



Proposed Policy Number and Title: Policy 162 *Sexual Misconduct* (Temporary Emergency)

Existing Policy Number and Title: Policy 162 *Sexual Violence in the Workplace and the Academic Environment* (Temporary Emergency)

Approval Process*

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*See UVU Policy #101 *Policy Governing Policies* for process details.

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President's Council Sponsor: Linda Makin, Michelle Taylor **Ext.** _____

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POLICY APPROVAL PROCESS DATES

Policy Drafting and Revision

Entrance Date: 10/9/2014

University Entities Review

Entrance Date: NOT APPLICABLE

University Community Review

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POST APPROVAL PROCESS

Verify:

- Policy Number
- Section
- Title
- BOT approval
- Approval date
- Effective date
- Proper format of Policy Manual posting
- TOPS Pipeline and Archives update

Policy Office personnel who verified and posted this policy to the University Policy Manual

Name: _____

Date posted and verified: MM/DD/YYYY



POLICY TITLE	<i>Sexual Misconduct</i> (Temporary Emergency)	Policy Number	162
Section	Governance, Organization, and General Information	Approval Date	
Subsection	Individual Rights	Effective Date	
Responsible Office	Office of the Vice President of Planning, Budget, and Human Resources		

1.0 PURPOSE

1.1 Utah Valley University is committed to maintaining a respectful and safe environment for its students, faculty, staff, and visitors. This policy defines and prohibits all forms of sexual misconduct (including sexual discrimination, sexual harassment, sexual violence, domestic violence, dating violence, human trafficking, and stalking); establishes expectations for university community members and campus visitors; details how to report a violation of this policy; describes university resources and interim measures to protect those involved in the process; outlines investigation, disciplinary, and due process procedures for addressing violations of this policy; and overviews the University’s education, awareness, prevention, and risk reduction programs. This policy applies to all persons employed by or affiliated with Utah Valley University in any way and persons participating in any university program or activity, including but not limited to trustees, administrators, faculty, staff, students, independent contractors, volunteers, and guests or visitors to a university campus or any property owned or leased by the University.

2.0 REFERENCES

- 2.1** *Campus Sexual Violence Elimination Act (SaVE)*—Reauthorization of the *Violence Against Women Act of 2013 (VAWA)*
- 2.2** *Jeanne Clery Disclosure of Campus Security Police and Campus Crime Statistics Act (Clery Act)*
- 2.3** Title VII of the *Civil Rights Act of 1964*
- 2.4** Title IX of the *Higher Education Amendments Act of 1972*
- 2.5** *Americans with Disabilities Act (ADA)* (as amended)
- 2.6** *Family Educational Rights and Privacy Act (FERPA)*
- 2.7** *Health Insurance Portability and Accountability Act (HIPAA)*



- 2.8 Utah Code § 63G-2 *Government Records Access Management Act (GRAMA)*
- 2.9 Utah Code § 77-36 *Cohabitant Abuse Procedures Act*
- 2.10 Utah Code § 77-38 *Rights of Crime Victims Act*
- 2.11 UVU Policy 115 *Minors on Campus and at University-Sponsored Events*
- 2.12 UVU Policy 154 *Workplace Violence*
- 2.13 UVU Policy 155 *Sexual Harassment and Consensual Relationships and Grievance*
- 2.14 UVU Policy 165 *Discrimination, Harassment, and Affirmative Action*
- 2.15 UVU Policy 371 *Corrective Actions and Termination for Staff Employees*
- 2.16 UVU Policy 407 *Clery Act Reporting Requirements*
- 2.17 UVU Policy 541 *Student Rights and Responsibilities Code*
- 2.18 UVU Policy 648 *Faculty Personnel Reduction (Interim Policy)*

3.0 DEFINITIONS

- 3.1 Bystander:** An individual who witnesses or becomes aware of an instance of sexual misconduct. A bystander may not be directly involved but has the choice to intervene where it is safe to do so by discouraging, preventing, or interrupting an incident, or by summoning help.
- 3.2 Bystander intervention:** When bystanders proactively respond and provide assistance in a situation in which sexual misconduct has occurred or could occur.
- 3.3 Campus Security Authority (CSA):** As required by the *Clery Act*, individuals (1) serving in positions identified by the Vice President of Finance and Administration, who have significant responsibility for student and campus activities, or (2) serving in a security role for a university activity temporarily or for a designated event and who have a duty to report sexual misconduct and all Clery-reportable crimes. These individuals may not always be university employees. For examples of designated CSAs and definitions of Clery-reportable crimes and geography, see UVU Policy 407 *Clery Act Reporting Requirements*.
- 3.4 Complainant, victim, or alleged victim:** Someone who has experienced sexual misconduct and who has requested university interim measures or disciplinary action. Use of these terms



does not imply that a finding of misconduct is assumed or made before an investigation is commenced.

3.5 Consent: Consent to engage in a sexual encounter must be given by all participating parties; must be clear, knowing, and voluntary; and may be given only by someone who is 18 years of age or older and is not mentally and/or physically incapacitated. Consent is active, not passive. Consent requires an affirmatively communicated willingness through words and/or actions to participate in sexual activity. Silence, in and of itself, may not be interpreted as consent.

3.6 Dating/relationship violence: Violence or threat of violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim, where the existence of such a relationship shall be determined based on a consideration of all relevant factors, including (a) the length of the relationship, (b) the type of relationship, and (c) the frequency of interaction between the persons involved in the relationship.

3.7 Discrimination: For purposes of this policy, negative or adverse conduct towards university employees or students in the terms or conditions of employment; university admission or education; access to university programs, services, or activities; or other university benefits or services on the basis of inclusion or perceived inclusion in the protected classes of sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity, that has the effect of denying or limiting participation in a university program or activity.

3.8 Domestic violence: Violence or physical harm, or threat of violence or physical harm, committed by (a) a current or former spouse or intimate partner of the alleged victim, (b) a person with whom the victim shares a child in common, (c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, (d) a person similarly situated to a spouse of the individual who experienced domestic violence under the domestic or family violence laws of the jurisdiction where the act of domestic violence occurred, or (e) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction where the act of domestic violence occurred.

3.9 Hostile environment: For purposes of this policy, any unwelcome verbal, physical, written, electronic, or non-verbal conduct (whether directly, indirectly, or through a third party) of a sexual nature, or related to an individual's sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity, that is sufficiently severe, persistent, or pervasive to alter the conditions of employment or limit, interfere with, or deny educational benefits or opportunities, from both a subjective and objective viewpoint based on a totality of the circumstances, including but not limited to the frequency and severity of the conduct, whether the conduct was physically threatening or humiliating, the effect of the conduct on the individual's mental or emotional state, whether the conduct was directed at more than one person, whether the conduct arose in the context of other discriminatory conduct, and whether the speech or conduct deserves the protections of academic freedom or the First Amendment.



3.10 Incapacitation: An individual who is incapacitated cannot give consent to engage in a sexual encounter. Incapacitation is defined as the physical and/or mental inability to make informed, rational judgments. Factors that could be indications of incapacitation include but are not limited to mental or physical disability; lack of sleep; alcohol; illegal, date-rape, or prescription drug use; unconsciousness; blackout; or involuntary physical restraint. Being intoxicated by drugs or alcohol does not diminish one's responsibility to obtain consent. The factors to be considered when determining whether consent was given include whether the accused knew, or whether a reasonable person should have known, that the complainant was incapacitated.

3.11 Preponderance of evidence: The evidentiary standard used during an investigation to determine if a policy violation has occurred. Preponderance of evidence means it is more likely than not, or more than 50 percent in favor, that the allegation is true.

3.12 Respondent: Individual against whom an alleged complaint of sexual misconduct has been made.

3.13 Responsible employee: Any university employee or volunteer who becomes aware of a sexual misconduct issue involving any university student, faculty, employee.

