Sexual Misconduct Policy and Procedures

**OPTIONS FOR IMMEDIATE ASSISTANCE**

If you or someone you know may have been a victim of Sexual Assault, you are strongly encouraged to seek immediate assistance.

**Law Enforcement Assistance**

**ON CAMPUS - RUSSELLVILLE**

Assistance can be obtained 24 hours a day, 7 days a week, from

the Arkansas Tech University Department of Public Safety

located at 1508 N. Boulder Avenue and available by phone at (479) 968-0222.

**OFF CAMPUS – RUSSELLVILLE**

Assistance can be obtained 24 hours a day, 7 days a week, from

the Russellville Police Department by dialing 911.

ON CAMPUS – OZARK

Assistance can be obtained from 8:00 a.m. to 5:00 p.m., Monday thru Friday by contacting Mr. David Spicer, Public Safety Officer

located at the Collegiate Center, Room 100c, 1700 Helberg Lane

or by phone at (479) 508-3359.

**OFF CAMPUS - OZARK**

Assistance can be obtained 24 hours a day, 7 days a week, from

the Ozark Police Department by dialing 911.

**Medical Assistance**

**Russellville Ozark**

St. Mary’s Regional Medical Center Mercy Hospital Ozark

1808 W. Main Street 801 W. River

Russellville, AR 72801 Ozark, AR 72949

Medical assistance can be requested by dialing 911 or going directly to the hospital. Nurses on staff in the emergency room are trained and equipped with the supplies necessary to perform a rape kit to preserve evidence. Treatment of injuries, preventative treatment for sexually transmitted diseases, and other health services are provided.

During business hours (8:00 a.m. to 5:00 p.m., Monday through Friday), you are also strongly encouraged to contact Jennifer Fleming, Arkansas Tech University’s Title IX Coordinator by telephone at (479) 498-6020, by email at [jfleming@atu.edu](mailto:jfleming@atu.edu), or in person at Room 212 of the Administration Building located at 1509 N. Boulder Avenue in Russellville, Arkansas, Amy Anderson, Deputy Title IX Coordinator, at (479) 498-6071, by email at aanderson41@atu.edu, or in person at Women’s Golf Office, Tucker Coliseum, 1604 Coliseum Drive, Russellville, Arkansas, or Tanya Martin, Deputy Title IX Coordinator for the Ozark Campus, at (479) 508-3307, by email at [tmartin31@atu.edu](mailto:tmartin31@atu.edu), or in person at Room 154 of the Technology & Academic Support Building, 1700 Helberg Lane, Ozark, Arkansas.

For additional information about seeking medical assistance and emotional support, as well as important contact information, including local law enforcement agencies and St. Mary’s Hospital in Russellville and Mercy Hospital in Ozark, **see Appendix “A” attached to this policy.**

**OPTIONS FOR ONGOING ASSISTANCE**

If you believe you have been involved in an incident of sexual misconduct, you have the right to pursue action through the University conduct system and/or the appropriate law enforcement authorities. Options for reporting sexual misconduct are provided below. Assistance is available upon request for individuals wishing to review these reporting options regardless of whether a formal complaint is filed with the Office of Affirmative Action or to law enforcement officials.

**On Campus Resources**

The University encourages victims of sexual misconduct to talk to somebody about what happened so that victims can get the support they need, and so that the University can respond appropriately. Different employees on campus have different abilities to maintain a victim’s confidentiality. Some employees are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.” At Arkansas Tech, these employees are the licensed counselors staffed in the Health and Wellness Center (<http://www.atu.edu/hwc/index.php>):

* + Kristy Davis, [kdavis51@atu.edu](mailto:kdavis51@atu.edu), (479) 968-0329
  + Craig Witcher, [cwitcher@atu.edu](mailto:cwitcher@atu.edu), (479) 968-0329
  + Hunter Bramlitt, [jbramlitt@atu.edu](mailto:jbramlitt@atu.edu), (479) 968-0329
  + Janis Taylor, [jtaylor78@atu.edu](mailto:jtaylor78@atu.edu), (479) 968-0329

In addition, academic accommodations and interim measures may be provided to victims of sexual misconduct. That information is found in Article IV(b)(i)(8) on page 10.

**Off Campus Resources**

**Victim Assistance Outreach Program**

The 5th Judicial District Prosecuting Attorney’s Office has a “Victim Assistance Outreach Program” which provides assistance with:

* + Orders of Protection
  + Contacting Law Enforcement Agencies
  + VINE (Victim Identification and Notification Everyday)
  + Arkansas Crime Victims Reparations Program (assists with financial compensation, counseling, lost wages, and funeral expenses).
  + Referrals to other community services such as the Ozark Rape Crisis Center, River Valley Shelter, and Crisis Intervention Center.
  + Information on the criminal court process.

The contact person for this program is Patricia Andrade. Her telephone number is (479) 705-0579.

**Ozark Rape Crisis Center**

Located in Clarksville, Arkansas, this entity provides 24 hour crisis intervention. The hotline telephone number is (800) 818-1189 and the website is: <http://www.ozarkrapecrisis.com/>

**ARTICLE I. INTRODUCTION**

**(a) Notice of Nondiscrimination.**

As a recipient of federal funds, Arkansas Tech University is required to comply with Title IX of the Higher Education Amendments of 1972, 20 U.S.C. §1681 *et seq.*(“Title IX”), which prohibits discrimination on the basis of sex in educational programs or activities, admission and employment. Under certain circumstances, Sexual Misconduct (defined below) constitutes sexual discrimination prohibited by Title IX. Inquiries concerning the application of Title IX may be referred to Arkansas Tech University’s Title IX Coordinator or to the U.S. Department of Education’s Office for Civil Rights. Arkansas Tech University’s Title IX Coordinator is Jennifer Fleming, whose office is in Room 212 of the Administration Building located at 1509 N. Boulder Avenue in Russellville, Arkansas. Jennifer Fleming may be contacted by phone at (479) 498-6020 or by email at [jfleming@atu.edu](mailto:jfleming@atu.edu).

**(b) Overview of this Policy.**

Arkansas Tech University (“the University”) is committed to providing programs, activities, and an educational environment free from sex discrimination.

**Sexual misconduct**, **as that term is used in this policy, is any sexual act which violates the criminal laws of the State of Arkansas or laws of the United States including but not limited to sexual assault (non-consensual sexual contact or intercourse), domestic violence, dating violence, stalking, and sexual exploitation.[[1]](#footnote-1)** Sexual misconduct can occur between strangers or acquaintances, and even people involved in intimate or sexual relationships. Sexual misconduct can be committed by men or women and can occur between individuals of the same or different gender. Any sexual activity which is entered into without consent of both or all persons involved is a violation of this policy.

