



The purpose of this policy is to provide a single, easily accessible and user-friendly document for students, employees and others affected by sexual misconduct to find information regarding Tennessee State University's (TSU) rules and procedures related to the offenses defined herein.

- A.** This policy applies when TSU has actual knowledge of allegations of sex discrimination (including sexual harassment) in any of TSU's educational programs or activities against persons present in the United States. The Complainant must be participating or attempting to participate in the education program or activity of TSU to file a Formal Complaint.
- B.** This policy is adopted specifically to address the offenses defined herein. All other forms of sex discrimination including sexual harassment or other sexual misconduct are also strictly prohibited. Allegations of prohibited discrimination or harassment that are not within the scope of this policy may be addressed under other TSU policies, including but not limited to, TBR Guideline P-080 as adopted and implemented by Tennessee State University or TSU's Student Conduct Rule.

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substances used to facilitate Sexual Assault (e.g., Rohypnol, Ketamine, GHB, and Burundanga).

When alcohol, drugs or other substances are involved, Incapacitation is a state beyond mere drunkenness or intoxication. Indicators of Incapacitation may include, without limitation: lack of control over physical movements (e.g., inability to dress/undress without assistance; inability to walk without assistance); lack of awareness of circumstances or surroundings; vomiting; unresponsiveness; and inability to communicate coherently.

- E.** The amount of evidence that causes one to conclude that an allegation is probably true (i.e., more likely true than not true). If the evidence on a particular allegation is equally balanced, then that allegation has not been proven by a preponderance of the evidence.
- F.** An individual who is alleged to be the victim of conduct that could constitute sexual harassment.
- G.** : A response that is clearly unreasonable in light of the known circumstances.
- H.** : Locations, events, or circumstances over which TSU exercises substantial control over both the respondent and the context in which the alleged sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by TSU. Conduct that occurs outside of TSU's Program or Activity as defined in this policy may be subject to other applicable University policy.
- I.** For purposes of this policy, an employee is defined as faculty, executive, administrative, professional staff, clerical staff, and support personnel.
- J.** A document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that TSU investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in, or attempting to participate in, the education program or activity of TSU. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through TSU's online reporting portal) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party

K. : An individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment

L. : A TSU official who has the authority to institute corrective measures on behalf of TSU.

M. : Conduct on the basis of sex that satisfies one (1) or more of the following:

1. An employee conditioning the provision of an aid, benefit, or service of TSU on an individual's participation in unwelcome sexual conduct (*quid pro quo*);

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to TSU's education program or activity; or

3. Any of the following offenses:

a. : An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

(1) Forcible Sex Offenses. Any sexual act directed against the Complainant, without the consent of the Complainant including instances where the Complainant is incapable of giving consent. Forcible sex offenses include:

i. Rape (Excluding statutory rape). The carnal knowledge of the Complainant, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

ii. Sodomy. Oral or anal sexual intercourse with the Complainant, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

iii. Sexual Assault with an Object. To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of the Complainant, without the consent of the Complainant including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity. An "object" or "instrument"

as defined in this section is anything used by the offender other than the offender's genitalia (e.g., a finger or bottle).

iv. Fondling. The touching of the private body parts of the Complainant for the purpose of sexual gratification, without the consent of the Complainant, including instances where the Complainant is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

(2) Nonforcible Sex Offenses. Nonforcible sex offenses include:

- i. Incest. Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- ii. Statutory Rape. Nonforcible sexual intercourse with a person who is under the statutory age of consent.

b. : Violence committed by a person:

1) who is, or has been, in a social relationship of a romantic or intimate nature with the Complainant; and

(2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

i. The length of the relationship.

ii. The type of relationship.

iii. The frequency of interaction between the persons involved in the relationship.

c. : Violence committed by a current or former spouse or intimate partner of the Complainant, by a person with whom the Complainant shares a child in common, by a person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the Complainant under the laws of the State of Tennessee, or by any other person against an adult or youth Complainant who is protected from that person's acts under the domestic or family violence laws of the State of Tennessee; or

d. : Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (1) fear for his/her safety or the safety of others; or
- (2)