3.14 Result: Any initial, interim, and/or final outcome or decision by any official or entity authorized to resolve disciplinary matters within the University. The result must include any sanctions imposed by the University.

3.15 Retaliation: Intimidation, threats of reprisal, harassment, or other materially adverse actions taken against an employee or student of the University, or threats of such materially adverse actions, made by persons employed by or affiliated with the University in any way or by persons participating in any university program or activity against anyone who in good faith opposes discrimination or harassment, reports or files a complaint of discrimination or harassment, honestly participates or assists in a university-related investigation, hearing, or other proceeding relating to discrimination or harassment, or otherwise asserts rights protected by Title IX, Title VII, or other applicable law. Any action designed to prevent or discourage someone from reporting a concern regarding sexual misconduct may also be retaliation.

3.16 Sexual assault: A forcible or non-forcible sex offense, including actual or attempted sexual contact, with another person without that person's consent. Sexual assault includes but is not limited to involvement in any sexual contact when the victim is unable to consent or intentional and unwelcome touching, however slight, of any body part or object, by any person upon another person, that is without consent and/or by force or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast). Sexual intercourse without consent includes acts commonly referred to as rape, statutory rape, or incest. Intercourse includes vaginal penetration by a penis, object, tongue,



finger; anal penetration by a penis, object, tongue, or finger; and oral copulation (mouth-to-genital contact or genital-to-mouth contact) no matter how slight the penetration or contact.

3.17 Sexual Assault Response Team (SART): Group of trained interdepartmental university staff working collaboratively to provide services for the university community by offering specialized sexual assault intervention services, including but not limited to ensuring the immediate safety of the alleged victim, taking interim measures necessary, and remediating the effects of substantiated sexual misconduct.

3.18 Sexual exploitation: Specific forms of sexual behavior that involve non-consensual use of another individual's nudity or sexuality, excluding behavior that constitutes one of the other sexual misconduct offenses. Examples of sexual exploitation include but are not limited to

- 1) Voyeurism (such as watching or taking pictures, videos, or audio recordings of another person engaging in a sexual act without the consent of all parties);
- 2) Invasion of sexual privacy (such as allowing a third party to watch or disseminating, streaming, or posting pictures or video of another in a state of undress or of a sexual nature) without the person's consent;
- 3) Administering alcohol or drugs to another person for the purpose of making that person vulnerable to non-consensual sexual activity;
- 4) Exposing one's genitals to another person without consent;
- 5) Prostituting another individual;
- 6) Engaging in sexual trafficking; or
- 7) Knowingly exposing another individual to a sexually transmitted infection or virus without the other individual's knowledge.

3.19 Sexual harassment: Unwelcome sexual advances, requests for sexual favors, or other verbal actions including lewd or sexually suggestive comments, jokes, questions, innuendoes, remarks about clothing, body, or previous or future sexual activity; physical actions including unwelcome touching, patting, hugging, or brushing against a person's body; written, graphic, or electronic statements or depictions; or non-verbal conduct of a sexual nature (whether the conduct is direct, indirect, or by third persons) when

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, education, or participation in a university activity;



2) Submission to or rejection of such conduct by an individual is used as the basis for or a factor in decisions affecting that individual's employment, education, advancement, or participation in a university activity; or

3) Such conduct is sufficiently severe or pervasive and it unreasonably interferes with an individual's employment or educational performance or creates an intimidating, hostile, or abusive environment for that individual's employment, education, or participation in a university activity.

3.20 Sexual misconduct: Sexual misconduct includes but is not limited to acts of, or failed attempts of, dating and relationship violence; domestic violence; discrimination based on sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity; hostile environment based on sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity (including intimidation and hazing/bullying); sexual harassment; sexual assault (including non-consensual sexual contact or non-consensual sexual intercourse); sexual exploitation (including engaging in sexual trafficking); and stalking.

3.21 Stalking: Engaging in a course of conduct (two or more acts) directed at a specific person that the actor knows or should know would cause a reasonable person to fear for his or her safety or the safety of others, to suffer other emotional distress, or that interferes with the other person's property, including harassing, threatening, following, monitoring, observing, surveilling, intimidating, delivering items, or communicating with or about another, directly, indirectly, or through a third party, by telephone, mail, electronic communication, social media, photography, or any other action, device, or method.

4.0 POLICY

4.1 Scope of Policy

4.1.1 This policy applies to all persons employed by or affiliated with Utah Valley University in any way and persons participating in any university program or activity, including but not limited to trustees, administrators, faculty, staff, students, independent contractors, volunteers, participants in any university program or activity, and guests or visitors to a university campus or any property owned or leased by the University (sometimes referred to as "third parties"). To the extent any other university policies address sexual misconduct, this policy takes precedence and controls.

4.1.2 Conduct that is subject to this policy includes the following:

1) Conduct on UVU premises



2) Conduct in the context of a UVU employment or education program or activity, including but not limited to UVU-sponsored travel, athletics, activities, research, and internship programs

3) Conduct that occurs off campus or via electronic media can be the subject of a complaint or report and shall be evaluated to determine whether the misconduct has continuing effects on the campus and therefore violates this policy. Allegations of off-campus sexual misconduct involving members of the university community shall be reported to the Title IX Coordinator.

4.2 Policy Statement

4.2.1 As required by Title IX of the *Education Amendments of 1972*, Title VII of the *Civil Rights Act of 1964*, and related applicable laws, the University prohibits all forms of sexual misconduct. The University shall respond promptly and effectively to reports of sexual misconduct and shall take appropriate action to stop, prevent recurrence of, and remediate the effects of sexual misconduct on the complainant and/or the university community. The University may discipline any person who violates this policy, up to and including termination of employment or expulsion from the University.

4.2.2 The University works to prevent sexual misconduct through education, training, and policies, and to remediate the effects of sexual misconduct by protecting the rights of the parties involved and providing support services to members of the university community. All members of the university community, including visitors and bystanders, have the responsibility to the extent possible, to prevent sexual misconduct, to report sexual misconduct, and to assist those who have experienced sexual misconduct.

4.2.3 University community members are responsible for knowing the information and procedures in this policy. Reports of sexual misconduct made after the fact are governed by the policy in place at the time of the alleged sexual misconduct. However, procedures applicable are those in place at the time of the resolution.

4.2.4. Nothing in the policy shall be construed in a manner that impinges on the rights or privileges of individuals protected by the US Constitution.

4.3 Prohibited Conduct

4.3.1 Violations of this policy include but are not limited to acts of, or failed attempts of, dating and relationship violence; domestic violence; discrimination based on sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity; hostile environment based on sex, pregnancy, pregnancy-related conditions, sexual orientation, or gender identity (including intimidation and hazing/bullying); sexual harassment; sexual assault (including non-consensual sexual contact or non-consensual sexual intercourse); sexual exploitation (including engaging in sexual trafficking); and stalking.



4.3.2 The University prohibits retaliation as defined in this policy. The University shall take steps to prevent retaliation and shall take strong responsive action to threats or acts of retaliation, up to and including termination of employment or expulsion from the University.

4.3.3 Individuals who, in bad faith, deliberately make false or malicious accusations of violation of this policy shall be subject to disciplinary action, up to and including termination of employment or expulsion from the University. However, a no-violation finding by the investigator does not in itself constitute proof of a false or malicious accusation.

4.4 Determination of Consent

4.4.1 All members of the university community must understand how to determine consent to sexual activity. All participants in the sexual activity are responsible for ensuring that they have the consent of all involved to engage in sexual activity. Any individual who engages in sexual activity without receiving clear, knowing, and voluntary consent, or in which one of the parties withdraws consent at any point but is forced to participate, has violated this policy.

4.4.2 Consent to any one form of sexual activity does not automatically imply consent to any other forms of sexual activity. Past consent to sexual activity does not imply ongoing future consent. The current or past existence of a dating or marital relationship does not imply consent. Whether an individual has taken advantage of a position of authority over an alleged victim may be a factor in determining consent or coercion.