The University is committed to fostering a community that promotes prompt reporting of all types of Sexual Misconduct and timely and fair resolution of Sexual Misconduct Complaints, and in furtherance of that commitment, this Policy sets forth available resources (Appendix A), describes prohibited conduct (Article II), and establishes procedures for responding to Complaints of Sexual Misconduct (Articles III-VI).

The University will make this Policy and information about recognizing and preventing Sexual Misconduct readily available to all Students and other members of the University community.

**(c) Applicability of this Policy.**

This Policy applies to any allegation of Sexual Misconduct made by or against a student or an employee of the University or a third party, regardless of where the alleged Sexual Misconduct occurred, if the conduct giving rise to the Complaint is related to the University’s academic, educational, athletic, or extracurricular programs or activities. The University’s disciplinary authority, however, may not extend to third parties who are not students or employees of the University. Additionally, while there is no geographical limitation to invoking this Policy, Sexual Misconduct that is alleged to have occurred at a significant distance from the University and/or outside of University property may be more difficult for the University to investigate.

This policy applies to all students, employees and third parties, regardless of sexual orientation or gender identity.

In the case of allegations of Sexual Misconduct, this Policy supersedes all other procedures and policies set forth in other University documents.

**(d) Period of Limitations.**

A Complaint of Sexual Misconduct may be filed at any time, regardless of the length of time between the alleged Sexual Misconduct and the decision to file the Complaint. However, the University strongly encourages individuals to file Complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding. A delay in filing a Complaint may compromise the subsequent investigation, particularly if neither the Complainant nor the Respondent is employed by the University or enrolled as a student at the time.

**(e) Definitions Applicable to this Policy.**

The definitions applicable to this Policy are set forth in Appendix B.

**ARTICLE II. STATEMENTS OF POLICY**

**(a) Prohibition on Sexual Misconduct.**

This Policy is designed to protect the rights and needs of alleged victims, Complainants (if not the alleged victim), and Respondents. Creating a safe environment is the responsibility of all members of the University community.

The University strongly encourages accurate and prompt reporting of all types of Sexual Misconduct and is committed to fostering a community that promotes a prompt, fair, and impartial resolution of Sexual Misconduct cases.

**(b) Prohibition on Retaliation.**

Retaliation against any person for filing, supporting, providing information in good faith, or otherwise participating in the investigative and/or disciplinary process in connection with a Complaint of Sexual Misconduct is strictly prohibited. Violations of this prohibition will be addressed through this Policy and/or other University disciplinary procedures and will result in strong responsive action by the University. Any person who feels that he or she has been subject to retaliation should notify the Title IX Coordinator, Jennifer Fleming, Deputy Title IX Coordinator, Amy Anderson, or the Deputy Title IX Coordinator for the Ozark Campus, Tanya Martin.

**(c) Prohibition on Providing False Information.**

Any individual who knowingly files a false Complaint under this Policy, or knowingly provides false information to University officials, or who intentionally misleads University officials who are involved in the investigation or resolution of a Complaint may be subject to disciplinary action.

**(d) Confidentiality.**

Generally, a person may report an incident of Sexual Misconduct confidentially to the professional counselors located in the Arkansas Tech University Health and Wellness Center.

Reports of sexual misconduct made to “responsible employees” are not confidential.

For more detailed information on who a victim can and cannot speak to confidentially, please see the full discussion of confidentiality found in attached “Appendix C”.

If an alleged victim’s request for confidentiality limits the school’s ability to investigate a particular matter, the University may take steps to limit the effects of the alleged sexual misconduct and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the alleged victim. Examples include: providing increased monitoring, supervision, or security at locations or activities where the misconduct was alleged to have occurred; providing training and education materials for students and employees; revising and publicizing the University’s policies on sexual misconduct; and conducting climate surveys regarding sexual misconduct.

**(e) Related Misconduct and Limited Immunity/Amnesty.**

The University considers the reporting and adjudication of Sexual Misconduct cases on campus to be of paramount importance. The University does not condone illegal drug use, underage drinking, or other violations of the Student Code of Conduct. However, the University may extend limited immunity from punitive sanctioning in the case of illegal alcohol or drug use to victims, witnesses, and those reporting incidents and/or assisting the victims of Sexual Misconduct, provided that they are acting in good faith in such capacity. Stated another way, the University wishes to encourage all persons to report incidents of sexual misconduct, and therefore reserves the right to waive disciplinary charges against victims, witnesses and those reporting incidents and/or assisting the victims of Sexual Misconduct, for certain circumstances surrounding the incident. For example, an underage victim who had been drinking alcohol would not typically face charges for violating alcohol policies.

**(f) Individuals with Disabilities.**

The University will make arrangements to ensure that individuals with disabilities are provided appropriate accommodations, to the extent necessary and available, to participate in the steps and procedures outlined in this Policy. Requests for accommodations must be made to the Disability Services Office (located in Doc Bryan Student Services Center) and available by phone at (479) 968-0302.

**(g) Standard of Evidence**.

In a Formal Resolution on a Complaint alleging Sexual Misconduct, the standard of evidence that will be used by the Hearing Board to determine if the Sexual Misconduct Policy has been violated will be the preponderance of the evidence.

**(h)** **Educational Programming**.

Arkansas Tech University requires educational programs to promote the awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault and stalking. This educational campaign shall also be for on-going prevention and awareness. These education programs shall include primary prevention and awareness programs for all incoming students and new employees which shall include: 1) the statement that the University prohibits domestic violence, dating violence, sexual assault and stalking; 2) the definitions of domestic violence, dating violence, sexual assault, and stalking as well as the definition of “consent” in reference to sexual activity; 3) Safe and positive options for bystander intervention that may be carried out by an individual to prevent harm or intervene in cases of a risk of domestic violence, dating violence, sexual assault, or stalking; 4) Information on risk reduction and how to recognize warning signs of abusive behavior and how to avoid potential attacks; and 5) ongoing prevention and awareness campaigns for students and faculty on all of the items above.

