



Sex/Gender Misconduct Policy and Title IX

June 20, 2017

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Introduction

Anderson University affirms its commitment to Christian higher education and a work/learning environment that encourages and enables individuals to strive for excellence. Sexual misconduct is damaging to this environment, and a violation of law and university policy. The conduct standards and expectations for those who choose to be part of the Anderson University community are informed by the University Core Values and our Church of God heritage (see the Anderson University Ethos Statement). Student, faculty and staff handbooks contain specific conduct expectations and policies.

Sexual misconduct in any form will not be tolerated and will be dealt with promptly. When an allegation of misconduct is reported, protective and other remedial measures will be used to reasonably ensure that such conduct ends, is not repeated, and the effects on the victim and community are remedied, including serious sanctions when a responding party is found to have violated this policy.

Anderson University defines sexual misconduct to include a broad spectrum of violent behavior including but not limited to: sexual violence, sexual harassment, domestic violence, dating violence, and stalking or any other nonconsensual sexually-related conduct. The university also prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation or hostility based on sex or sex-stereotyping, even if those acts do not involve physical conduct.

The university adheres to principles of academic and expressive freedom. Nothing in this policy should be construed to limit the legitimate exercise of academic and expressive freedom, including but not limited to written, graphic, or verbal expression that can reasonably be demonstrated to serve a legitimate educational purpose. (Section 3.93 of the Faculty Handbook at <http://www.anderson.edu/sites/default/files/migrate/provost/faculty-handbook.pdf>)

The university uses the preponderance of the evidence (also known as “more likely than not”) as a standard for proof of whether a violation occurred. In campus investigations, legal terms like “guilt,” “innocence” and “burdens of proof” are not applicable, but the university never assumes a responding party is in violation of university policy. Campus investigations are conducted to take into account the totality of all evidence available, from all relevant sources.

Title IX Coordinator

The university has appointed a Title IX Coordinator responsible for implementing the Anderson University Sexual Misconduct Policy and Procedures. The Title IX Coordinator is the Director of Human Resources. The university’s Title IX Coordinator oversees compliance with all aspects of the sex/gender harassment, discrimination and misconduct policy. The Coordinator reports to the Vice President Finance and is housed in the office of Human Resources. Questions about this policy should be directed to the Title IX Coordinator. Anyone wishing to make a report relating to discrimination or harassment may do so by reporting the concern to the university

Title IX Coordinator:
Tim.States
(765)641-4133
thstates@anderson.edu

Additionally, anonymous reports can be made by victims and/or third parties using the online reporting form posted at <http://www.anderson.edu/hr/misconduct> or the reporting hotline at 855.270.3684. Note that these anonymous reports may prompt a need for the institution to investigate.

Individuals experiencing harassment or discrimination also have the right to file a formal grievance with government authorities:

Region V Office for Civil Rights (OCR)
500 W. Madison Street, Suite 1427
Chicago IL 60661
Customer Service Hotline #: 800.421.3481
Facsimile: 312.730.1704
TDD#: 877.521.2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

In the event that an incident involves alleged misconduct by the Title IX Coordinator, reports should be made directly to the Vice President for Finance, 765.641.4112.

Overview of Expectations With Respect To Physical Sexual Misconduct

In order for individuals to engage in sexual activity of any type with each other, there must be clear, knowing and voluntary consent prior to and during the sexual activity. The majority of the sexual misconduct complaints received by the university revolve around the question of whether the victim consented to the reported conduct. To continue to engage in sexual activity without effective consent from his/her partner is a violation of this policy.

Consent is clear, knowing and voluntary permission; it is active, not passive. Silence, in and of itself, cannot be interpreted as consent. Consent can be given by words or actions, as long as those words or actions create mutually understandable, clear permission regarding willingness to engage in (and the conditions of) sexual activity. Previous relationships or prior consent do not imply consent to future sexual acts. When it is unclear whether someone consents to activity, it is the responsibility of the person who initiates the activity to ensure that his/her partner clearly communicates effective consent. That is, a reasonable person would have to consider the words or actions of the parties to indicate that there was an agreement to engage in the given activity with each other at the same time. Consent cannot be obtained through force or coercion.

Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. Coercing someone into sexual activity violates this policy in the same way as physically forcing someone into a sexual activity. Similarly, engaging in sexual activity with a person one knows or should know is incapacitated is a violation of this policy.

Violation of this policy does not require an individual to actively resist a sexual advance or request, but resistance is a clear demonstration of non-consent. Sexual activity that is forced is by definition non-consensual, but lack of physical force or coercion does not indicate consent.

Use of alcohol or other drugs will never function to excuse any behavior that violates this policy. This policy is applicable regardless of the sexual orientation and/or gender identity of individuals engaging in sexual activity.

Overview of Policy Expectations With Respect To Consensual Relationships

There are inherent risks in any romantic or sexual relationship between individuals in unequal positions (such as teacher and student, supervisor and employee). For the personal protection of members of this community, relationships in which power differentials are inherent (faculty student, staff-student, administrator-student, or supervisor-supervisee) are considered inappropriate. These relationships may be less consensual than perceived by the individual whose position confers power. The relationship also may be viewed in different ways by each of the parties, particularly in retrospect. Furthermore, circumstances may change, and conduct that was previously welcome may become unwelcome. Even when both parties have consented at the outset to a romantic or sexual involvement, this past consent may not remove grounds for a later complaint of a violation of applicable sections of the faculty/staff handbooks. If a complaint of sexual harassment or misconduct is made, it will not be a defense to allege that the relationship was consensual.

Consensual romantic or sexual relationships in which one party maintains a direct supervisory or evaluative role over the other party are unethical. Persons with direct supervisory or evaluative responsibilities who are involved in such relationships must bring those relationships to the timely attention of their supervisor, and will likely result in the necessity to remove the employee from the supervisory or evaluative responsibilities, or shift the student out of being supervised or evaluated by someone with whom they have established a consensual relationship. This includes Resident Directors (RDs) and students over whom they have direct responsibility. Failure to self-report such relationships to a supervisor as required can result in disciplinary action for an employee.

Sexual Violence Risk Reduction Tips

Risk reduction tips can often take a victim-blaming tone, even unintentionally. Only those who commit sexual violence are responsible for those actions. The tips below are offered with no

intention to victim-blame, recognizing that these suggestions may nevertheless help you to reduce your risk of experiencing non-consensual sexual activity.

- If you have limits, make them known as early as possible.
- Tell a sexual aggressor “NO” clearly and firmly.
- Try to remove yourself from the physical presence of a sexual aggressor.
- Find someone nearby and ask for help.
- Consider whether sharing your intimate content, pictures, images and videos with others, even those you may trust, is appropriate. If you do choose to share, clarify your expectations as to how or if those images may be used, shared or disseminated.
- Take care of your friends and ask that they take care of you. A real friend will challenge you if you are about to make a mistake. Respect them when they do.
- Take personal responsibility for use of alcohol/drugs and acknowledge that alcohol/drugs lower your sexual inhibitions and may make you vulnerable to someone who views someone under the influence of alcohol or drugs as a sexual opportunity.

If you find yourself in the position of being the initiator of sexual behavior, you owe sexual respect to your potential partner. These suggestions may help you to reduce your risk for being accused of sexual misconduct:

- Clearly communicate your intentions to your sexual partner and give them a chance to clearly relate their intentions to you.
- Understand and respect personal boundaries.
- DON'T MAKE ASSUMPTIONS about consent; about someone's sexual availability; about whether they are attracted to you; about how far you can go or about whether they are physically and/or mentally able to consent. Your partner's consent should be affirmative and continuous. If there are any questions or ambiguity then you DO NOT have consent.
- Mixed messages from your partner are a clear indication that you should stop, defuse any sexual tension and communicate better. You may be misreading them. They may not have figured out how far they want to go with you yet. You must respect the timeline for sexual behaviors with which they are comfortable.
- Don't take advantage of someone under the influence of alcohol or drugs, even if they willingly consumed alcohol or drugs.
- Realize that your potential partner could feel intimidated or coerced by you. You may have a power advantage simply because of your gender or physical presence. Don't abuse that power.
- Do not share intimate content, pictures, images and videos that are shared with you.
- Understand that consent to some form of sexual behavior does not automatically imply consent to any other forms of sexual behavior.
- Silence, passivity, or non-responsiveness cannot be interpreted as an indication of consent. Read your potential partner carefully, paying attention to verbal and nonverbal communication and body language.