4.4.3 There is no requirement that a party resist the sexual advance or request, but resistance is a clear demonstration of non-consent.

4.4.4 Sexual activity with someone deemed unable to grant clear, knowing, and voluntary consent constitutes a violation of this policy. This includes, but is not limited to, individuals who are

1) Mentally and/or physically incapacitated for any reason (such as by mental or physical disability; lack of sleep; alcohol; illegal, date-rape, or prescription drug use; unconsciousness; blackout; or involuntary physical restraint);

2) Under the age of 18; or

3) Forced to give consent in any way, including but not limited to by coercion, intimidation, duress, deception, threats, implied threats, and/or physical force.

4.4.5 Use of alcohol or other drugs (prescription or illegal) does not waive the requirement to obtain consent from all involved to engage in sexual activity and shall not provide a defense for any behavior that violates this policy.



4.4.6 The University views amorous or sexual relationships between those in a position of authority and their subordinates, such as in a teaching, evaluating, supervising, or advising role as part of a school program or in an employment situation, as a power relationship that undermines and/or eliminates the ability of the subordinate to provide consent to an amorous or sexual relationship and thereby violates this policy. Moreover, those in a position of authority may not use their position of authority to reward, penalize, or retaliate against, either directly or indirectly, any person or subordinate with whom he or she is having or who has rejected an amorous or sexual relationship.

4.5 Safeguards for Privacy

4.5.1 The University is committed to protecting the privacy of complainants and respondents and any party involved in a sexual misconduct report or process, to the extent allowed by the *Utah Government Records and Management Act (GRAMA)*, the federal *Family Educational Rights and Privacy Act (FERPA)*, the federal *Health Information Portability and Accountability Act (HIPAA)*, and other applicable laws.

4.5.2 The University shall make reasonable efforts to protect the privacy of those involved in reported incidents, including sharing information only with those who have a “need to know” due to their responsibility to eliminate the reported conduct, prevent its recurrence, and/or address its effects.

4.5.3 All university employees who are involved in responding to Title IX reports of sexual misconduct shall receive training about safeguarding private information in accordance with applicable laws.

4.6 Requests for Confidentiality

4.6.1 In determining whether to honor a complainant’s request to maintain his or her privacy, the University shall consider the facts and circumstances and the safety of the university community in accordance with applicable law. However, requests for anonymity may limit the University’s ability to investigate or respond in a more targeted way, such as offering reasonably available interim protective measures or modifications to the complainant.

4.6.2 When the University agrees to a complainant’s request to maintain his or her privacy and/or not conduct further investigation, the matter shall be considered resolved with the University taking appropriate steps and protective measures or modifications.

4.6.3 The University recognizes that a complainant may initially be hesitant to move forward, but later seek an investigation. Where a report was closed because the University agreed to the complainant’s request to maintain his or her privacy and/or not conduct further investigation, the matter may later be reopened at the discretion of the Title IX Coordinator or designated



deputy coordinator based on such factors as complainant request and/or concerns about safety to the university community. The passage of time and the memory/availability of witnesses may limit the University's ability to investigate at a later date.

4.7 Reporting an Incident of Sexual Misconduct

4.7.1 The University strongly encourages individuals who have experienced sexual misconduct or who are aware of alleged incidents to report sexual misconduct to the Title IX Coordinator or deputy coordinators, to UVU Police, and/or to other university administrators set forth in this policy. Police investigations and Title IX investigations may proceed simultaneously, with specific procedures set forth in 5.8.9.

4.7.2 All university responsible employees and CSAs, with the exception of licensed mental health counselors or members of the clergy who are working within the scope of their license or religious assignment, are required to report all incidents of sexual misconduct to the Title IX Coordinator.

4.7.3 Upon receipt of a report involving a student or employee complainant, the University shall take and/or make available reasonable and appropriate interim measures to protect the complainant, regardless of whether the complainant requests an investigation, initiates a code of conduct proceeding, or makes a criminal report.

4.7.4 Anyone who reports or participates in an investigation of sexual misconduct who might have engaged in a personal violation of the University drug or alcohol policy around the time of the alleged sexual misconduct incident shall not be disciplined by the University for minor alcohol policy violations.

4.7.5 Individuals are encouraged to report incidents of sexual misconduct within 180 days of the incident. While there is no time limit on reporting violations of this policy, the University's ability to respond may be limited as evidence may be less available and the University may no longer have jurisdiction over complainants or respondents who are no longer affiliated with the University.

4.8 Investigations and Disciplinary Proceedings

4.8.1 The University shall provide prompt, fair, and impartial investigations and disciplinary proceedings. During these proceedings, both the complainant and the respondent shall be provided equitable rights and opportunities, as outlined in these procedures.

4.8.2 The University is committed to ensuring that its resolution process is free from actual or perceived bias or conflicts of interest that would materially impact the outcome. University



officials who are designated to conduct and/or participate in sexual misconduct investigations or proceedings shall be trained how to conduct these investigations or proceedings in a manner free from bias or intimidation. Officials shall also be trained to recognize and acknowledge any potential conflict of interest. Any party who believes there is bias or conflict of interest may submit a written request to remove the person from the process to the Title IX Coordinator or the Associate Vice President of Human Resources. The written request should include the specific rationale as to why the requestor believes the bias or conflict could materially impact the outcome.

4.9 Training

4.9.1 The University shall provide training, as required by applicable law and recommended by best practices, to the Title IX Coordinator and deputy coordinators, review/appeal board members, CSAs, SART, and other employees involved in providing services relevant to sexual misconduct intervention.

4.9.2 In compliance with applicable federal law, the University shall provide initial training for new employees and incoming students and ongoing training for students and employees about the prevention and reporting of sexual misconduct and appropriate resources and services provided by the University and the community.

5.0 PROCEDURES

5.1 Scope and Applicability of These Procedures

5.1.1 All sexual misconduct complaints are subject to the procedures set forth in this policy. Unless the sexual misconduct also violates additional university policies, other university policies and procedures do not apply to sexual misconduct reports, processes, and proceedings. All misconduct not involving sexual misconduct shall be addressed through the procedures found in the respective student, faculty, and employee university policies.

5.2 Resources for Victims of Sexual Assault

5.2.1 If a report involves potentially criminal acts, the alleged victim shall be informed in writing that he or she has the option to make a formal criminal complaint by reporting the incident to UVU Police, Ph. (801) 863-5555, or to local police by calling 911.

5.2.2 Regardless of whether they decide to report an incident of sexual misconduct, alleged victims of sexual assault shall be encouraged to preserve evidence in case they decide later to report the incident to law enforcement. It is critical to preserve evidence as soon as possible after the incident.



5.2.3 If the incident just occurred, evidence should be preserved as follows:

- 1) The victim should call 911 and get to a safe place as soon as possible. Seeking assistance by promptly calling 911 may be important to ensuring an individual's physical safety and/or to obtaining immediate medical care or other support. It may also be necessary to preserve evidence, which can assist the University and/or law enforcement in responding effectively.
- 2) The victim should go to a hospital emergency room where trained medical personnel can collect evidence through forensic rape exam, check for injuries, and provide emergency contraception and limited STD-preventative medication.
- 3) Even if the victim chooses not to seek immediate medical care, the victim should try to preserve all the physical evidence (keeping in mind it may be possible to collect evidence of the offense up to five days following the incident).
- 4) The victim should not shower, bathe, or douche.
- 5) The victim should not brush his or her teeth.
- 6) The victim should save the clothing that he or she was wearing in a brown paper bag.
- 7) If the incident took place in the victim's home, he or she should not rearrange and/or clean up anything.
- 8) The victim should be encouraged to seek support by talking with someone he or she trusts (friend, family, advisor, community, or university resource).
- 9) The victim may contact the Utah County 24-hour Crisis Line, Ph. (801) 226-4433. Trained advocates are available to provide support and to talk with the victim about available options.
- 10) The victim should decide whether to report the incident to the police and/or university officials (keeping in mind that delay may result in lost evidence).