Educational programming and training is provided to faculty, staff, and students in an effort to create a University community free of sexual harassment, sexual assault (non-consensual sexual contact or intercourse), domestic violence, dating violence, stalking, and sexual exploitation or any other type of sexual misconduct. The Jerry Cares campaign promotes shared responsibility by all members of the University community in an effort to reduce the risk of sexual violence and to equip members with the tools, training, and resources necessary to take action in stopping sexual misconduct. This includes prevention programs and educational training in risk reduction and bystander intervention, equipping members of the University community to play a role in preventing and interrupting incidents of sexual misconduct. Training on campus resources and step-by-step procedures on how to report incidents of sexual misconduct is also provided. For more detailed information, please visit the Jerry Cares website at <http://www.atu.edu/jerrycares/>.

**(i) Sexual Misconduct Policy**.

This Sexual Misconduct Policy: 1) sets out the procedures that a victim of Sexual Misconduct should follow; 2) sets out the procedure for University disciplinary action; and 3) provides equal opportunity for both the alleged victim and the Respondent on their choice of advisor at the Formal Resolution hearing.

**(j)** **Annual Training**.

Training for employees conducting investigations and formal resolution hearings will be conducted at least annually.

**(k) VAWA/Campus SaVE Act.**

Arkansas Tech University acknowledges that the Violence Against Women Act and the Campus SaVE Act add domestic violence, dating violence, and stalking to “sexual assault” as reportable events in the Annual Security Report required by the Clery Act.

**(l) Duty to Report.**

All employees (except those employees statutorily barred from sharing such information (ex. Licensed counselors, medical professionals)) have a duty to immediately report to the Title IX Coordinator or the Deputy Title IX Coordinators information related to sexual misconduct.

**ARTICLE III.**

**HOW AND WHERE TO FILE A COMPLAINT ALLEGING SEXUAL MISCONDUCT**

*For information regarding seeking medical assistance and emotional support, as well as important contact information for local law enforcement agencies and hospitals, see Appendix A attached to this Policy.*

Because Sexual Misconduct may in some instances constitute both a violation of University policy and criminal activity, and because the University grievance process is not a substitute for instituting legal action, the University encourages individuals to report alleged Sexual Misconduct promptly to campus officials and to law enforcement authorities, where appropriate.

**Individuals may, however, choose not to report alleged Sexual Misconduct to such campus officials and/or law enforcement authorities**. The University respects and supports the individual’s decision with respect to reporting; nevertheless, the University may notify appropriate law enforcement authorities if required or warranted by the nature of the allegations at issue.

Individuals may file a Complaint at any time, but the University strongly encourages individuals to file Complaints promptly in order to preserve evidence for a potential legal or disciplinary proceeding.

**(a) Filing a Complaint with Local Law Enforcement:**

Individuals may file a complaint directly with local law enforcement agencies by dialing 911. Individuals may contact any of the following for assistance in filing a complaint with local law enforcement:

**(i)** The Arkansas Tech University Department of Public Safety, 24 hours a day, seven days a week (available by phone at (479) 968-0222) and located at 1508 N. Boulder Avenue on the Russellville campus.

**(ii)** Arkansas Tech University’s Title IX Coordinator, Jennifer Fleming, from 8:00 a.m. to 5:00 p.m., Monday through Friday (available by phone at (479) 498-6020) or by e-mail at [jfleming@atu.edu](mailto:jfleming@atu.edu) and in Room 212 of the Administration Building, located at 1509 N. Boulder Avenue, Russellville, AR, 72801

**(iii)** Arkansas Tech University’s Deputy Title IX Coordinator, Amy Anderson, by telephone at

(479) 498-6071, by email at aanderson41@atu.edu, or in person at the Women’s Golf Office, Tucker Coliseum, 1604 Coliseum Drive, Russellville, Arkansas, 72801.

(iv) Arkansas Tech University’s Deputy Title IX Coordinator for Ozark Campus, Tanya Martin, by

telephone at (479) 508-3307, by email at [tmartin31@atu.edu](mailto:tmartin31@atu.edu), or in person at Room 154 of the Technology & Academic Support Building, 1700 Helberg Lane, Ozark, Arkansas, 72949.

Individuals may inform law enforcement authorities about Sexual Misconduct and discuss the matter with a law enforcement officer without making a formal criminal complaint (or a University Complaint). Individuals who make a criminal complaint may also choose to pursue a University Complaint simultaneously.

A criminal investigation into the matter does not preclude the University from conducting its own investigation (nor is a criminal investigation determinative of whether Sexual Misconduct, for purposes of this Policy, has occurred). However, the University’s fact-finding aspect of the investigation may be delayed temporarily while the criminal investigators are gathering evidence. The University will promptly resume its Title IX investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process. In the event of such a delay, the University may take interim measures when necessary to protect the alleged victim and/or the University community.

Neither the results of a criminal investigation nor the decision of law enforcement to investigate or decline to investigate the matter is determinative of whether Sexual Misconduct, for the purposes of this Policy, has occurred.

**(b) Filing a Complaint with the University:**

Individuals may choose not to report alleged Sexual Misconduct to campus officials. The University respects and supports the individual’s decision with respect to reporting; however, if information about Sexual Misconduct comes to the attention of the University, the University may (1) start an investigation even in the absence of a filed Complaint and/or (2) notify appropriate law enforcement authorities if required or warranted by the nature of the information of which it becomes aware.

Anyone wishing to make a Complaint under this policy should contact one of the following individuals or offices:

**(i)** Title IX Coordinator. Arkansas Tech University’s Title IX Coordinator is Jennifer Fleming, whose office is in Room 212 of the Administration Building. Ms. Fleming may be contacted during business hours (8:00 a.m. to 5:00 p.m., Monday through Friday) by phone at (479) 498- 6020 or by email at [jfleming@atu.edu](mailto:jfleming@atu.edu). As the Title IX Coordinator for Arkansas Tech University, Ms. Fleming receives and investigates reports of discrimination, including sexual misconduct. The Title IX Coordinator has ultimate oversight responsibility for handling Title IX-related complaints and for identifying and addressing any patterns or systematic problems involving Sexual Misconduct. The Title IX Coordinator is available to meet with individuals who are involved with or concerned about issues or University processes, incidents, patterns, or problems related to Sexual Misconduct on campus or in University programs. All allegations involving Sexual Misconduct should be directed to the Title IX Coordinator or other designated University individuals or offices as outlined herein. More information about the investigation process can be found in Article IV below. The Title IX Coordinator may designate the Deputy Title IX Coordinator to serve in her stead for any requirements contained in this policy.