Sexual Misconduct Offenses

Sexual Harassment Sexual harassment is unwanted, unwelcome, sexual, sex-based and/or gender-based verbal, written, online and/or physical conduct. Anyone experiencing sexual harassment in any university program is encouraged to report it immediately to the Title IX Coordinator or a deputy. Remedies, education and/or training will be provided in response. Sexual harassment may be disciplined when it takes the form of quid pro quo harassment, retaliatory harassment and/or creates a hostile environment.

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

Quid Pro Quo Harassment is 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. Behavior constitutes sexual harassment when submission to sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational or employment progress, development, or performance. This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational or employment program.

Examples of *quid pro quo* harassment include: an attempt to coerce an unwilling person into a sexual relationship; to repeatedly subject a person to egregious, unwelcome sexual attention; punishing a refusal to comply with a sexual based request; conditioning a benefit on submitting to sexual advances; sexual violence; intimate partner violence; stalking; gender-based bullying.

Some examples of possible sexual harassment include but are not limited to:

- Promising, directly or indirectly, a student, employee or other person a reward, if the student or employee complies with a sexually oriented request.
- Threatening, directly or indirectly, retaliation against a student, an employee or another person, if the student, employee or another person refuses to comply with a sexually oriented request.
- Denying, directly or indirectly a student or employee an employment or education related opportunity, if the student or employee refuses to comply with a sexually oriented request.
- Engaging in sexually suggestive conversations.
- Displaying pornographic or sexually oriented materials.
- Engaging in indecent exposure.
- Making sexual or romantic advances toward a student, employee or another person and persisting despite the student's, employee's or other person's rejection of the advances.
- Physical conduct such as assault, touching, or blocking normal movement.

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

Non Consensual Sexual Intercourse Non-consensual sexual intercourse is any sexual intercourse however slight, with any object, by a person upon another person that is without consent and/or by force. Acquaintance rape, commonly referred to as “date rape,” may occur in the context of a single date, a hook-up, an on-going relationship, or any other interaction between two people when one person forces another to have sex, or takes advantage of him/her while she/he is incapacitated. Other sexual conduct means: a) acts involving a sex organ of one person and the mouth or anus of another person; b) the penetration of the sex organ or anus of a person by an object.

Sexual Exploitation Sexual exploitation occurs when one person takes non-consensual or abusive sexual advantage of another for his/her own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses. Examples of sexual exploitation include, but are not limited to prostituting another student, nonconsensual video or audio taping of sexual activity (such as one person allowing others to secretly watch consensual sex), engaging in voyeurism and knowingly transmitting an STD or HIV.

Other Definitions

- Consent is clear, and knowing, and voluntary words or actions that give permission for specific sexual activity.
 - Consent is active, not passive.
 - Silence, in and of itself, cannot be interpreted as consent.
 - Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding willingness to engage in (and the conditions of) sexual activity.
 - Consent to any one form of sexual activity cannot automatically imply consent to any other forms of sexual activity.
 - Previous relationships or prior consent cannot imply consent to future sexual acts.
 - Consent can be withdrawn once given, as long as that withdrawal is clearly communicated.
 - In order to give consent, one must be of legal age. Consent cannot be given by minors to adults, by mentally disabled persons, or by otherwise physically or mentally incapacitated persons.
 - Sexual activity with someone you know to be or should know to be incapacitated constitutes a violation of this policy. Incapacitation can occur mentally or physically, from developmental disability, by alcohol or other drug use, or blackout. The question of what the responding party should have known is objectively based on what a reasonable person in the place of the responding party, sober and exercising good judgment, would have known about the

condition of the reporting party. Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing 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, sleep, unconsciousness, involuntary physical restraint, or from the taking of rape drugs.

- 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 overcomes free will or resistance or that produces consent (“Have sex with me or I’ll hit you. Okay, don’t hit me. I’ll do what you want.”). There is no requirement for a party to resist a sexual advance or request, but resistance is a clear demonstration of non-consent. The presence of force 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.
- Coercion is unreasonable pressure for sexual activity. 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.