5.2.4 The University provides confidential crisis and medical services on campus. These resources are available to complainants regardless of whether they report to UVU Police or request university disciplinary proceedings. Students are encouraged to contact Student Health Services and benefits-eligible employees are encouraged to contact the Employee Assistance Program. Following are some of the university resources that are available:

UVU Police	(801) 863-5555
Title IX Coordinator	(801) 863-7590
Student Conduct Office	(801) 863-8665
University Ombuds	(801) 863-7237

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The following university office provides strictly confidential services:

Student Health/Counseling (801) 863-8876

5.2.5 Individuals may also choose to contact community resources such as local victim offices, counseling, clergy, chaplains, and healthcare services. For a list of such resources, contact the Title IX Coordinator or the University Student Health Services.

5.3 Reporting an Incident of Sexual Misconduct

5.3.1 Faculty, staff, or students who have experienced sexual misconduct should report it to the Title IX Coordinator. Faculty, staff, or students who become aware of sexual misconduct involving others within the university community shall report such issues to the Title IX Coordinator, who is charged with investigating reports of violations of this policy.

5.3.2 The Title IX Coordinator, who oversees all Title IX investigations and coordinates the University's response to sexual misconduct, may be reached at 800 West University Parkway, Browning Administration Building, Suite 203, Phone (801) 863-7590, Email TitleIXCoordinator@uvu.edu. The names, office address, telephone numbers, and email addresses of the Title IX Coordinator and deputy Title IX coordinators may be found on the University's Title IX website at http://www.uvu.edu/equalopportunity/title_9.html.

5.3.3 Individuals may also submit reports, including anonymous reports, through EthicsPoint, the University's 24-hour hotline provider, by submitting information at Phone (877) 228-5401 or <http://secure.ethicspoint.com/domain/media/en/gui/23421/index.html>.

5.4 Confidentiality and Reporting

5.4.1 To make informed choices when consulting campus resources, complainants should be aware of confidentiality and mandatory reporting requirements. Although the University will consider the wishes of a complainant, complainants should be aware that the following levels of confidentiality, as required by state and federal law, apply to university employees who receive reports of sexual misconduct:

1) *Strictly Confidential*: Conversations with university licensed mental health counselors or members of the clergy who are working within the scope of their license or religious assignment can remain anonymous except in rare circumstances when the alleged victim is a minor or a vulnerable adult, or when there is imminent danger to the alleged victim or others in the community. In some cases, these individuals are required to report to UVU Police for *Clergy Act* purposes that an incident occurred, but the identities of the alleged victims are not shared.



2) *Mostly Private*: Except for conversations that occur with the persons listed under “strictly confidential” above, conversations with faculty or staff about sexual misconduct must be reported to the Title IX Coordinator or a designated deputy coordinator. In those cases, the Title IX Coordinator or designated deputy coordinator shall only share such information with administrators on a “need to know” basis. Title IX Coordinator or designated deputy coordinator will review requests for anonymity in accordance with this policy. Reports of sexual misconduct to the following individuals are considered “mostly private,” with a requirement that the identity of the alleged victim be reported to the Title IX Coordinator:

a) Designated campus security authorities (CSA)

b) Responsible employees

c) Students who serve in an ongoing peer-advising role (such as Work Study) are also expected to report to the Title IX Coordinator if they learn of sexual misconduct while working. If they learn of the incident outside the workplace, they are not required to report but are encouraged to follow the recommendations presented in bystander prevention training.

3) *Confidentiality Limited by State Law*: If reported to UVU Police, some exploratory conversations are confidential. Alleged victims may meet with a detective or officer without immediately triggering a full-scale investigation or the requirement to press criminal charges. Police reports, with identifying information redacted, may be available to the public upon request only if permitted by *GRAMA* and other applicable laws.

5.5 Third-Party/Bystander Reporting Obligations

5.5.1 Any responsible employee or CSA who receives a sexual misconduct report shall inform the complainant as soon as possible about his or her duty to report, how the complainant’s privacy will be protected, what levels of confidentiality can be offered, and the University’s Clery reporting obligations. Responsible employees or CSAs shall report information they learn about alleged or possible sexual misconduct incidents to the Title IX Coordinator within 24 hours. For after-hours reporting to the Title IX Coordinator, responsible employees or CSAs should use the link or phone number found on the University’s Title IX webpage.

5.5.2 Any incident involving a minor shall be immediately reported to UVU Police or to the local police department if the incident occurred off campus. Responsible employees or CSAs who become aware of allegations involving a minor shall notify the Title IX Coordinator and their supervisor that they have reported the allegation to the police, and must follow procedures required by Policy 115 *Minors on Campus and at University-Sponsored Events*.

5.5.3 For third-party complainants, the University shall provide reasonable protective measures as appropriate and available, based on consideration of the role of the third party, the



nature of any contractual or other relationship with the University, the relationship of the respondent to the University, and based upon the facts and/or evidence received.

5.6 Preliminary Review of Reports of Sexual Misconduct

5.6.1 Upon receipt of a report of sexual misconduct, the Title IX Coordinator or designated deputy coordinator shall conduct a preliminary review within three business days (sooner if there appears to be an imminent safety risk) that includes the following:

- 1) Assess the nature and circumstances of the report.
- 2) Address immediate physical safety and emotional well-being needs.
- 3) Provide complainant information about options, including either police action and/or code of conduct process (and the option of pursuing both or neither); provide information about university procedures; provide referral to SART resources; encourage complainants to use university and community services for victims of sexual misconduct; and initiate any necessary interim measures intended to address the short-term effects of sexual misconduct. These interim measures may include referral to counseling and/or health services or referral to the employee assistance program, support for modification to housing arrangements, altering work arrangements for employees, a safety plan such as providing campus escorts, implementing contact limitations between the parties, offering adjustments to academic deadlines, course schedules, etc. At the recommendation of the Title IX Coordinator or designated deputy coordinator, the responsible university administrator (as defined in 5.8.14) may also impose an interim suspension of a student, employee, visitor, or organization, or invoke other safety measures temporarily pending the outcome of the investigation and subsequent proceedings.
- 4) Consider the complainant's request for anonymity and assess and determine the appropriate university response and whether there is reasonable cause to believe that this policy has been violated and that an investigation is necessary.
- 5) Assess the reported conduct for any Clery obligations, including entry in the crime log or issuance of a timely warning and report to UVU Police when necessary.

5.6.2 If the Title IX Coordinator or designated deputy coordinator determines there is no reasonable cause to investigate or that policy was not violated, the Coordinator shall issue a written notice of dismissal to the complainant along with notice of appeal/review rights.

5.6.3 If the Title IX Coordinator or designated deputy coordinator determines that there is reasonable cause to investigate or that policy was violated, he or she shall report the allegation to the following persons:



- 1) If a student is accused, the Title IX Coordinator shall report the allegation to the Director of Student Conduct and Conflict Resolution, who serves as a deputy Title IX coordinator.
- 2) If an employee is accused, the Title IX Coordinator shall report the allegation to the Director of Employment Services, who serves as a deputy Title IX coordinator.
- 3) If a faculty member is accused, the Title IX Coordinator shall report the allegation to the Associate Vice President of Academic Administration in Academic Affairs, who serves as a deputy Title IX coordinator.

5.7 Informal Resolution

5.7.1 Because each case is different, the Title IX Coordinator or designated deputy coordinator shall tailor each resolution to the specific facts of the case. The Title IX Coordinator or designated deputy coordinator shall determine whether reports of sexual misconduct are appropriate for informal resolution, mediation, or require an investigation.