- B. Tennessee State University (TSU) does not discriminate on the basis of sex in the education program or activity that it operates, including admission and employment, and is required by Title IX of the Education Amendments of 1972 and 34 C.F.R. Part 106 (collectively "Title IX") not to discriminate in such a manner. Inquiries about the application of Title IX to TSU may be referred to the Title IX Coordinator, the U.S. Department of Education Assistant Secretary for Civil Rights, or both.
- C. When a person reports sex discrimination committed against a person while in the United States, TSU will follow its rules, procedures and processes used for Title VII sex discrimination allegations and TBR Guideline P-080 as adopted and implemented by Tennessee State University, which provide for the prompt and equitable resolution of complaints alleging sex discrimination.
- D. If TSU has actual knowledge of sexual harassment in an education program or activity committed against a person while in the United States, TSU will respond promptly and follow its grievance procedures in a manner that is not deliberately indifferent.
- E. Any action taken to address an allegation of harassment under this policy shall not infringe on rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment.
- F. TSU will notify applicants for admission and employment, students, employees, and any professional organizations holding professional agreements with TSU of this policy and will publish the contact information for the Title IX Coordinator on its website and in any handbook or catalog that it makes available to such individuals and organizations.

A. Tennessee State University encourages survivors of sexual violence to talk to somebody about what happened so survivors of assault can get the support they need, and so the University can respond appropriately. Different employees on campus have different abilities to maintain a survivor's confidentiality.

1. Professional Counselors and Health Care Providers are generally required to maintain near complete confidentiality; talking to them is sometimes called a "privileged communication."
2. Responsible Employees of the University are required to report all the details of an incident (including the identities of both the complainant and respondent) to the Title IX coordinator. A report to a Responsible Employee constitutes actual knowledge by the University – and requires the University to respond promptly in a manner that is not deliberately indifferent.
3. This information is intended to make students aware of the various reporting and confidential disclosure options available to them – so they can make informed choices about where to turn should they experience sexual harassment or sexual violence. TSU encourages survivors to talk to

someone identified in one or more of these groups.

Privileged and Confidential Communications

Professional, licensed counselors who provide mental-health counseling to members of the school community (including those who act in that role under the supervision of a licensed counselor) and healthcare providers, such as doctors and nurses, are not required to report any information about an incident to the Title IX coordinator without a survivor's permission. As of the effective date of this policy and subject to change, the following is the contact information for individuals who qualify as counselors and healthcare providers at TSU:

TSU Counseling Center
Main Campus
Floyd Payne Campus Center
Room 304
615-963-5611
www.tnstate.edu/counseling

TSU Student Health Services
Main Campus
Floyd Payne Student Center, Room 304
615-963-5291
studenthealthservices@tnstate.edu

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1. When (a complainant tells a responsible employee about an incident) of sexual violence, the complainant has the right to expect the University to respond promptly in a manner t

4. The following offices are designated to receive complaints of sexual violence and sexual harassment at TSU, but the Title IX Coordinator can designate others in consultation with the General Counsel or his/her designee:

Office of Equity and Inclusion (Title IX Coordinator)
Main Campus
General Services Building, 2nd

Off-campus counselors, advocates, and health care providers will also generally maintain confidentiality and not share information with the University unless the survivor requests the disclosure and signs a consent or waiver form.

Following is contact information for these off-campus resources:

Sexual Assault Center of Nashville

- D.** TSU will utilize good faith efforts to maintain the confidentiality of the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of Sexual Harassment, any complainant, any individual who has been reported to be the respondent

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in consultation with the General Counsel or his/her designee and after conferring with appropriate personnel, an individualized safety and risk analysis, determining that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and providing the respondent with notice and an opportunity to challenge the decision immediately following the removal. If such emergency measures are undertaken, the student Respondent shall be entitled to the same due process as provided to Student Respondents placed on interim suspension under the Student Conduct Rule.

- E. TSU may place a non-student employee respondent on administrative leave.