Deputy Title IX Coordinator. Arkansas Tech University’s Deputy Title IX Coordinator is Amy Anderson, whose telephone number is (479) 498-6071, her email address is [aanderson41@atu.edu](mailto:awhite@atu.edu)

or she may be contacted in person at Tucker Coliseum, 1604 Coliseum Drive, Russellville, Arkansas.

Deputy Title IX Coordinator. Arkansas Tech University, Ozark Campus’ Deputy Title IX

Coordinator is Tanya Martin, whose telephone number is (479) 508-3307, email at

[tmartin31@atu.edu](mailto:tmartin31@atu.edu), or in person at Room 154 of the Technology & Academic Support Building,

1700 Helberg Lane, Ozark, Arkansas.

**(ii)** Public Safety. The Arkansas Tech University Public Safety Department is located at 1508 N. Boulder Avenue on the Russellville campus. The Public Safety Department is also available by phone at (479) 968-0222. Public Safety officers are available 24 hours a day, seven days a week.

Public Safety - Ozark Campus. The Arkansas Tech University Public Safety Department for the

Ozark Campus is located at 1700 Helberg Lane, Collegiate Center, Room 100C. The Public

Safety Officer is Mr. David Spicer and is available by phone at (479) 508-3359, Monday thru

Friday, 8:00 a.m. to 5:00 p.m.

**(iii)** Human Resources Office. The Human Resources Office is located in Browning Hall. The Human Resources Office is available during business hours (8:00 a.m. to 5:00 p.m., Monday through Friday) by phone at (479) 968-0396.

*If one of the parties designated above is the Respondent or is otherwise at issue in a Complaint, or if an individual is otherwise uncomfortable making a complaint to one of the parties listed above, the individual may report alleged Sexual Misconduct to any other party or office in the above list.*

If an employee of the University Public Safety Department, or the Human Resources Office receives a report of alleged Sexual Misconduct, that employee must notify the University’s Title IX Coordinator.

**Confidential Disclosure**. The University encourages victims of sexual misconduct to talk to somebody about what happened so that victims can get the support they need, and so that the University can respond appropriately. Different employees on campus have different abilities to maintain a victim’s confidentiality. Some employees are required to maintain near complete confidentiality; talking to them is sometimes called a “privileged communication.” At Arkansas Tech, the following employees are the licensed counselors staffed in the Health and Wellness Center (<http://www.atu.edu/hwc/index.php>) located in Dean Hall:

* + Kristy Davis, [kdavis51@atu.edu](mailto:kdavis51@atu.edu) , (479) 968-0329
  + Craig Witcher, [cwitcher@atu.edu](mailto:cwitcher@atu.edu), (479) 968-0329
  + Hunter Bramlitt, [jbramlitt@atu.edu](mailto:jbramlitt@atu.edu), (479) 968-0329
  + Janis Taylor, [jtaylor78@atu.edu](mailto:jtaylor78@atu.edu), (479) 968-0329

Disclosures made to the counseling staff at the Health and Wellness Center will be held in strict confidence and will not serve as notice to the Office of Affirmative Action requiring an initiation of a review of the disclosed conduct. Please note that all university employees, except for the counseling staff and the medical professionals, serve as mandatory reporters who are required to share immediately all reports of sexual misconduct that they receive with the Title IX Coordinator or the Deputy Title IX Coordinators.

If the counseling staff member determines that the alleged perpetrator(s) pose a serious and immediate threat to the University community, the Department of Public Safety may be called upon to issue a timely warning via the CEON system. Any such warning will not include any information that identifies the victim.

**All other University employees who are not barred by statute have a duty to immediately report** **all the details of an incident of sexual misconduct** (including the identities of both the victim and alleged perpetrator, any witnesses, and other relevant facts, including date, time, and specific location of alleged incident) to the Title IX Coordinator or the Deputy Title IX Coordinator. A report to these employees constitutes a report to the University and generally obligates the University to investigate the incident and take appropriate steps to address the situation. When a victim reports an incident of sexual misconduct, the victim has the right to expect the University to take immediate and appropriate steps to investigate what happened and to resolve the matter promptly and equitably.

To the extent possible, information reported to an employee will be shared only with people responsible for handling the University’s response to the report and will not be shared with law enforcement without the victim’s consent or unless the victim has also reported the incident to law enforcement. If the victim requests confidentiality, the employee will consider the request, but cannot guarantee that the University will be able to honor it. In reporting the details of the incident to the Title IX Coordinator, the employee will inform the Title IX Coordinator of the victim’s request for confidentiality.

An individual may report alleged Sexual Misconduct to a faculty or staff member other than those referenced above. No member of the University community may discourage an individual from reporting alleged incidents of Sexual Misconduct. A faculty or staff member with any knowledge (including firsthand observation) about a known or suspected incident of Sexual Misconduct (other than health-care professionals and others who are statutorily barred from reporting) must immediately report the incident to the Arkansas Tech University Public Safety Department or the University’s Title IX Coordinator. No employee is authorized to investigate or resolve Complaints without the involvement of the University’s Title IX Coordinator or Deputy Title IX Coordinator.

**Anonymous Reporting.** Although the University encourages victims to talk to someone, Arkansas Tech provides an online form for anonymous reporting. The system will notify the user that entering personally identifying information may serve as notice to the University for the purpose of triggering an investigation. The form can be found at this link: <http://www.atu.edu/psafe/psafe-report-sexassault.php>. Individuals who choose to file anonymous reports are advised that it may be very difficult for the University to follow up or take action on anonymous reports, where corroborating information is limited. Anonymous reports may be used for Clery Act data collection purposes.

**ARTICLE IV.**

**PROCEDURES APPLICABLE TO COMPLAINTS OF SEXUAL MISCONDUCT**

**(a) Overview**

**(i) Oversight**. The Title IX Coordinator and/or deputy Title IX Coordinator will be responsible for conducting the prompt, fair, and impartial investigation of Complaints filed with the University.

**(ii) Conflicts**. If any administrator or employee that is designated by this Policy to participate in the investigation or resolution of a Complaint is the Respondent (including, but not limited to, the Title IX Coordinator), then the President will appoint another University administrator to perform such person’s duties under this Policy. (If the President is the Respondent, then the Title IX Coordinator will appoint another University administrator to perform her duties under this Policy.)

**(iii) Timing**. The University will make every reasonable effort to ensure that the investigation and resolution of a Complaint occurs in as timely and efficient a manner as possible. The University’s investigation and resolution of a Complaint (not including an appeal, if applicable) will generally be completed within 60 calendar days of the receipt of the Complaint, absent extenuating circumstances. Hearings, if any, will take place after the conclusion of the investigation. If hearings have taken place, both the Complainant and the Respondent generally will receive a Final Outcome Letter within 7 calendar days of the conclusion of the hearings.