Other Misconduct Offenses The following are Title IX offenses when determined to be sex or gender based.

- Threatening or causing physical harm, extreme verbal abuse, or other conduct which threatens or endangers the health or safety of any person;
- Discrimination, defined as actions that deprive other members of the community of educational or employment access, benefits or opportunities on the basis of sex or gender;
- Intimidation, defined as implied threats or acts that cause an unreasonable fear of harm in another;
- Hazing, defined as the commission of any act, or conspiring to commit any act, that injures, frightens, degrades, disgraces, or tends to injure, frighten, degrade, or disgrace any person.;
- Bullying, defined as repeated and/or severe aggressive behavior likely to intimidate or intentionally hurt, control or diminish another person, physically or mentally that is not speech or conduct otherwise protected by the First Amendment.
- Intimate Partner Violence, defined as violence or abuse between those in an intimate relationship to each other.
- Stalking is defines as a pattern of repeated and unwanted attention, harassment, contact, or any other course of conduct directed at a specific person that would cause a reasonable person to feel fear for the person’s safety or the safety of others, or suffer substantial emotional distress. Stalking can include:
 - Repeated, unwanted, intrusive and frightening communications from the perpetrator by phone, mail, email and/or any electronic or social media communication

- Repeatedly leaving or sending the victim unwanted items, presents or flowers
- Following or lying in wait for the victim at places such as home, school, and work or recreation place
- Making direct or indirect threats to harm the victim, the victim's family, friends or pets
- Damaging or threatening to damage the victim's property
- Harassing victim through the internet
- Posting information or spreading rumors about the victim on the internet, in a public place or by word of mouth
- Obtaining personal information about the victim by accessing public records, using internet search services, hiring private investigators, going through the victim's garbage, following the victim, contacting victim's friends, family work or neighbors, and similar activities
- Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, obsesses, surveys, threatens, or communicates to or about a person or interferes with a person's property.
- Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling 8. Any other university policies may fall within this section when a violation is motivated by the actual or perceived membership of the reporting party's sex or gender.

Retaliation Retaliation is prohibited by federal law and institutional policy. It is defined as any adverse or negative action against an individual for an allegation, for supporting a reporting party or for assisting in providing information relevant to an allegation. Retaliatory behaviors include: intimidating, threatening, coercing, hostility, harassment, retribution, or violence that occurred in connection to the making and follow-up of the report.

Sanctions The following sanctions may be imposed upon any member of the community found to have violated the Sex/Gender Harassment, Discrimination and Misconduct Policy. Factors considered in sanctioning are defined in Student Handbook, Faculty Handbook, or Staff Handbook. The following are the typical sanctions that may be imposed upon students or organizations singly or in combination.

- Restitution
- Disciplinary Warning
- Disciplinary Probation
- Strict Disciplinary Probation
- Suspension
- Dismissal
- Expulsion
- Other Sanctions

Employee Sanctions are listed below and defined in the staff and faculty handbook

- Warning – Verbal or Written
- Disciplinary Probation
- Investigative Leave without Pay
- Dismissal

Sanctioning for Sexual Misconduct A student found responsible for violating the non-consensual sexual contact policy (where no intercourse has occurred) will likely receive a sanction ranging from probation to expulsion, depending on the severity of the incident, and taking into account any previous disciplinary violations. A student found responsible for violating the non-consensual sexual intercourse policy will likely face a recommended sanction of suspension or expulsion. A student found responsible for violating the sexual exploitation or sexual harassment policies will likely receive a recommended sanction ranging from probation to expulsion or termination, depending on the severity of the incident, and taking into account any previous disciplinary violations.

Staff or faculty found responsible for violating the non-consensual sexual contact policy will likely receive a disciplinary warning up to and including termination depending on the severity of the incident, and taking into account any previous disciplinary action. Staff or faculty found responsible for violating the non-consensual sexual intercourse policy will likely face termination of employment. Staff or faculty found responsible for violating the sexual exploitation or sexual harassment policies will likely receive disciplinary action ranging from a warning up to termination depending on the severity of the incident, and taking into account any previous disciplinary action.