E. Any grievance pursuant to these procedures will include an objective evaluation of all relevant evidence, including both inculpatory and exculpatory evidence. Credibility determinations may not be based on a person's status as a Complainant, Respondent, or witness.

E. TSU will apply a preponderance of the evidence standard throughout the grievance process.

F. The grievance process, shall be free from any conflict of interest or bias for or against the Complainant, Respondent, or any other person involved in the grievance process. The grievance process may include, but are not limited to, conciliation, mediation, and arbitration. The grievance process may include, but are not limited to, conciliation, mediation, and arbitration. The grievance process may include, but are not limited to, conciliation, mediation, and arbitration.

1. Employees: warning, reprimand, suspension, demotion, or termination. The grievance process may include, but are not limited to, conciliation, mediation, and arbitration. The grievance process may include, but are not limited to, conciliation, mediation, and arbitration.

H. Formal Complaint. Only a Complainant

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all hearings, investigative interviews, or other meetings with a party, with sufficient time for the party to prepare to participate.

- F. Access to Evidence. TSU will allow both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which TSU does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence, whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Prior to completion of the investigative report, the Investigator will send to each party and the party's advisor (if any), the evidence subject to inspection and review in an electronic format or a hard copy. The parties will have ten (10) business days to submit a written response, which the Investigator will consider prior to completion of the investigative report. TSU must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination.

- G. Final Investigative Report. The Investigator will create an investigative report that fairly summarizes relevant evidence, including the allegations made by the complainant, the response of the respondent, corroborating or non-corroborating statements of the witnesses, review of other evidence obtained, conclusions that may be drawn from the evidence gathered, and recommendations about the disposition of the matter. The report shall be forwarded to the General

prior consensual dating or sexual relationship between the parties by itself does not imply consent or preclude a finding of sexual misconduct.

1. Every reasonable effort shall be made to conclude the investigation within sixty (60) calendar days following receipt of the complaint. Within this sixty (60) day timeframe, absent good cause, it is expected that the investigator will conclude the investigation and that the investigator will notify the parties in writing of the investigative report determination.
2. If the investigator determines that additional time is needed, both parties shall be notified in writing of the delay, the anticipated date that the investigation will be concluded, and the reasons for such delay.
3. If either party determines that additional time is needed in connection with their participation in the investigation, that party shall request such in writing to the investigator or Title IX Coordinator. The written request for additional time shall include the reasons for the requested delay and the number of additional days needed.
4. The investigator shall make every reasonable effort to respond to the request for additional time within two (2) business days following receipt of the request and shall notify both parties in writing as to whether or not the request is granted.

At least ten (10) days after the completion of the investigative report and distribution to the parties and their advisors (if any), TSU will convene a live hearing.

- C. The hearing may be held before either a hearing officer or hearing committee. The President shall determine, in his or her sole discretion, whether to proceed with a hearing officer or hearing committee and shall appoint individuals to serve in those capacities.
- D. If the Complainant or Respondent believes the hearing officer or the hearing committee member(s) has a conflict of interest, that party must submit a written explanation of the reason for that belief to the President. The explanation must be submitted within three (3) business days, absent good cause, of the time when the party knew or should have

known the facts that would give rise to the alleged conflict of interest.
The President

4. The right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that TSU has in its possession, custody, or control and may use to

G. Determination Regarding Responsibility.

1. The decision-maker(s) must issue a written determination regarding responsibility using a preponderance of the evidence standard.

2. The written determination must include the following:

a. Identification of the allegations potentially constituting Sexual Harassment;

b. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;

c. Findings of fact supporting the determination;

d. Conclusions regarding the application of TSU's sexual misconduct or other applicable policy to the facts;

e. A statement of, and rationale for, the result as to each allegation, including: a determination regarding responsibility; any disciplinary sanctions TSU imposes on the respondent; whether remedies designed to restore or preserve equal access to TSU's education program or activities will be provided by TSU to the complainant; and the procedures and permissible

- A. Either party may appeal a determination of responsibility or the dismissal of a formal complaint for any allegations therein. The decision-maker for the appeal will be the applicable Vice President

- D. The Vice President or designee as decision-maker for appeal will issue a written response to the appeal as promptly as possible. This decision will constitute Tennessee State University's final decision on the complaint.