5.7.2 Informal resolution is encouraged to resolve concerns at the earliest stage possible with the cooperation of all parties involved. Participation in the informal resolution process is voluntary; the University shall not compel either party to engage in informal resolution. Informal resolution may be appropriate for responding to anonymous reports and/or third-party reports. Informal resolution may not be used in cases involving sexual violence, even if the complainant volunteers for informal resolution. Informal resolution may also be inappropriate when one or both of the parties are reluctant to participate in good faith.

5.7.3 Informal resolution may include an inquiry into the facts, but typically does not include an investigation. Informal resolution is flexible and includes options such as mediating an agreement between the parties, separating the parties, referring the parties to counseling programs, negotiating an agreement for disciplinary action, conducting targeted preventive educational and training programs, or providing remedies for the individual harmed by the offense. Informal resolution also includes options such as discussions with the parties, making recommendations for resolution, and conducting a follow-up review after a period of time to ensure that the resolution has resolved concerns effectively.

5.7.4 Informal resolution shall be concluded within 15 business days from when the Title IX Coordinator receives the complaint. Where this is not reasonably possible, the Title IX Coordinator or designated deputy coordinator shall notify the complainant in writing that resolution of the complaint will be delayed and indicate the reasons for the delay. All informal resolution efforts shall be documented.

5.7.5 If informal complaint resolution is pursued and complainants have not requested anonymity, respondents will be notified in writing of the concern and that no disciplinary action can be taken against them as part of the early resolution agreement without their agreement.



Within seven business days of concluding informal resolution of a complaint, the Title IX Coordinator or designated deputy coordinator shall notify the complainant and respondent in writing of the resolution that was agreed upon.

5.7.6 Participation in informal resolution does not prohibit either party from terminating informal resolution and/or requesting an investigation at any point during the informal resolution process. Where a report was closed after informal resolution, the matter may later be reopened at the discretion of the Title IX Coordinator or designated deputy coordinator when requested by the complainant and/or if the Title IX Coordinator or designated deputy coordinator determines there is a risk to the safety of the university community.

5.8 Investigation

5.8.1 If the Title IX Coordinator or designated deputy coordinator determines an investigation is necessary, the University shall conduct a thorough, reliable, and impartial, internal administrative investigation by interviewing witnesses, collecting documentary evidence, and preparing a written report of findings. The purpose of the investigation is to establish whether there is a reasonable basis for concluding that the alleged violation of this policy has occurred. The University reserves the right to engage an outside investigator to conduct the investigation if it is determined there is a conflict of interest or other compelling reason to do so.

5.8.2 Complainants and respondents shall be treated with respect throughout the investigation process, disciplinary process, and other proceedings:

- 1) The complainant and respondent shall have equal opportunity to select an advisor of their choosing and at their own cost.
- 2) The complainant and respondent shall receive simultaneous notification, in writing, of the results of any proceedings.
- 3) The complainant and respondent shall be given timely notice of meetings where their presence is necessary.
- 4) The complainant and respondent shall be given the opportunity to request modifications necessary for physical and/or emotional safety.
- 5) The complainant and respondent shall be given timely and equal access to allegations and given an opportunity to respond to information that will be used in any disciplinary proceeding against them.
- 6) The complainant and respondent may request accommodations necessary under the *Americans with Disabilities Act (ADA)* through the Title IX Coordinator or designated deputy coordinator,



who will refer the request to the appropriate ADA Coordinator and then implement approved accommodations.

5.8.3 When proceeding to investigation, the investigator shall ask the complainant to provide written notice of the allegations, including a concise statement describing the incident, when and where the misconduct occurred, and why the complainant believes it violates university policy, and propose a desired resolution. The complainant shall be asked to provide all corroborating evidence, list potential witness names, and sign the statement. From this information, the Title IX Coordinator or designated deputy coordinator shall prepare a summary of allegations and relevant information from the complainant's statement for the respondent. The complainant will review the summary and statement, make any necessary corrections, and affirm the summary by signature.

5.8.4 Unless the complainant has requested anonymity, by requesting investigation on the complaint form and/or signing the summary of allegations, the complainant is giving the investigator consent to discuss the information provided with other persons who may have relevant factual knowledge of the circumstances of the complaint and is authorizing the collection and examination of all records and other documentation relevant to the complaint. In cases where a complainant does not want to pursue an investigation, the Title IX Coordinator or designated deputy coordinator shall inform the complainant that the ability to investigate and/or remediate may be limited.

5.8.5 If the complainant refuses to sign the summary, the coordinator may (1) note that the allegations have been withdrawn and end the investigation or (2) note the complainant has refused to sign the summary and proceed to investigation to determine what occurred and to protect the University's interest in maintaining a safe environment free from sexual misconduct.

5.8.6 The investigator shall provide the respondent with the summary of the complainant's allegations and a copy of this policy and shall request a written response from the respondent. In preparing the summary of complainant's allegations for the respondent, the Title IX Coordinator or designated deputy coordinator has the discretion to redact names and/or witnesses to protect the identity and ensure the safety of the complainant and/or witnesses. The respondent may prepare and submit a signed written statement to admit or deny the allegations, provide an explanation why any conduct was not a violation of the policy, provide all corroborating evidence, list potential witness names, and state whether complainant's proposed resolution is appropriate.

5.8.7 Upon receipt of the written response from the complainant or after the reply period expires without a response, the investigator shall send a written request to or meet with the complainant to clarify any discrepancies.

5.8.8 The Title IX Coordinator shall choose the investigator(s), except in cases where the Title IX Coordinator or others involved in the investigation have a conflict of interest, in which case



the University's Office of General Counsel shall select an internal or external impartial investigator.

5.8.9 If the alleged misconduct is also the subject of a criminal investigation, the investigator(s) may not wait for the conclusion of the criminal investigation to begin an investigation pursuant to this policy. However, the investigator(s) shall coordinate their fact-finding efforts with the police investigation. Once notified that the police have completed gathering of evidence (not the ultimate outcome of the investigation or the filing of any criminal charges), the investigator(s) shall promptly resume and complete their fact-finding for the sexual misconduct case.

5.8.10 To provide a prompt, thorough, fair, and impartial investigation and resolution, all investigations of reports of sexual misconduct shall incorporate the following standards:

1) The respondent shall be provided the name of the complainant (unless the complainant has requested anonymity), a notice of request for investigation, a written statement of the allegations, and a copy of this policy. The respondent shall be afforded a full opportunity to respond to the allegations.

2) The investigator(s) conducting the investigation shall be familiar with this policy, have training or experience in conducting investigations, and shall be familiar with applicable university policies and procedures. For cases involving allegations of sexual violence, the individual(s) conducting the investigation must receive annual training on issues related to sexual violence. Such training includes how to conduct an investigation that protects the safety of complainants and promotes accountability.

3) Disclosure of facts to parties and witnesses shall be limited to what is reasonably necessary to conduct a fair and thorough investigation. Participants in an investigation shall be advised that maintaining confidentiality is essential to protect the integrity of the investigation. Participants shall also be reminded during the process not to retaliate against other parties, witnesses, or other participants in the process.

4) The investigator(s) or others shall not question the complainant or seek evidence regarding the complainant's prior sexual conduct with anyone other than the respondent(s). The investigator(s) shall also apply the principles of consent set forth in this policy, including the principle that evidence or prior consensual dating or a sexual relationship between the parties, in itself, does not imply consent or preclude a finding of sexual misconduct.

5) The investigator shall apply a preponderance of evidence standard to determine whether the sexual misconduct occurred as alleged and whether there has been a violation of this policy.

6) If the complainant chooses to have a support person, the respondent may have a support person present when he or she is interviewed and at any subsequent proceeding or related meeting. The complainant may choose a support person, provided the support person does not



pose a conflict of interest to the process. The support person is limited to quietly conferring with the party through written correspondence or whisper, and in the case of a proceeding, may not make objections or address any other participants or decision-makers.