The Title IX coordinator, along with the applicable administrative area (i.e. Student Life, Provost, Human Resources) reserves the right to broaden or lessen any range of recommended sanctions in the case of serious mitigating circumstances or egregiously offensive behavior. Neither the investigators nor any appeals officer will deviate from the range of recommended sanctions unless compelling justification exists to do so.

Confidentiality, Privacy and Reporting Policy

Confidentiality and Reporting of Offenses under This Policy All university employees (faculty, staff, and administrators) are expected to take immediate, prudent and reasonable action to prevent or stop an act of sexual misconduct. Taking action may include direct intervention, calling law enforcement, or seeking assistance from a person in authority. Additionally, employees are expected to report actual or suspected discrimination or harassment to the Title IX Coordinator or university administrator. Community members will be supported by the university and protected from retaliation.

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. These persons may offer options and advice without any obligation to inform an outside agency or individual unless a victim has requested information to be shared. Other resources exist for a victim to report crimes and policy violations and these resources will take action when an incident is reported to them. These reporting options are described below.

Confidential Reporting A victim (reporting party) who does not wish an incident to be reported to the Title IX

Coordinator should speak with someone who can promise confidentiality. Those employees are licensed counselors, medical professionals and ordained clergy acting in a pastoral care capacity. Additionally, administrative assistants, counseling interns and others working directly with those listed below will maintain confidentiality.

On-Campus Confidential Reporting

- Christal Helvering, Director of Counseling Services, 765.641.4205, crhelvering@anderson.edu
- Tamara Shelton, Campus Pastor, 765.641.4204, tsshelton@anderson.edu
- Becca Palmer, Director of Spiritual Formation, 765.641.3820, rmpalmer@anderson.edu

Off-Campus Confidential Reporting

- *Madison County Sexual Assault Treatment Center: (Preferred)*
For treatment contact Community Hospital Anderson, Emergency Room
1515 N. Madison Avenue, Anderson IN 46011
765.298.5141
Program Director: Holly Renz RN, SANE-A
765-622-2077
hrenz@ecomunity.com
<http://www.communityanderson.com/emergency/satc.asp>
- *Alternatives, Inc. of Madison County*
Domestic violence related services including Emergency Shelter, Counseling, Supportive Services, Legal & Financial Assistance, and Community Educational Services
Hotline: 866 593-9999
<http://www.alternativesdv.org/>
- *St. Vincent Anderson Regional Hospital*
Emergency Center includes Sexual Assault Treatment Center
2015 Jackson Street, Anderson IN 46016
765 649-2511
- *Victim Advocacy Program*
Coordinator: Lessa Johnson
Anderson Police Department
1040 Main Street, Anderson IN 46016

ljohnson@cityofanderson.com
<http://www.cityofanderson.com/230/Victims-Assistance>

The on- and off-campus contacts listed above will maintain confidentiality except in extreme cases of immediate threat or danger, or abuse of a minor. Campus counselors are available to help free of charge and can be seen on an emergency basis during normal business hours. These employees will submit anonymous, aggregate statistical information for Clery Act purposes unless they believe it would be harmful to a specific client, patient or parishioner.

Formal Reporting Options All university employees have a duty to report incidents 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 by the employee with the Title IX Coordinator and/or Deputy Coordinators. Employees must share all details of the reports they receive. Generally, climate surveys, classroom writing assignments, human subject research, or educational events do not provide notice that must be reported to the Title IX Coordinator by employees. Remedial actions may result without formal university action.

If a victim 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 victim may make such a request to the Title IX Coordinator who will evaluate that request in light of the duty to ensure the safety of the campus and comply with federal law. 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 victim requests confidentiality and the circumstances allow the university to honor that request, the university will offer interim supports and remedies to the victim and the community, but will not otherwise pursue formal action. A reporting party has the right, and can expect, to have reports taken seriously by the university when formally reported, and to have those incidents investigated and properly resolved through these procedures.

Formal reporting still affords privacy to the reporter, and only a small group of officials who need to know will be told, including but not limited to the Title IX Coordinator, Dean of Students, and University Police & Security Services. 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. Anonymous reports can be made by victims and/or third parties using the online reporting form posted at <http://www.anderson.edu/hr/misconduct>, or the reporting hotline at 855.270.3684. Note that these anonymous reports may prompt a need for the institution to investigate.