- A. At any time prior to reaching a determination regarding responsibility on a Formal Complaint, with the voluntary, written consent of the parties, TSU may facilitate an informal resolution process that does not involve a full investigation and adjudication.
 - 1. Prior to initiating an informal resolution process, the Title IX Coordinator or designee will provide to the parties a written notice disclosing:
 - a. the allegations;
 - b. the requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations;
 - c. that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint; and

immediately so that the complainant can be screened for sexually transmitted diseases/pregnancy/date rape drugs, obtain emergency contraception, and receive treatment for any physical injuries. Valuable physical evidence can be obtained from the complainant or the complainant's clothing.

- D. TSU complies with Tennessee law in recognizing orders of protection. Any person who obtains an order of protection from Tennessee or any state should provide a copy to University Police and the Office of Equity and Inclusion or successor office. That person may then meet with University Police to develop a Safety Action Plan, which is a plan for University Police and the person to reduce risk of harm while on campus or coming and going from campus. This plan may include, but is not limited to, escorts, special parking arrangements, providing a temporary cellphone (with 911 call capability only), changing classroom location or allowing a student to complete assignments from home, etc.
- E. Protection from abuse orders may be available through <http://www.tncourts.gov/programs/self-help-center/forms/order-protection-forms> and additional information related to such orders may be found at <http://tncoalition.org/resources/legal-resources.html>
- F. TSU does not publish the name of crime victims nor maintain identifiable information regarding victims in the University Police's Daily Crime Log or online.
- G. Complainant may request that directory information on file be removed from public sources by a request to the Office of the Registrar. The Office of the Registrar may be contacted at the following: records@tnstate.edu; (615) 963-5300 (telephone).

The resources listed below are not exhaustive or limited to those who wish to make an official report or participate in a formal complaint, police investigation or criminal prosecution. However, in cases where a complainant wishes to maintain complete confidentiality, the complainant should review carefully the section above related to the limits on Tennessee State University's ability to maintain confidentiality.

TSU Counseling

University Police	615-963-5171 www.tnstate.edu/police/	Queen Washington Bldg., Main Campus
Office of Equity and Inclusion	615-963-7435 www.tnstate.edu/equity	General Services Building, 2 nd Floor, Main Campus
TSU Asst. Dean of Students/ Judicial Affairs Officer	615-963-5940 www.tnstate.edu/mediation/	Floyd Payne Student Center, 1 st Floor, Room 103, Main Campus

Metro Nashville Police Davidson County Sheriff		911 or 911 or
Nashville General Hospital at Meharry (capable of administering rape kits for use in criminal prosecutions)	1818 Albion Street Nashville, TN 37208	615-341-4000
Sexual Assault Center of Nashville	101 French Landing Dr., Nashville, TN 37228	615-259-9055 http://www.sacenter.org
Tennessee Coalition to End Domestic & Sexual Violence	2 International Plaza Dr., Ste. 425, Nashville, TN 37217	615-386-9406 http://tncoalition.org
The National Sexual Assault Hotline	24-hour Crisis Line	1-800-656-4747
Domestic Violence Intake Center (Protective Orders)		_____

- A.** Tennessee State University, its officers, employees, or agents are strictly prohibited from retaliating, intimidating, threatening, or otherwise discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX or this policy, or because the individual made a report or complaint, testified, assisted, or participated or refused to

participate in any manner in an investigation, proceeding, or hearing, or otherwise exercising their rights or responsibilities under any provision of this policy. Retaliation will result in disciplinary measures, up to and including termination or expulsion.

- B.** The exercise of rights protected under the First Amendment does not constitute retaliation.
- C.** Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Policy does not constitute retaliation prohibited by this policy, provided, however, that a dete

b. If TSU does not provide a Complainant with Supportive Measures, then it must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

c.