Any party may request an extension of any deadline by providing the Title IX Coordinator with a written request for an extension that includes reference to the duration of the proposed extension and the basis for the request. The Title IX Coordinator may modify any deadlines contained in this Policy as necessary and for good cause. Both parties will be notified if and when a modification is made with a brief explanation of the need for the modification.

**(iv) Request Not to Pursue Complaint**. A Complainant (or alleged victim, if not the Complainant) may determine after filing a Complaint that he or she does not wish to pursue resolution of the Complaint through the University. The University takes such requests seriously. However, such individuals are advised that such requests may limit the University’s ability to take action in response to a Complaint. Title IX requires the University to evaluate the request(s) that a Complaint not be adjudicated in the context of the University’s commitment to provide a reasonably safe and non-discriminatory environment. In order to make such an evaluation, the Title IX Coordinator may conduct a preliminary investigation into the alleged Sexual Misconduct and may weigh the request(s) against the following factors:

1) The seriousness of the alleged Sexual Misconduct;

2) The Complainant’s and/or alleged victim’s age;

3) Whether there have been other Complaints of Sexual Misconduct against the Respondent;

4) The Respondent’s right to receive information about the allegations if the information is maintained by the University as an “education record” under FERPA, and

5) The applicability of any laws mandating disclosure.

Even when the University is in receipt of a request not to pursue an investigation, Title IX requires the University to take reasonable action in response to the information known to it; thus, the University may take such measures and impose such discipline as are deemed necessary by the Title IX Coordinator. The Complaint may also be used as an anonymous report for data collection purposes under the Clery Act.

**(v) Interim Measures.** If at any point during the complaint, investigative or disciplinary processes, the Title IX Coordinator reasonably believes that a Respondent who is a member of the University community poses a substantial threat of harm to any member of the campus community; threatens or endangers University property; or disrupts the stability and continuance of normal University operations and functions, the Title IX Coordinator may take actions such as the following:

1. For student Respondents:

(a) Request that Student Services:

(i) summarily suspend the Respondent from campus housing on an interim basis and/or restrict his or her movement on campus, or

(ii) suspend the Respondent from campus;

2. For employee Respondents, request that the individual authorized to make personnel decisions regarding the employee at issue:

(a) take such steps as are reasonable, appropriate, and necessary to restrict the Respondent’s movement on campus; or

(b) reassign the Respondent or place him or her on administrative leave.

These actions may be appealed by student Respondents to the Vice President of Student Services, and by employees to the respective Vice President or Athletic Director over their division.

**(b) Initial Meetings with the Title IX Investigator.**

**(i) Complainant’s Initial Meeting with the Title IX Investigator**. As soon as is practicable after receiving notice of a Complaint, the Title IX Investigator will contact the Complainant to schedule an initial meeting. If the Complainant is not the alleged victim, the Title IX Investigator also will contact the alleged victim as soon as possible to schedule an initial meeting and will discuss item number 5 listed below with the alleged victim rather than the Complainant. All mentions of the “Complainant” in items 1-9 of this subsection also apply to the alleged victim if the Complainant is not the alleged victim. At this initial meeting (or these initial meetings, in the case of a Complainant who is not the alleged victim), the Title IX Investigator will, as applicable:

**1**. Provide the Complainant a copy of this Policy;

**2**. Provide the Complainant with a Sexual Misconduct Complaint Form (a copy of which is attached as Appendix D) on which the Complainant may, if he or she agrees to disclose the information, provide details regarding the allegation, including the name of the accused individual and the date, location and general nature of the alleged Sexual Misconduct (the Complainant may either complete the form him- or herself or he or she may choose to dictate the information to the Title IX Coordinator, who will confirm the accuracy of his or her documentation with the Complainant);

**3.** Explain avenues for formal resolution and informal resolution (mediation) of the Complaint;

**4.** Explain the steps involved in a Sexual Misconduct investigation;

**5.** Discuss confidentiality standards and concerns with the Complainant;

**6.** Determine whether the Complainant wishes to pursue a resolution (formal or informal) through the University, or no resolution of any kind;

**7.** Refer the Complainant to the Counseling Center or other resources, as appropriate; and

**8.** Discuss with the Complainant, as appropriate, possible interim measures that can be provided to the Complainant, at no cost, during the pendency of the investigative and resolution processes.

The University may implement such measures if requested, appropriate, and reasonably available, whether a formal Complaint has been filed (with either the Title IX Coordinator or law enforcement agencies) or whether an investigation has commenced (by either the Title IX Coordinator or law enforcement agencies). Interim measures may include, but are not limited to:

a) issuing no-contact orders to prevent any contact between the Complainant, the Respondent, witnesses and/or third parties;

b) providing the Complainant an escort to ensure that he or she can move safely between classes, work, and/or activities;

c) changing a Complainant’s or a Respondent’s on-campus housing or dining, if any, to a different on-campus location and providing assistance from University support staff in completing the relocation;

d) arranging to dissolve a campus housing contract and offering a pro-rated refund;

e) changing work arrangements;

f) rescheduling class work, assignments, and examinations without penalty;

g) arranging for the Complainant to take an incomplete in a class; or

h) moving the Complainant or the Respondent from one class section to another without penalty;

i) permitting a temporary withdrawal from the University;

j) providing alternative course completion options without penalty;

k) providing counseling services;

l) suspension of Respondent’s social privileges;

m) taking disciplinary action against the Respondent before resolution of the Complaint;

n) providing academic support services such as tutoring.

**9.** A Complainant will receive written notification of the availability of the interim measures set forth in section 8 above whether or not the Complainant chooses to report the incident to the University Public Safety Department or local law enforcement.

Following the initial meeting with the Complainant (and the alleged victim, if not the Complainant), the Title IX Investigator will, if applicable, promptly determine the interim measures to be provided to the Complainant (and to the alleged victim, if not the Complainant). Such determination will be promptly communicated to the Complainant and/or alleged victim, as applicable (and in no event that later than the point at which it is communicated to the Respondent) and the Respondent.

