is important to be as clear as possible as to whether or not sexual contact is desired, and to be aware that for psychological reasons, or because of alcohol or drug use, one’s*

- partner may not be in a position to provide as clear an indication as the policy requires. As the policy makes clear, consent must be actively, not passively, given.*
3. Kevin and John are at a party. Kevin is not sure how much John has been drinking, but he is pretty sure it's a lot. After the party, he walks John to his room, and John comes on to Kevin, initiating sexual activity. Kevin asks him if he is really up to this, and John says yes. Clothes go flying, and they end up in John's bed. Suddenly, John runs for the bathroom. When he returns, his face is pale, and Kevin thinks he may have thrown up. John gets back into bed, and they begin to have sexual intercourse. Kevin is having a good time, though he can't help but notice that John seems pretty groggy and passive, and he thinks John may have even passed out briefly during the sex, but he does not let that stop him. When Kevin runs into John the next day, he thanks him for the wild night. John remembers nothing, and decides to make a report to the Dean. *This constitutes non-consensual sexual intercourse, which violates the University's Harassment and Discrimination policy. Kevin should have known that John was incapable of making a rational, reasonable decision about sex. Even if John seemed to consent, Kevin was well aware that John had consumed a large amount of alcohol, and Kevin thought John was physically ill, and that he passed out during sex. Kevin should be held accountable for taking advantage of John in his condition. This is not the level of respectful conduct the university expects.*

Addendum 4

Examples of Intimate Partner Violence

1. A boyfriend shoves his girlfriend into a wall upon seeing her talking to a male friend. This physical assault based in jealousy would be considered Intimate Partner Violence.
2. An ex-girlfriend shames her female partner, threatening to out her as a lesbian if she doesn't give the ex another chance. Psychological abuse is a form of Intimate Partner Violence.
3. A student refuses to wear a condom and forces his girlfriend to take hormonal birth control though it makes her ill, in order to prevent pregnancy.
4. Married employees are witnessed in the parking lot, with one partner slapping and scratching the other in the midst of an argument.

Addendum 5

Examples of Stalking

1. A student repeatedly shows up at another student's on-campus residence, always notifying the front desk attendant that they are there to see the resident. Upon a call to the resident, the student informs residence hall staff that this visitor is uninvited and continuously attempts to see them, even so far as waiting for them outside of classes and showing up to their on-campus place of employment requesting that they go out on a date together. (3.1.7)
2. A student working as an on-campus tutor received flowers and gifts delivered to their office. After learning the gifts were from a student they recently tutored, the student thanked the student and stated that it was not necessary and would appreciate if the gift deliveries stop. The student then started leaving notes of love and gratitude on the tutor's car, both on campus and at home. Asked again to stop, the student stated by email: "You can ask me to stop, but I'm not giving up. We are meant to be together, and I'll do anything necessary to make you have the feelings for me that I have for you." When the tutor did not respond, the student emailed again, "You cannot escape me. I will track you to the ends of the earth. WE ARE MEANT TO BE TOGETHER." (3.1.7.1)

Addendum 6

Examples of Retaliation

1. A student-athlete files an allegation against a coach for sexual harassment; the coach subsequently cuts the student-athlete's playing time in half without a legitimate justification.
2. A faculty member complains of gender inequity in pay within her department; the Department Chair then revokes his prior approval allowing her to attend a national conference, citing the faculty member's tendency to "ruffle feathers."
3. A student from Organization X participates in a sexual misconduct hearing against the responding individual, also a member of Organization X. The student is subsequently removed as a member of Organization X because he participated in the hearing.