Reports to the Title IX Coordinator can be made via email, phone or in person at the contact information below:

Marie.Morris

765.641.4020
msmorris@anderson.edu

Failure of a non-confidential employee, as described in this section, to report an incident or incidents of sex or gender harassment or discrimination of which they become aware, is a violation of university policy and can be subject to disciplinary action for failure to comply with university policies.

Federal Statistical Reporting Obligations Certain campus officials, those deemed Campus Security Authorities, have a duty to report sexual assault, domestic violence, dating violence and stalking for federal statistical reporting purposes (Clery Act). All personally identifiable information is kept confidential, but statistical information must be passed along to campus law enforcement regarding the type of incident and its general location (on or off-campus, in the surrounding area, but no addresses are given) for publication in the Annual Security Report. This report helps to provide the community with a clear picture of the extent and nature of campus crime, to ensure greater community safety. Mandated federal reporters include: student/conduct affairs, campus law enforcement, local police, coaches, athletic directors, residence life staff, student activities staff, human resources staff, advisors to student organizations and any other official with significant responsibility for student and campus activities. The information to be shared includes the date, the location of the incident (using Clery location categories) and the Clery crime category. This reporting protects the identity of the victim and may be done anonymously.

Federal Timely Warning Reporting Obligations Victims of sexual misconduct should also be aware that university administrators must issue immediate timely warnings for incidents reported to them that are confirmed to pose a substantial threat of bodily harm or danger to members of the campus community. The university 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 danger.

Additional Policy Provisions

Attempted violations In most circumstances, the university will treat attempts to commit any of the violations listed in the Gender-Misconduct Policy as if those attempts had been completed.

False Reports Any person who knowingly makes a false report will be in violation of this policy and will be subject to the appropriate disciplinary process, up to and including suspension, dismissal or expulsion from the university.

Amnesty for Victims and Witnesses The university encourages reporting incidents of sexual misconduct and seeks to remove any barriers to reporting by making the procedures for

reporting transparent and straightforward. The university recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of the potential disciplinary consequences for his/her/their own conduct. An individual who reports sexual misconduct, either as a complainant or a third party witness, will not be subject to disciplinary action by the university for his/her/their own personal consumption of alcohol or drugs at or near the time of the incident, provided that any such violations did not and do not place the health or safety of any other person at risk. The university may, however, initiate an educational discussion or pursue other educational remedies regarding alcohol or other drugs through the use of a growth contract.

Parental Notification The 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 for 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 parents/guardians to inform them of situations in which there is a 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 individual conduct reports pursuant to the Family Educational Rights and Privacy Act.

Questions and Answers

Following are some commonly asked questions regarding the university's sexual misconduct policy and procedures.

Does information about a report remain private? The privacy of all parties to a report of sexual misconduct must be respected, except insofar as it interferes with the university's obligation to fully investigate allegations of sexual misconduct. Where privacy is not strictly kept, it will still be tightly controlled on a need-to-know basis. The university will not disseminate information and/or written materials to persons not involved in the resolution process without the consent of both parties. Witnesses are also required to maintain the privacy of information shared with them during interviews and/or hearings. Violations of the privacy of the reporting party or the responding party may lead to conduct action by the university, though both parties are allowed to share their perspectives and experiences. All parties, including witnesses, involved in an allegation are strongly encouraged to maintain the privacy of information and/or written materials.

In all resolutions of sexual misconduct, all parties will be informed of the outcome. In some instances, the administration also may choose to make a brief public announcement of the nature of the violation and the action taken, without using the name or identifiable information the alleged victim. Certain university administrators are informed of the outcome within the bounds of student privacy (e.g., the President of the University, Dean of Students, Director of Police & Security). If there is a report of an act of alleged sexual misconduct to a conduct officer of the university and there is evidence that a felony has occurred, local police may possibly be

notified. This does not mean charges will be automatically filed or that a victim must speak with the police. The institution must statistically report the occurrence on campus of major violent crimes, including certain sex offenses, in an “Annual Security Report” of campus crime statistics. This statistical report does not include personally identifiable information.