**(ii)** **Respondent’s Initial Meeting with the Title IX Investigator.** If the alleged victim wishes to pursue a formal or informal resolution through the University or if the University otherwise deems that a further investigation is warranted, as soon as is reasonably practicable after the Title IX Investigator’s initial meeting with the Complainant (and if applicable, the alleged victim), the Title IX Investigator will schedule an initial meeting with the Respondent. During the initial meeting with the Respondent, the Title IX Investigator will, as applicable:

**1)** Provide Respondent with a copy of the Complaint;

**2)** Provide Respondent with a copy of this policy;

**3)** Explain the University’s procedures for formal resolution and informal resolution (mediation) of the Complaint;

**4)** Explain the steps involved in a Sexual Misconduct investigation;

**5)** Discuss confidentiality standards and concerns with the Respondent;

**6)** Discuss non-Retaliation requirements with the Respondent;

**7)** Inform the Respondent of any interim measures already determined and being provided to the Complainant and/or the alleged victim (if not the Complainant) that directly affect the Respondent (e.g. changing his or her class schedule, or moving him or her to an alternate residence hall);

**8)** Refer the Respondent to the Counseling Center or other resources, as appropriate; and

**9)** Discuss with the Respondent, as appropriate, possible interim measures that can be provided to the Respondent during the pendency of the investigative and resolution processes. The University may implement such measures if requested, appropriate, and reasonably available, whether a formal Complaint has been filed or whether an investigation by either campus administrators or law enforcement agencies has commenced.

**(c) The Investigation.**

**(i)** Upon receipt of the Complaint, the Title IX Investigator will promptly begin his or her investigation, taking steps such as:

**1)** Conducting interviews with the Complainant, the alleged victim (if not the Complainant), the Respondent, and third-party witnesses and summarizing such interviews in written form;

**2)** Visiting, inspecting, and taking photographs at relevant sites; and

**3)** Where applicable, collecting and preserving relevant evidence (in cases of corresponding criminal complaints, this step may be coordinated with law enforcement agencies pursuant to a Memorandum of Understanding).

Through the investigation, the Title IX Investigator will remain neutral. The Title IX Coordinator and Deputy Coordinators will receive annual training on issues related to sexual harassment, sexual assault, intimate partner violence, and stalking.

The Title IX Coordinator and Deputy Coordinators should obtain, where applicable, and where possible, the written consent of any third-party witnesses to the disclosure, as contemplated by this Policy, of any Personally Identifiable Information contained in the Complaint, the Investigative Report, and/or any other documents the disclosure of which is contemplated by this Policy in order to further the resolution of this Complaint.[[2]](#footnote-2)

The Investigator will complete a written investigative report that includes items such as summaries of all interviews conducted, photographs, and descriptions of relevant evidence, summaries of relevant electronic records, and a detailed report of the events in question (“the Investigative Report”). The Title IX Investigator will distribute the Investigative Report, concurrently, to the alleged victim and the Respondent. The Title IX Investigator will also provide a copy to the Dean of Students who shall serve as the Chair of the Hearing Board. All parties to whom the Investigative Report is distributed pursuant to this Policy must maintain it in confidence; the Investigative Report may only be disclosed as contemplated by this Policy.

**(d) Formal Versus Informal Resolution.**

At any time before the Hearing Board provides the Notice of Appointment in accordance with Section V(b)(ii)(2), the alleged victim may elect to resolve his or her Complaint through the informal resolution (mediation) process in accordance with Article VI of this Policy, provided that:

(i) The Respondent agrees to such resolution;

(ii) The alleged victim and the Respondent are both students or are both employees of the University;

(iii) The Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving the complaint; and

(iv) The Complaint does not involve Sexual Assault.

Otherwise, a Complaint will proceed to formal resolution in accordance with Article V of this Policy.

**ARTICLE V. FORMAL RESOLUTION**

**(a) Respondent’s Acknowledgement of Responsibility Prior to Hearing.**

At any time prior to the date of his or her designated hearing, the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged Sexual Misconduct. In such a situation, the Title IX Coordinator will propose sanction(s). If the victim and the Respondent agree to such proposed sanction(s), then the Complaint will be resolved without a hearing and without any further rights of appeal by any party. If either the victim or the Respondent objects to such proposed sanction(s), then the Sexual Misconduct Hearing Board will convene for the exclusive purpose of determining a sanction, which determination may be subject to appeal pursuant to Section V(b)(v) of this Policy.

**(b) The Formal Resolution Process.**

In the case of formal resolution, the Sexual Misconduct Hearing Board will conduct a hearing in which it will question the Complainant, the alleged victim (if not the Complainant), the Respondent, and any witnesses or other third parties whose testimony the Hearing Panel deems relevant. The Sexual Misconduct Board will determine whether there has been a violation of the Sexual Misconduct Policy, and if there has been, will determine the sanction to be imposed on the Respondent.

**(i)** **The Sexual Misconduct Hearing Board.** The Sexual Misconduct Hearing Board shall have three members. The composition of the Hearing Board will be one faculty member and one staff member, and will be chaired by the Dean of Students. By August 15th of each year, the President of the University shall appoint two faculty members and two staff members to serve as Sexual Misconduct Hearing Board members for a period of one year. Each member of the Hearing Board will receive training annually.

**(ii)** **Notice of Appointment.** Upon receipt of the Investigative Report from the Title IX Coordinator, the Dean of Students will appoint one faculty member and one staff member from the group of Sexual Misconduct Hearing Board members. Promptly after appointing the members of the Hearing Board, the Dean of Students will provide concurrent written Notice of Appointment of the Hearing Board to the alleged victim and the Respondent, setting forth the names of the individuals selected to serve on and chair the Sexual Misconduct Hearing Board, as well as the alleged policy violation along with information related to the formal conduct hearing.

The parties may challenge the participation of any member of the Hearing Board by submitting a written objection to the Title IX Coordinator within three days of receipt of the Notice of Appointment. Such objection must state the specific reason(s) for the objection. The Title IX Coordinator will evaluate the objection and determine whether to alter the composition of the Hearing Board. Failure to submit a timely and proper objection will constitute a waiver of any right of objection to the composition of the Hearing Board. Any changes in the composition of the Hearing Board will be provided in writing to both parties prior to the date of the hearing.

**(iii) Hearing Policies and Procedures.**

**1) Submission of Written Material by the Parties.** Within five days of receipt of the Notice of Appointment of the Hearing Board, the alleged victim and the Respondent may provide the Chair of the Hearing Board with (1) a list of witnesses, if any, that they propose that the Hearing Board call and a brief description of each proposed witness’s connection to and/or knowledge of the issues in dispute, (2) a written statement of position, and (3) copies of all documents to be presented at the hearing. Failure to provide this information in a timely manner may result in the loss of the ability to provide this information. The Title IX Coordinator and/or the Deputy Title IX Coordinator will present the Investigative Report at the hearing.