7) At any time during the investigation, the investigator may recommend that interim protections or remedies for the parties or witnesses be provided by appropriate university administrators. Failure by a party to comply with the terms of interim protections may be considered a separate violation of this policy.

8) The investigation shall be completed and the investigation summary provided to the responsible university administrator as promptly as possible, and no later than 50 calendar days from the determination by the Title IX Coordinator or designated deputy coordinator that an investigation is warranted. Investigators shall provide regular status updates to both parties and administrators with a need to know. When circumstances require an extension to complete a thorough investigation, the investigator shall inform both parties in writing of the expected completion date.

9) Parties and witnesses are expected to cooperate with and participate in the University's investigation.

10) The complainant and respondent shall be informed if there were findings made that the policy was or was not violated and of actions taken to resolve the complaint, if any, that are directly related to the complainant, such as an order that the accused not contact the complainant. In accordance with university policies protecting individuals' privacy and applicable law, the complainant may generally be notified that the matter has been referred for disciplinary action, but shall not be informed of the details of the recommended disciplinary action without the consent of the respondent. The investigator shall also advise the complainant and respondent of the existence of options outside the University that may be pursued.

5.8.11 Upon conclusion of the investigation, the investigator(s) shall prepare a draft written outline that summarizes the complainant's allegations and respondent's responses, synthesizes the areas of agreement and disagreement between the parties, and lists the evidence relied on and the number of witnesses supporting or opposing each allegation. Before the final findings are made and the report is finalized, the complainant and the respondent will each be given the opportunity to review this draft written outline in the offices of the Title IX Coordinator, designated deputy coordinator, or investigator. The parties shall not receive an electronic or written copy, nor may they photograph, record or copy the draft written outline, but they will be permitted to take notes and write questions to the investigator that will be left with the investigator. A complainant and respondent may submit any additional comment or information to the investigator within five business days of the date of the notice of the opportunity to review the draft written outline. This is the final opportunity for the parties to identify any additional information or witnesses. In the absence of good cause, information discoverable through the



exercise of due diligence that is not provided to the investigator at this juncture shall not be considered by the investigator.

5.8.12 The investigator(s) shall prepare a final investigation summary that contains a written summary of the findings (including a statement of the allegations and issues, the positions of the parties, a summary of evidence, findings, and a determination whether policy has been violated). The final investigation summary may also contain a recommendation for actions to resolve the complaint, including preventive remedies for the complainant, and a referral to disciplinary procedures, as appropriate. The Title IX Coordinator shall review all investigation reports before they are finalized.

5.8.13 The possible findings of the investigation are the following:

- 1) A decision of “unfounded” indicates that there is insufficient evidence for investigators to conclude that either the event(s) did not occur as alleged, or even if the event(s) occurred, it/they did not constitute sexual misconduct.
- 2) A decision of “inconclusive” means that the evidence provided by both parties did not reach a preponderance of evidence in favor of either party.
- 3) A decision of “substantiated” means that the allegation occurred as alleged by a preponderance of evidence in favor of the complainant.

5.8.14 The investigation summary shall be submitted to the responsible university administrator designated below with authority to implement actions and/or discipline necessary to resolve the complaint. The summary may be used as evidence in other related procedures, such as subsequent complaints, disciplinary actions, and/or reviews or appeals.

- 1) Director of Student Conduct or, if the Director of Student Conduct was the investigator, the Dean of Students (students);
- 2) Senior Vice President of Academic Affairs or designee (faculty);
- 3) Vice president of the department responsible for the department employing the respondent or the vice president’s designee (staff).
- 4) Vice President of Finance and Administration or designee (contractors, vendors, and visitors).

5.9 Sanctions and Remedies



5.9.1 Upon receiving the investigation summary and the Title IX Coordinator's or designated deputy coordinator's recommendations, the responsible university administrator shall promptly determine the appropriate sanctions and remedies, offering remedies to the complainant and/or university community, implementing changes in programs and activities, providing training, and the imposition of any disciplinary sanctions, based on the investigative findings. In consultation with the Title IX Coordinator and/or Human Resources, and the Office of General Counsel as needed, the responsible university administrator shall ensure sanctions and remedies are appropriate to end the prohibited conduct, prevent further violation of this policy, and remedy the effects of any violation.

5.9.2 Respondents who are found to have violated this sexual misconduct policy may be subject to sanctions, depending on the circumstances and the severity of the violation as follows:

1) Possible sanctions against faculty and non-faculty employees for violations of this policy include verbal counseling, written warning, probation, reassignment, transfer, demotion, reduction in pay, suspension, termination of employment, and banning from campus.

2) Possible sanctions against students for violations of this policy include any sanctions described in UVU Policy 541 *Student Rights and Responsibilities Code*, such as fines, restitution, interim suspension, suspension, suspension withheld, warning, probation, expulsion, withholding diploma, revocation of degree, discretionary sanction, and organizational sanction.

3) Possible sanctions against a visitor to campus who is neither a student nor employee of the University include banning the visitor from all or part of the University.

5.9.3 Unless there are unusual circumstances that would require a delay, the responsible university administrator shall communicate the outcome of the investigation, including any sanctions and remedies determined by that administrator and the University's procedures to seek a review/appeal the outcome, in writing to both the complainant and the respondent simultaneously ("outcome notice") within five business days of receipt of the investigation summary. However, the responsible university administrator, in consultation with the Title IX Coordinator or designated deputy coordinator, may choose not to disclose the sanctions, and shall not disclose the discipline imposed on a respondent student, except under the following circumstances:

1) The discipline directly affects the other party, such as when the respondent student is ordered to stay away from the other party, is transferred to another job site, worksite, class, or is suspended or dismissed from the University;

2) The complainant alleged sexual misconduct involving a crime of violence or a non-forcible sex offense; or

3) The respondent student gives his or her written permission to disclose the discipline.



5.9.4 The University reserves the right to report findings of criminal misconduct to the police.

5.10 Review of Sanctions and Remedies (Reviews)

5.10.1 A complainant or respondent seeking review of sanctions and/or remedies may request an administrative review or appeal (“review”) within five business days from the date of the delivery of the outcome notice. A written request for review must be submitted to the Title IX Coordinator and may not exceed 20 pages in length. Untimely requests will not be considered absent extraordinary circumstances. Activities such as graduation, study abroad, internships/externships, business travel or education, sabbaticals, or extracurricular activities generally do not in themselves create extraordinary circumstances. A review may be withdrawn by the person requesting the review at any time without prejudice.

5.10.2 The party requesting a review must identify in the written request at least one or more of the following grounds as the reason for seeking the review:

- 1) New evidence unavailable to the party during the investigation has been discovered that could substantially impact the investigation findings and/or resolution.
- 2) Procedural errors substantially impacted the outcome of the investigation.
- 3) The sanction imposed is substantially disproportionate to the severity of the violation (i.e., too severe or not severe enough).
- 4) The non-disciplinary aspects of the resolution are not reasonably designed to correct the discriminatory effects on the complainant and/or on others who may have been affected or to prevent recurrence or further discriminatory or otherwise inappropriate actions.

5.10.3 The final resolution of the responsible university administrator shall be affirmed unless the party seeking a review demonstrates by a preponderance of the evidence that one or more of the grounds stated in 5.10.2 has been met. Modifications to decisions by the responsible university administrator who was the decision-maker shall be made only if the new information changes the outcome by a preponderance of the evidence. While a review is pending, interim sanctions shall be imposed by the responsible university administrator, but irreversible sanctions shall not be imposed until the review process is complete. For example, if termination from employment has been recommended, a respondent may be suspended from employment (on a paid or unpaid basis) during the review process, but a termination of employment shall not be imposed until the review process is complete and the termination recommendation is upheld.