Will my parents be told? No, not unless you tell them. Whether you are the reporting party or the responding party, the university’s primary relationship is to the student and not to the parent. However, in the event of major medical, disciplinary, or academic jeopardy, students are strongly encouraged to inform their parents. University officials will directly inform parents when requested to do so by a student or in a life-threatening situation. If the responding party is found responsible and assigned a heightened disciplinary status, the parent may be informed and if the responding party is a minor the parent will be informed of the disciplinary status.

Will the responding party know my identity? Yes, if the university determines there is reasonable cause to believe a violation has occurred and formally investigates the matter. The responding party has the right to know the identity of the reporting party. The reporting party is not required to confront the responding party directly.

Do I have to name the responding party? Yes, if you want formal disciplinary action to be taken against the responding party. You can report the incident without the identity of the responding party, but doing so may limit the institution’s ability to respond comprehensively.

What do I do if I am accused of sexual misconduct? DO NOT contact the reporting party. You may immediately want to contact someone who can act as your advisor; anyone may serve as your advisor. You may also contact the Department of Student Life, which can explain the university’s procedures for addressing sexual misconduct reports. You may also want to talk to a confidential counselor at the counseling center or seek other community assistance. See below regarding legal representation.

Will I (as a victim) have to pay for counseling/or medical care? No, if you are utilizing services provided on campus. If a victim is accessing community and non-university services, payment for these will be subject to the provisions of Indiana Code 5-2-6.1 and insurance requirements. A victim may be ineligible for state-based assistance if they were engaged in any illegal activity during the assault or if they fail to cooperate with criminal prosecution.

What about legal advice? Victims of criminal sexual assault need not retain a private attorney to pursue criminal prosecution because representation will be handled by the Madison County Prosecutor’s office.

You may want to retain an attorney if you are considering filing a civil action or are the responding party. The responding party may retain counsel at their own expense if they determine that they need legal advice about criminal prosecution and/or the campus conduct proceeding. Both the responding party and the reporting party may also use an attorney as their advisor during the campus’ investigation. Attorneys are subject to the same restrictions as other advisors in the process as described in the Student Handbook under section 8.13.

How is a report of sexual misconduct decided? The university investigates allegations of sex/gender based harassment, discrimination or misconduct to determine whether there is evidence to indicate a policy violation is “more likely than not.” This standard, called the preponderance of the evidence, corresponds to an amount of evidence indicating a policy violation is more than 50% likely.

What about changing residence hall rooms? You may request a room change if you want to move. Room changes under these circumstances are considered emergencies. It is typically institutional policy that in emergency room changes, the student is moved to the first available suitable room. If you prefer that the responding party be moved to another residence hall, that request will be evaluated by the Title IX Coordinator or Student Life to determine if it can be honored. Other assistance and modifications available to you might include:

- Assistance from university support staff in completing a room relocation
- Assistance with or rescheduling an academic assignment (paper, exams, etc.) or otherwise implementing academic assistance
- Taking an incomplete in a class
- Assistance with transferring class sections
- Temporary withdrawal
- Assistance with alternative course completion options
- Escorts to and from campus locations
- On or off-campus counseling assistance
- Transportation assistance or support
- Other accommodations for safety as necessary

What should I do about preserving evidence of a sexual assault? Physical evidence of a criminal sexual assault must be collected from the alleged victim’s person within 120 hours, though evidence can often be obtained from towels, sheets, clothes, etc. for much longer periods of time. If you believe you have been a victim of a criminal sexual assault, you should go to the hospital emergency room before washing yourself or your clothing. The Sexual Assault Nurse Examiner (SANE) is a specially trained nurse at the hospital and is usually on call 24 hours a day, 7 days a week (call the Emergency Room if you first want to speak to the nurse; ER will refer you). The nearest local hospital with an appropriate SANE program is located in the Emergency Department of Community Hospital, 1515 N. Madison Avenue, Anderson IN 46011; telephone 765.298.5141.

A resident director or other student life professional from the university can accompany you to hospital and university police or local law enforcement can provide transportation. The hospital is not required to notify the police, it is the victim’s option whether the police are notified. Even if the victim chooses to notify police, s/he is not obligated to talk to the police or to pursue prosecution. Having the evidence collected appropriately will help to keep all options available to a victim, but will not obligate her or him to any course of action. Collecting evidence can assist the authorities in pursuing criminal charges should the victim decide later to exercise this option.