**2) Notice of Hearing.** Not less than five days but not more than 10 days after delivery of Notice of Appointment of the Hearing Board to the parties, the Hearing Board will provide a separate notice to the alleged victim, the Respondent, and any witnesses or other third parties whose testimony the Hearing Board deems relevant, requesting such individuals to appear before the Hearing Board. The notice should set forth, as applicable, the date, time, and location of the hearing. In this Notice of Hearing, the Hearing Board will provide the names of witnesses or other third parties that the Hearing Board plans to call.

**3) Failure to Appear.** If the alleged victim or the Respondent fails to appear before the Hearing Board if requested to do so, and such party was provided with proper notice of the hearing as set forth above, then absent extenuating circumstances, the Hearing Board will proceed to determine the resolution of the Complaint.

**4). Support Persons**. The alleged victim and the Respondent each have the right to be assisted by one advisor of their choice, and at their expense. The alleged victim and the Respondent are each responsible for presenting his or her own information. An Advisor may communicate with his or her advisee privately, but he or she may not address the Hearing Board, cross-examine witnesses, or have any other speaking role. The alleged victim and the Respondent must notify the Dean of Students who they are bringing at least two days prior to the hearing. Failure to meet this deadline may result in the loss of the ability to have the advisor present. The alleged victim and Respondent should select an advisor whose schedule allows attendance at the schedule date and time of the hearing; delays will not normally be allowed due to the scheduling conflicts of an advisor. The advisor must maintain confidentiality regarding any and all communications exchanged pursuant to this Policy.

**5) Other Advisors**. Absent accommodation for disability and except as set forth in this Section V(b)(iii)(4), the parties may not be accompanied by any other individual during the hearing process.

**6) Evidentiary Matters.** The alleged victim and the Respondent will have an equal opportunity to present evidence during their respective hearings. Formal rules of evidence will not be observed during the hearings.

Evidence of past sexual histories of the alleged victim or the Respondent will not be permitted at the hearing, with the following exception:

`` **a)** The alleged victim’s prior sexual conduct with the Respondent.

The Hearing Board shall clarify that evidence of a prior consensual dating or sexual relationship between the parties does not imply consent or preclude a finding of sexual misconduct in the instant case.

**7) Conduct of the Hearings.**

**a)** **Generally.** The hearings will be conducted in an inquisitorial manner, which means that the Hearing Board will be responsible for asking questions of the parties and the witnesses and developing evidence through testimony. The Dean of Students, as Chair of the Hearing Board, will resolve any questions concerning procedure or the admission of evidence or testimony (including the relevancy and reliability of the evidence and testimony). Members of the University community are expected to provide truthful testimony. Any falsification of information or false testimony by any party or witness may subject that party or witness to disciplinary action.

**b) Testimony of the Respondent**. The Respondent may choose not to testify or appear before the Hearing Board; however, his or her exercise of that option will not preclude the Hearing Board from making a determination regarding the Complaint filed against the Respondent.

**c) Private.** Hearing shall normally be conducted in private. In order to comply with FERPA and Title IX and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the hearing process is not open to the general public. Accordingly, documents prepared in anticipation of the hearings (including the Complaint, the Investigative Report, the notices of hearing, and the pre-hearing submissions referenced above) and documents, testimony, or other information introduced at the hearings may not be disclosed outside the hearing proceedings, except as may be required or authorized by law.

**d) Separate Hearings.** In hearings involving more than one respondent, the Dean of Students, as chairperson, may at his or her discretion, permit the hearings concerning each Respondent to be conducted separately or jointly.

**e.) Cross examination.** The alleged victim and Respondent will not be allowed to directly cross-examine each other or witnesses.

**f) Witnesses**. Witnesses other than the alleged victim and Respondent will be excluded from the hearing except during their specific witness testimony.

**g) Record.** There shall be a single verbatim record, such as a digital recording, of all hearings before the Hearing Board, not including deliberations. The recording shall be the property of the University.

**h) Separation of parties**. The Hearing Board may accommodate concerns for the personal safety, well-being, retaliation, and/or fears of the confrontation of the alleged victim, Respondent, and/or other witnesses during the hearing by providing a visual screen, or permitting participation by telephone, video conferencing or by other means.

**(iv)** **Outcome.**

**1)** **The Decision of the Hearing Board.** Following the conclusion of the hearing, the Hearing Board will confer and by majority vote determine whether the evidence (including the information provided in and by the Investigative Report, the parties written statements, if any, the evidence presented at the hearings, and the testimony of the parties and witnesses) establishes that it is more likely than not[[3]](#footnote-3) that the Respondent violated the Sexual Misconduct Policy. The deliberation portion of the hearing is closed to all but the Hearing Board members.

**2) Sanctions**.

**a) Generally.** Sanctions for a finding of responsibility depend upon the nature and gravity of the misconduct. Sanctions may include, without limitation, withholding a promotion or pay increase, reassigning employment, terminating employment, temporary suspension without pay, compensation adjustments, expulsion or suspension from the University, disciplinary probation, expulsion from campus housing, mandated counseling, and/or educational sanctions deemed appropriate by the Hearing Board. A full list of possible sanctions for students is attached as “Appendix E”.

The Hearing Board will determine sanctions, giving consideration to whether a given sanction will (a) bring an end to the violation in question, (b) reasonably prevent a recurrence of a similar violation, and (c) remedy the discriminatory effects of the violation of the Complainant, and if applicable, the University community at large.

**b) Implementation of Sanctions.** Sanctions imposed are not effective until the resolution of any timely appeal pursuant to Section V(b)(v), below. However, if it is advisable that in order to protect the welfare of the victim or the University Community, the Hearing Board may recommend that any sanctions be effective immediately and continue in effect until such time as the appeal process is exhausted.

**3) Final Outcome Letter.** Within 7 calendar days following the conclusion of the hearing, the Hearing Board will issue a written decision letter (the “Final Outcome Letter”) concurrently to the Respondent, the Complainant and the alleged victim (if not the Complainant), the Title IX Coordinator, the Vice President for Student Services if the Respondent is a student, and the appropriate Vice President or Athletic Director if the Respondent is an employee. The Final Outcome Letter will set forth (1) the name of the Respondent, (2) the violation(s) of this Policy for which the Respondent was found responsible, if any; (3) sanctions imposed on the Respondent, if any; and (4) the option to appeal by either party. The University will not require either party to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the redisclosure of information related to the outcome of the proceeding.