5.10.4 Information shared in and during the review process should remain confidential. A party may share information with his or her designated support person, who must agree not to share



that information with others. The University shall not be responsible for disclosures made by the parties, who will bear individual liability for their disclosures.

5.10.5 Upon receipt of the written request for review, the Title IX Coordinator or designated deputy coordinator shall provide the party not requesting the review a copy of the written request and invite that responding party to submit a written response within five business days. The Title IX Coordinator or designated deputy coordinator shall then convene a three-member review panel (described in more 5.10.7), which shall determine whether sufficient cause exists under 5.10.2 for review. The Title IX Coordinator or designated deputy coordinator shall then notify both parties in writing of this determination and, if a review is warranted, the review panel shall convene within five business days of this determination date. All meetings of the review panel are closed sessions.

5.10.6 The complainant, respondent, and responsible university administrator shall be informed of the date of the review at least five business days before the date of the review.

5.10.7 The University maintains a pool of trained faculty, staff, and students who may be assigned to a review panel. The three-member review panel shall be convened from the pool of trained panel members as follows:

- 1) Two faculty members, one staff member (faculty is respondent)
- 2) Two staff members, one faculty member (staff is respondent)
- 3) One faculty member, one staff member, and one student (student is respondent)

Faculty members shall be selected for a term of service on the review panel pool by the Vice President of Academic Affairs or his/her designee and shall be approved by the President of Faculty Senate. Staff members shall be selected for a term of service by the Vice President of Planning, Budget, and Human Resources or his/her designee and shall be approved by the President of Professional Association of Campus Employees (PACE). Student members shall be selected for a term service by the Dean of Students and shall be members of the Utah Valley University Student Association (UVUSA) and approved by the UVUSA President. All review panel members shall be trained in review procedures and in relevant policy and procedure for sexual misconduct.

5.10.8 The Title IX Coordinator or designated deputy coordinator shall select the review panel from the panel pool, and a review panel chair for each panel, based on review panel review/appeals experience and availability. The review panel shall consult with the Office of General Counsel regarding procedural, policy, and other questions as needed during the review process.



5.10.9 The scope of the review shall be limited to the bases stated in 5.10.2 above and shall consist of a review by the panel of the investigation record, the written statements from the parties requesting and opposing review, written questions submitted by the person seeking review as to whether certain facts and circumstances were considered during the initial investigation or whether the procedures set forth in this policy were followed, and the submission by the requesting party of any new evidence not available during the investigation that has arisen since the investigation concluded.

5.10.10 In addition to submitting their initial written requests for or responses to requests for review, the parties may submit the items listed in 5.10.9 and questions to the review panel chair no later than three business days before the date of the review. The review panel shall determine the appropriateness and relevancy of the additional information and questions submitted and may exclude evidence deemed to be outside the scope of review, irrelevant, or duplicative.

5.10.11 Reviews are not hearing-type proceedings. However, if the documents included in the review file do not sufficiently resolve an issue under review, the review panel may also decide to do one or both of the following:

- 1) Interview the responsible university administrator, the investigator(s), and/or the parties as needed. Such interviews would occur in a closed session with only the individual being interviewed present and, if the person being interviewed is a party, that party's support person also present. A representative from the Office of General Counsel shall also be present to advise the review panel.
- 2) Ask the original investigator(s) to obtain additional necessary information from relevant witnesses. In those cases, the investigator shall meet with those witnesses and summarize and submit any new evidence, along with any new findings and recommendations, if any, for the review panel.

The University reserves the right to modify the review process to protect the safety of all parties involved.

5.10.12 In rare cases where a procedural or substantive error cannot be cured by the original investigator(s), the review panel chair may request a review by a new investigator.

5.10.13 Within three business days from the date the review is complete, the review panel chair shall determine by a majority vote of the panel whether a preponderance of the evidence supports the issue(s) being challenged in the review.

5.10.14 The review panel chair shall write a final outcome letter and shall first send it to the Title IX Coordinator and responsible university administrator who was the decision-maker. The Title IX Coordinator or designated deputy coordinator shall then forward the final outcome letter simultaneously to the complainant and the respondent. The final outcome letter shall include the

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decision, a statement that the decision is final, a statement as to whether the sanctions were affirmed or modified, and a statement as to options for seeking other remedies outside the University process, such as with the federal Equal Employment Opportunity Commission (EEOC) and the Utah Antidiscrimination and Labor Division (UALD), which investigate complaints of unlawful discrimination and/or harassment in employment, or the U.S. Department of Education Office for Civil Rights (OCR), which investigates complaints of unlawful discrimination, harassment, and/or sexual misconduct in employment and educational programs or activities.

5.10.15 The review process shall be completed and the final outcome letter from the review panel shall be sent no later than 90 calendar days after the Title IX Coordinator or designated deputy coordinator made a determination that an investigation is warranted. If this deadline must be delayed due to exigent factors such as the discovery of new evidence requiring additional review or the unavailability of witnesses, the Title IX Coordinator or designated deputy coordinator shall notify the parties of such delay in writing.

5.10.16 Once the review panel issues its final decision, no further internal reviews or appeals are available to the parties. A waiver to the finality of the decision may be sought from the review panel chair asking the panel to reconsider its decision. Such a waiver may be granted only in very limited exceptions when new evidence could be obtained only after the review process was concluded, such as through a law enforcement investigation subpoena. If granted, the review would be limited only to the impact the new evidence has on the decision and would be subject to the same procedure outlined in this policy.

5.10.17 The final outcome letter shall be used by the Title IX Coordinator for data collection and compliance purposes only. The review panel shall provide all documents related to its confidential record review to the Title IX Coordinator for confidential storage and shall not keep any written or electronic copies of such documents.

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity



POLICY TITLE	<i>Sexual Violence in the Workplace and the Academic Environment</i>	Policy Number	162
Section	Governance, Organization, and General Information	Approval Date	September 15, 2014
Subsection	Individual Rights	Effective Date	
Responsible Office	Office of the Vice President of Planning, Budget, and Human Resources		

1.0 PURPOSE

1.1 Utah Valley University is committed to the security and safety of its students, faculty, staff, and visitors on campus. Reflective of this commitment, this policy establishes campus safety and security requirements in compliance with the *Campus Sexual Violence Elimination Act (SaVE)*. The policy outlines the procedures the University will follow once an incident of dating/domestic violence, sexual assault, and/or stalking has been reported, and other safety and security procedures required by law.

2.0 REFERENCES

- 2.1** *Campus Sexual Violence Elimination Act (SaVE) — reauthorization of Violence against Women Act 2013*
- 2.2** *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*
- 2.3** *Title IV of the Civil Rights Act of 1964*
- 2.4** *Title IX of the Higher Education Amendments of 1972*
- 2.5** *Utah Code 77-36 Cohabitant Abuse Procedures Act*
- 2.6** *Utah Code 77-38 Rights of Crime Victims Act*
- 2.7** *Utah Code 78B-1-137 Witnesses — Privileged Communications*
- 2.8** *UVU Policy 154 Workplace Violence*
- 2.9** *UVU Policy 155 Sexual Harassment and Consensual Relationships and Grievance*
- 2.10** *UVU Policy 371 Corrective Actions and Termination for Staff Employees*
- 2.11** *UVU Policy 541 Student Rights and Responsibilities Code*



2.12 UVU Policy 648 Faculty Personnel Reduction (Interim Policy)

3.0 DEFINITIONS

3.1 Campus Security Authority (CSA): ~~Individuals serving in University positions that are identified by the Vice President of Finance and Administration as having significant responsibility for student and campus activities, regardless of whether they are employees of the University. Examples of campus security authorities include, but are not limited to~~

- ~~1) A dean of students who oversees a student center and/or student extracurricular activities.~~
- ~~2) A director of athletics, a team coach, or a faculty advisor to a student group.~~
- ~~3) A student resident advisor or assistant advisor.~~
- ~~4) A physician in a campus health center, a counselor in a campus counseling center, or a victim advocate or sexual assault response team member.~~

3.2 Consent: ~~Consent must be informed, freely given, and mutual. If coercion, intimidation, threats, and/or physical force is used, there is no consent. If a person is a minor and/or is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes impairment or incapacitation due to alcohol or drug consumption, or being asleep or unconscious. There is no consent when there is force, expressed or implied, or use of duress or deception upon the victim. Silence does not necessarily constitute consent. Past consent to sexual activities does not imply ongoing future consent. Whether an individual has taken advantage of a position of influence over an alleged victim may be a factor in determining consent.~~

3.3 Dating Violence: ~~Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors: a) the length of the relationship, b) the type of relationship, and c) the frequency of interaction between the persons involved in the relationship.~~

3.4 Domestic Violence: ~~Violence committed by a) a current or former spouse or intimate partner of the victim, b) a person with whom the victim shares a child in common, c) a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, d) a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or e) any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.~~



3.5 Preponderance of Evidence: A party has shown that its version of facts, causes, damages, or fault is more likely than not the correct version.