For the Victim: The hospital staff will collect evidence, check for injuries, address pregnancy concerns and address the possibility of exposure to sexually transmitted infections. If you have changed clothing since the assault, bring the clothing you had on at the time of the assault with you to the hospital in a clean, sanitary container such as a clean, paper grocery bag or wrapped in a clean sheet (plastic containers do not breathe, and may render evidence useless). If you have not changed clothes, bring a change of clothes with you to the hospital, if possible, as they will likely keep the clothes you are wearing as evidence. You can take a support person with you to the hospital, and they can accompany you through the exam, if you want. Do not disturb the crime scene—leave all sheets, towels, etc. that may bear evidence for the police to collect.

Will a victim be sanctioned if he/she has illegally used drugs or alcohol? No. The seriousness of sexual misconduct is a major concern and the university does not want any of the circumstances (e.g., drug or alcohol use) to inhibit the reporting of sexual misconduct. The university provides amnesty from any consequences for minor policy violations that occur during or come to light as the result of a victim's report of sexual misconduct.

Will the use of drugs or alcohol affect the outcome of a sexual misconduct resolution? The use of alcohol and/or drugs by either party will not diminish the responding party's responsibility. On the other hand, alcohol and/or drug use is likely to affect the reporting party's memory and, therefore, may affect the resolution of the reported misconduct. A reporting party must either remember the alleged incident or have sufficient circumstantial evidence, physical evidence and/or witnesses to prove that policy was violated. If the reporting party does not remember the circumstances of the alleged incident, it may not be possible to impose sanctions on the responding party without further corroborating information. Use of alcohol and/or other drugs will never excuse a violation by a responding party.

Will prior use of drugs and/or alcohol be a factor when reporting sexual misconduct? Not unless there is a compelling reason to believe that prior use or abuse is relevant to the present matter.

What should I do if I am uncertain about what happened? If you believe that you have experienced sexual misconduct, but are unsure of whether it was a violation of the institution's sexual misconduct policy, you should contact the institution's Title IX Coordinator or Dean of Students (not confidential), or university counseling services (confidential).

Definition of Terms

Advisor The reporting party and the responding party are each entitled to an advisor of their choosing. This advisor may be an attorney. Advisors are permitted to accompany the reporting/responding party at any meeting regarding a sexual misconduct investigation. An advisor accompanying a reporting/responding party at any meeting may provide support, guidance or advice only to the student during the meeting, but may not otherwise participate in the meeting unless requested to do so by the university. The university reserves the right to

remove or dismiss an advisor who becomes disruptive or who does not abide by the restrictions on their participation.

Clery Act Also known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act which requires institutions of higher education to comply with certain campus safety and security related requirements as a condition of their participation in the title IV, Higher Education Act programs.

Reporting Party This is the individual initiating a complaint of sexual misconduct. This term is used once a victim has entered the report/complaint process

Responding Party This is the individual facing an accusation of sexual/gender based misconduct.

Student For the purposes of Title IX and VAWA (Violence Against Women Act), the university considers a student one who has registered for classes. The university reserves the right to hold an admitted student registered for classes accountable to conduct standards under Title IX and VAWA.

Third Party Reporter An individual reporting an unwelcomed behavior but is not the recipient of the behavior.

Title IX Title IX means Title IX of the Education Amendments of 1972, Public Law 92-318, as amended, which is designed to eliminate discrimination on the basis of sex in any educational program or activity receiving Federal financial assistance.

Victim An individual who has experienced a sexual misconduct offense but has not yet reported the incident. Once the alleged offense has been reported, this person is referred to as the reporting party.

Violence Against Women Act (VAWA) 2013 VAWA implemented changes to the Clery Act requiring institution of higher education to comply with certain campus safety and security related requirements including compiling statistics for incidents of dating violence, domestic violence, sexual assault, and stalking and to include certain policies, procedures, and programs pertaining to these incidents in their annual security reports

Adopted: August 18, 2015

Updated: June 20, 2017

(The online version of this policy will be regarded as the most current policy version)