**(v) Appeals.**

**1) Respondent is a student or non-faculty employee.**

The alleged victim or the Respondent may appeal, in writing, the decision of the Hearing Board and/or the sanction imposed on the Respondent within 7 calendar days from the date of the Final Outcome Letter. The decision of the Hearing Board and the sanction imposed on the Respondent may, if desired, be appealed simultaneously. The only basis for appeal shall be:

**1)** Alleged failure of the Hearing Board to follow the procedures set forth in the Sexual Misconduct Policy; or

**2)** Consideration of new evidence that was not reasonably available at the time of the hearing before the Hearing Board.

Students should appeal to Susie Nicholson, Vice President for Student Services and University Relations, located in the Office of Student Services, Doc Bryan Student Services Center, Suite 202, (479) 968-0238, [snicholson@atu.edu](mailto:snicholson@atu.edu). Employees should appeal to the appropriate Vice President or Athletic Director. Typically a decision on the appeal will be issued within 7 calendar days of receipt of the appeal.

**2) Respondent is a faculty member.**

The alleged victim may appeal following the process set forth in Section 1 above. If the Respondent is a faculty member with tenure or with a special or probationary appointment and the sanction issued by the Hearing Board is dismissal before the end of a specified term, the procedures set forth Chapter II, Section E of the Faculty Handbook shall govern the Respondent’s appeal. If the Hearing Board issues a sanction which imposes a penalty other than dismissal, the procedures set forth in Chapter II, Section G of the Faculty Handbook shall govern the Respondent’s appeal.

**ARTICLE VI. INFORMAL RESOLUTION (MEDIATION)**

Informal resolution is only appropriate if (i) the alleged victim requests it, (ii) the Respondent agrees to such resolution, (iii) the alleged victim and the Respondent are both Students or are both employees of the University, (iv) the Title IX Coordinator determines that informal resolution is an appropriate mechanism for resolving the Complaint, and (v) the Complaint does not involve sexual assault. Informal Resolution is not a prerequisite to pursuit of a formal resolution.

Informal resolution may not be selected for less than all of the misconduct alleged in the Complaint (for example the parties may not choose to resolve a claim of Sexual Assault according to the formal resolution process but mediate all other claims). If the parties agree to informal resolution (and informal resolution is appropriate for all of the claims at issue), then all of the claims must be resolved according to the informal resolution process.

The alleged victim has the right to terminate the informal resolution process at any time and proceed with formal resolution. Furthermore, the Title IX Coordinator may, where appropriate, terminate or decline to initiate informal resolution, and proceed with formal resolution instead. In such cases, statements or disclosure made by the parties in the course of the informal resolution process may be considered in the subsequent formal resolution proceeding.

**(a) Respondent’s Acknowledgement of Responsibility.**

At any time prior to the imposition of sanctions, the Respondent may elect to acknowledge his or her actions and take responsibility for the alleged Sexual Misconduct. In such a situation, the Title IX Coordinator will propose sanction(s) for the Respondent. If both the alleged victim and the Respondent agree to such proposed sanction(s), then the Complaint will be resolved without any further rights of appeal by either party.

If either the alleged victim or the Respondent objects to the proposed sanction(s), then the Hearing Board will convene for the exclusive purpose of determining sanctions, which determination may be subject to appeal by either party pursuant to Section V(b)(v) of this Policy. For purposes of this sanction hearing, all of the other provisions of this Policy relating to the imposition of a sanction for Sexual Misconduct shall apply.

**(b) The Informal Resolution Process.**

**(i)** **The Mediation; The Presiding Officer**. When the Complaint is to be resolved according to the informal resolution process, there will be a mediation overseen by the Title IX Coordinator or a Deputy Title IX Coordinator.

**(ii) Notice of the Mediation**. The Title IX Coordinator will provide concurrent written notice to the alleged victim and the Respondent, setting forth the date, time and location of the mediation.

**(iii) No Contact Prior to Mediation**. The parties may not contact each other outside of the mediation, even to discuss the mediation.

**(iv) Attendance.** Both the alleged victim and the Respondent are expected to attend the mediation. If either party fails to appear at the mediation, and such party was provided proper notice of the mediation as set forth above, then absent extenuating circumstances, the Title IX Coordinator may either direct that resolution of the Complaint be determined according to the formal resolution process set forth above, or if the alleged victim fails to appear without good cause, dismiss the Complaint.

**(v) The Mediation**.

**1) The Alleged Victim’s Rights**. During the mediation, the alleged victim may:

**(a)** Confront the Respondent in the presence of, and facilitated by, the Presiding Officer.

**(b)** Communicate his or her feelings and perceptions regarding the incident and the impact of the incident (either by communicating directly with the Respondent or by communicating indirectly with the Respondent through the Presiding Officer), and/or

**(c)** Relay his or her wishes and expectations regarding protection in the future.

**2) Resolution.** During the mediation, the Presiding Officer will attempt to facilitate the parties’ resolution of the Complaint. If the mediation results in a resolution between the parties and the Title IX Coordinator finds the resolution to be appropriate under the circumstances (giving consideration to the extent to which the resolution will protect the safety of the alleged victim and the entire University community), the informal disciplinary procedure will be concluded and the Complaint will be closed. If the parties are unable to reach a resolution, the formal resolution process outlined in Article V of this Policy will promptly commence.

**(vi) Privacy and Disclosure**. In order to comply with FERPA and Title IX and to provide an orderly process for the presentation and consideration of relevant information without undue intimidation or pressure, the informal resolution process is not open to the general public. Accordingly, documents prepared in anticipation of the mediation (including the Investigative Report and the Notice of Mediation) and other information introduced at the mediation may not be disclosed outside of the mediation, except as may be required or authorized by law.

1. Sexual misconduct also constitutes sexual harassment. The Sexual Misconduct policy shall govern in cases involving sexual assault, domestic violence, dating violence, stalking, and sexual exploitation. The University’s Sexual Harassment policy shall be applicable in all other sexual harassment cases not involving sexual misconduct. [↑](#footnote-ref-1)
2. If the Title IX Investigator is unable to obtain the consent of such third-party witnesses, he or she will redact the Investigative Report to the extent necessary to avoid inappropriate disclosure of such witness’s Personally Identifiable Information, while ensuring that such redaction does not prevent resolution of the Complaint. [↑](#footnote-ref-2)
3. In other words, the standard of proof will be “the preponderance of the evidence” standard. [↑](#footnote-ref-3)