3.6 Retaliation: An action taken by an accused individual or an action taken by a third party against any person because that person has opposed any practices forbidden under this policy or because that person has filed a complaint, testified, assisted, or participated in any manner in an investigation or proceeding under this policy. This includes action taken against a bystander who intervened to stop or attempt to stop discrimination, harassment, or sexual misconduct. Retaliation includes intimidating, threatening, coercing, or in any way discriminating against an individual because of the individual's complaint or participation. An action is generally deemed retaliatory if it would deter a reasonable person in the same circumstances from opposing practices prohibited by this policy.

3.7 Sexual Assault: An offense classified as a forcible or non-forcible sex offense under the uniform crime reporting systems of the Federal Bureau of Investigation, including actual or attempted sexual contact with another person without that person's consent. Sexual assault includes, but is not limited to involvement in any sexual contact when the victim is unable to consent; intentional and unwelcome touching of, or coercing, forcing, or attempting to coerce or force another to touch a person's intimate parts (defined as genital area, groin, inner thigh, buttocks, or breast); sexual intercourse without consent, including acts commonly referred to as rape, statutory rape, or incest.

3.8 Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or to suffer substantial emotional distress. Stalking includes repeatedly following, harassing, threatening, or intimidating another by telephone, mail, electronic communication, social media, or any other action, device, or method that purposely or knowingly causes substantial emotional distress or reasonable fear of bodily injury or death.

4.0 POLICY

4.1 Utah Valley University prohibits all forms of dating/domestic violence, sexual assault, and stalking and provides support and reporting mechanisms for students, faculty, staff, and visitors to campus.

4.2 UVU strongly encourages individuals to report sexual assault, dating/domestic violence, and/or stalking to appropriate University officials because such reporting is necessary so that action can be taken against a violator of this policy. Conduct that occurs off campus can be the subject of a complaint or report and will be evaluated to determine whether it violates this policy; for example, off campus actions that have continuing effects and create a hostile environment on campus. Allegations of off campus sexual misconduct should be reported.



~~4.2.1 If a student is accused, the allegation should be reported to the Director of Student Conduct and Conflict Resolution.~~

~~4.2.2 If an employee is accused, the allegation should be reported to the Associate Vice President of Human Resources/Equity Officer. Reports of misconduct by University employees can be made anonymously through Ethics Point hotline via phone or web.~~

~~4.3 University employees cannot guarantee confidentiality, except when the reports are privileged communications as defined by law, such as with counselors or healthcare professionals. If a victim requests confidentiality, the University must take all reasonable steps to investigate and respond consistently with that request, taking into account that confidentiality may not be possible in every case, given the University's responsibility to provide a safe environment for all.~~

~~4.3.1 Employees who are statutorily prohibited from reporting incidents, including licensed health care professionals are exempt from reporting requirements.~~

~~4.4 Any university employee or student who receives a report of a dating/domestic violence, sexual assault, or stalking incident shall adhere to following:~~

~~4.4.1 If the incident involved a minor, the incident SHALL be immediately reported to UVU Police or the local police department. University employees aware of these incidents must notify their supervisor of the reporting being made to the police.~~

~~4.4.2 If the incident did not involve a minor, the University encourages employees or students to advise the victim/survivor to report the incident promptly to the police, while recognizing the victim/survivor has the right to or not to notify or seek assistance from law enforcement.~~

~~4.4.3 Employees or students should encourage the victim/survivor to contact victim services (see section 4.2).~~

~~4.4.4 Within 24 hours, employees or staff should report information they have about alleged or possible incidents to the appropriate university officer (see section 5.3).~~

~~4.5 As part of the *Clery Act* reporting requirements, all UVU faculty and staff must report the fact of a report of dating/domestic violence, sexual assault, and stalking to UVU Police.~~

~~4.6 Individuals, who in good faith report violent incidents or present evidence in an investigation, are protected from any retaliatory actions. Individuals who engage in retaliation are subject to disciplinary action.~~



~~4.7 The University strongly encourages students to report instances of dating/domestic violence, sexual assault, and stalking involving students. Therefore, students who report information about these instances will not be disciplined by the University for any violation of the University's drug or alcohol possession or consumption policies in which they might have engaged in connection with the reported incident.~~

~~4.8 In the event that a situation arises on campus or in an area surrounding campus, that, in the judgment of the Chief of UVU Police or his or her designee, constitutes a serious or continuing threat to students, employees or the greater university community, a university-wide timely warning will be issued through UVU's emergency communications systems.~~

5.0 PROCEDURES

~~5.1 Any individual who has been a victim of dating/domestic violence, sexual assault, and/or stalking is strongly encouraged to contact UVU Police or other campus security authority. These individuals can assist in making contact with the appropriate law enforcement agency.~~

~~5.2 Victims/survivors are encouraged to contact Student Health Services (students), Employee Assistance Program (benefits-eligible employees), and/or local victims/survivor service offices, counseling, and healthcare services. These services, provided by the University or the community, are strictly confidential.~~

~~5.3 Once an incident of dating/domestic violence, sexual assault, or stalking has been reported, the appropriate university officer (see sections 4.2.1 and 4.2.2) shall provide a prompt, fair, and impartial investigation and resolution, using the preponderance of evidence standard.~~

~~5.3.1 The appropriate university officer shall~~

~~1) Ensure that proceedings and investigations are conducted by university employees who are current in their required annual training in sexual violence investigations and hearing processes. In many cases, the police may be involved in and/or conduct the investigation.~~

~~2) Respond promptly to the allegations by immediately initiating an investigation and proceedings, and recommending appropriate disciplinary action, up to and including expulsion (students) and termination (employees) in accordance with Policy 541 (students), Policy 648 (faculty), or Policy 371 (staff).~~

~~3) If the victim requests changes in academic, working, transportation, and/or living situations (as applicable) that are reasonably available, make recommendations to appropriate university administrators, pending the outcome of institutional proceedings. The University shall honor judicial no-contact, restraining, and protective orders.~~



~~4) Proceed independently of any action taken in the criminal or civil courts, as determined on a case by case basis. Criminal court proceedings are not a substitute for University policy/procedures.~~

~~5) Ensure the accuser and the accused receive the same opportunity to have others present during the institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice.~~

~~6) Inform both the accuser and the accused that they shall be simultaneously informed in writing of the outcome of the institutional disciplinary proceeding; the University's procedures for the accused and the victim to appeal the results; any change in the results that occurs prior to the time the results become final; and when results become final.~~

~~7) Make appropriate reports for the purposes of Clery Act statistics.~~

~~5.4 In compliance with the Clery Act, reports from campus security authorities are used by the University to fulfill its responsibility to annually disclose Clery crime statistics.~~

POLICY HISTORY		
Date of Last Action	Action Taken	Authorizing Entity

